

## SPECIAL COMMITTEE REPORT

Spec. Com. Rep. No. 1

Your Committee on Credentials begs leave to report that it has examined the Certificates of Election of the Senate of the Thirteenth Legislature of the State of Hawaii, Regular Session of 1985, and finds that the following persons have been legally elected and are fully qualified to sit as members of the Senate.

The newly elected Senators whose respective terms of office will expire on November 8, 1988 are:

First Senatorial District

Richard Henderson

Second Senatorial District

Richard M. Matsuura

Fourth Senatorial District

Mamoru Yamasaki

Ninth Senatorial District

Clayton Hee

Tenth Senatorial District

Mary George

Eleventh Senatorial District

W. Buddy Soares

Twelfth Senatorial District

Steve Cobb

Fourteenth Senatorial District

Ann H. Kobayashi

Fifteenth Senatorial District

Mary-Jane McMurdo

Eighteenth Senatorial District

Milton A.L. Holt

Twentieth Senatorial District

Richard S.H. Wong

Twenty-First Senatorial District

Norman Mizuguchi

Twenty-Third Senatorial District

Patsy K. Young

Signed by Senators Young, George and Chang.

## CONFERENCE COMMITTEE REPORTS

## Conf. Com. Rep. No. 1 on S.B. No. 153

The purpose of this bill is to authorize the Board of Land and Natural Resources to waive geothermal resources royalty payments from a lessee in situations where such a waiver will encourage initial or continued production of geothermal resources.

Major geothermal exploration and development programs were initiated in Hawaii in the late seventies when projections for oil prices made geothermal power appear economically attractive. However, current oil price reductions have made geothermal power appear less cost-effective under current royalty provisions. This bill authorizes the Board of Land and Natural Resources to adjust royalty requirements as an incentive for companies to proceed with plans to develop geothermal resources.

Your Committee has amended the bill by providing that the Board of Land and Natural Resources shall submit a written report to the Legislature of all geothermal royalty dispositions in accordance with section 171-29, Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 153, 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. 153, S.D. 1, H.D. 2, C.D. 1.

Senators Matsuura, Aki, Hee, Mizuguchi and Henderson  
Managers on the part of the Senate

Representatives Andrews, Crozier, Hagino, Kihano, Nakata, Shon, Tajiri, Kamali'i and Pfeil  
Managers on the part of the House

## Conf. Com. Rep. No. 2 on H.B. No. 165

The purpose of this bill is to broaden the authority of the Department of Health to provide satisfactory community residential facilities to certain clients of the mental health system.

Under existing statutory provisions, mental health residential treatment system applicants are provided a range of alternatives to institutional care which are based on principles of residential, community-based treatment. These alternatives, however, are only available to those individuals returning to a condition requiring hospitalization, and such individuals must be placed in individual apartments or houses which are shared by three to five persons.

Under this bill, individuals who have not previously been hospitalized are also eligible for residential, community-based treatment. Furthermore, qualified mental health residential treatment system applicants need no longer be placed only in individual apartments or houses which are shared by three to five persons.

This bill amends the existing statutory provisions which provide the program elements of the residential, community-based mental health treatment system by deleting the language which describe, limit, and specify the kinds and scope of services, facilities, and living arrangements to be provided, and provides for the addition of more program elements, if appropriate.

The intended effect of the deletions of the language is to give the Department of Health more flexibility in administering the provisions of the law by permitting it to implement the basic statutory provisions by the adoption of rules. This is authorized by section 334-9, Hawaii Revised Statutes.

Your Committee finds that it would be preferable for the time being to retain the existing statutory language, and that, with the two amendments to the statute noted below, the Department will have sufficient flexibility in administering the program.

Your Committee, therefore, has amended the bill to retain the present statutory provisions dealing with the four program elements which relate to the residential, community-based mental health treatment system. However, your Committee has retained the amendments in the bill which: (1) make residential alternatives available not only to those returning to a condition requiring hospitalization, but also to those individuals who have not previously been hospitalized, and (2) delete the requirement that the individual apartments or houses under the specified program element must be shared by three to five persons.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 165, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto



as H.B. No. 165, S.D. 1, C.D. 1.

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

Representatives Bunda, Hashimoto, Kahino, Shito and Liu  
Managers on the part of the House

Conf. Com. Rep. No. 3 on S.B. No. 76

The purpose of this bill is to amend the schedule of controlled substances to conform with recent changes in the federal law and to make clear that cocaine, whether natural or synthetic, is a controlled substance.

Your Committee finds that this measure is necessary for the proper enforcement of the Uniform Controlled Substances Act.

Your Committee has amended the bill by correcting a nonsubstantive technical drafting error on page 9, line 12.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 76, 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. 76, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Tom, Apo, Bunda, Metcalf and Jones  
Managers on the part of the House

Conf. Com. Rep. No. 4 on H.B. No. 1162

The purpose of this bill is to introduce surviving immediate family members as persons to be given notice of parole or final unconditional release of a criminal offender at least ten days prior to release or parole.

Currently, only the victim is notified of the parole or final unconditional release of a prisoner or parolee. Under this measure, surviving immediate family members of a deceased victim are provided notice of release of an offender. In response to a written request by a victim or surviving immediate family member, shall be given at least ten days prior to parole or final unconditional release.

Your Committee, upon further consideration has made the following amendments to H.B. No. 1162, H.D. 1, S.D. 1:

(1) References throughout the bill to "prisoner" or "parolee" as provided in the present statute are retained. Your Committee finds that the use of "prisoner" or "parolee" to be common in the penal code and a shift to the word "offender" may cause unnecessary confusion.

(2) On page 2, line 7 and page 2, line 15, your Committee clarified that the victim must submit a written request for notification.

(3) For the sake of clarity, the words "victim" and "witness" were interchanged on page 3, line 4 of the bill.

(4) Certain technical, nonsubstantive changes were made to conform with recommended drafting style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1162, 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. 1162, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Tom, Hashimoto, Menor, Metcalf and Liu  
Managers on the part of the House

Conf. Com. Rep. No. 5 on H.B. No. 1386

The purpose of this bill is to amend Section 11-206(c), Hawaii Revised Statutes, to specify the

use of campaign contributions by a candidate.

The Campaign Spending Commission presently has regulations permitting the donation of campaign contributions to community organizations or youth, recreational, or social groups. This bill will specify that the scope of permissible uses of campaign contributions shall be limited to donations to any community group which fosters the candidate's community relations, including but not limited to, educational, youth, recreational, charitable, scientific, or literary organizations. It also clarifies that campaign contributions may be used for ordinary and necessary expenses incurred in the candidate's performance of official duties.

Your Committee finds that authorizing donations only to community groups that foster the candidate's community relations is too limiting. A candidate may wish to contribute to a charitable organization which may not foster his community relations. As the bill presently reads, this would not be an allowable use of campaign contributions. Your Committee recommends that the bill be amended to allow a candidate to contribute to any community service, educational, youth, recreational, charitable, scientific, or literary organization. In addition, your Committee amended the bill to allow a candidate to contribute to other types of organizations as deemed appropriate by rules adopted by the campaign spending commission.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1386, S.D. 1 as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1386, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 6 on S.B. No. 1408

The purpose of this bill is to amend the spouse abuse criminal statute to 1) require the police to prepare a written report if there are reasonable grounds to believe that physical abuse exists; 2) require the abuser to leave the premises for a cooling off period of twelve hours; 3) require the arrest of an abuser who refuses to comply with an order from the police; and require a person convicted under this section to serve a minimum jail sentence of forty-eight hours and to undergo domestic violence counseling and treatment.

Your Committee is concerned with effectively addressing and combatting family violence. The ramifications of family violence spread far beyond the confines of the family. Children who are the victims of, or are witnesses to, violence learn to view it as accepted and normal behavior. They may perpetuate the violence as adults.

Presented with this problem, your Committee, upon further consideration, amended the bill to broaden its applicability to family and household members. "Family and household members" is defined in the bill as "spouses, former spouses, parents, children, and persons jointly residing or formerly residing in the same dwelling unit". Your Committee believes that extending the protection of this criminal statute to family and household members will assist in mitigating family violence and its effect on the community.

Your Committee also made a technical, nonsubstantive amendment to the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1408, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1408, S.D. 2, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 7 on H.B. No. 188

The purpose of this bill is to make it unlawful for any person engaged in sports fishing to use throw nets with stretched mesh of less than two inches after December 31, 1999, and to make it unlawful for any person to sell or offer to sell such nets after December 31, 1989.

The original intent of this bill was to prevent the depletion of desirable fishes in certain areas of the State, believed to be caused by the use of throw nets with less than two inches in stretched mesh size. By making the use of such throw nets unlawful, sub-adult fishes would be

given a greater opportunity to escape through larger net holes and reach their full maturity cycles.

The effect of H.B. 188, S.D. 1, is to allow the sale of throw nets less than two inches in stretched mesh size until December 31, 1989, and to allow its continued use through December 31, 1999.

Your Committee finds that a local retailer has a two year supply of throw nets of less than two inches in stretched mesh size and requires sufficient time to deplete its present stock in order to avoid economic hardship.

Your Committee has weighed the original intent of this bill against the need to provide relief to those businesses with an oversupply of throw nets less than two inches in stretched mesh size and agrees that relief should be provided to avert possible economic losses. However, your Committee is concerned that such retail outlets inform potential purchasers of such throw nets of the limited time available for the legal use of such nets. Such information may be made by posting notices or by providing verbal warnings to that effect.

Your Committee has taken these factors into consideration and makes the following amendments to H.B. No. 1088, S.D. 1:

- (1) page 1, section 1, line 10, (1), change "until December 31, 1999," to "until December 31, 1994"; and
- (2) page 3, section 2, §188-30 (a), line 14, change "After December 31, 1999" to "After December 31, 1994"; and
- (3) page 3, (b), line 19, change "After December 31, 1989" to "After July 1, 1988".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 188, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 188, S.D.1, C.D. 1.

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

Representatives Apo, Crozier, Hagino, Nakata and Kamali'i  
Managers on the part of the House

Conf. Com. Rep. No. 8 on S.B. No. 1224

The purpose of this bill is to prohibit the use of bullpen traps which exceed two thousand feet in length; allow bullpen traps to remain in place for not more than sixteen hours; and, to make it unlawful for any person to capture or attempt to capture aquatic life with a bullpen trap within one thousand yards from shore except for certain areas off the island of Molokai.

Your Committee has amended page 2, lines 1-7 of this bill by deleting the proposed subsection (d) in its entirety and substituting two new subsections (d) and (e). The new subsection (d) makes it unlawful to capture or attempt to capture aquatic life with a bullpen trap within one thousand yards from the shoreline, except as provided by the new subsection (e). The new subsection (e) makes it lawful to capture or to attempt to capture aquatic life with a bullpen trap in the area seaward from five hundred yards from the shoreline of the island of Molokai west of Kaunakakai wharf and in the area seaward from two hundred yards from the shoreline of the island of Molokai east of Kaunakakai wharf. The new subsection (e) further authorizes the Department of Land and Natural Resources to designate other areas of similar characteristics where bullpen traps may be used within one thousand yards from the shoreline.

Your Committee has further amended the bill by making a technical change on page 1, line 17.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1224, 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. 1224, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Apo, Metcalf, Shon, Tam and Pfeil  
Managers on the part of the House

Conf. Com. Rep. No. 9 on S.B. No. 93

The purpose of this bill is to clarify the provisions contained in Section 189-3, Hawaii Revised

Statutes, which require every commercial marine licensee, unless exempted to submit a monthly catch report to the Department of Land and Natural Resources. The bill would also allow the Department to enter into cooperative agreements with governmental agencies such as the Federal National Marine Fisheries Service for the exchange and use of fish catch data for the management of marine life.

Your Committee has amended the bill on page 1, lines 13 and 14 to maintain the existing language indicating that a written certificate of exemption may be issued by the Department exempting certain marine licensees from submitting monthly catch reports. Your Committee believes that specifying a written certificate be issued will minimize any uncertainty regarding the identity or right of specific marine licensees to be exempted from the monthly catch report requirements.

Your Committee has also made technical amendments as follows:

- (1) On page 1, line 9, to delete the comma proposed to be added after the word "that." The addition of the comma would not be in accordance with recommended drafting style.
- (2) On page 3, line 6 to delete the proposed subsection (c) designation of the last paragraph of the existing language of Section 189-3. Your Committee finds that the provisions of the last paragraph of Section 189-3 properly relate to the existing subsection (b) and should not be placed under a new subsection (c) designation.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 93, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 93, H.D. 1, C.D. 1.

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

Representatives Apo, Hagino, Metcalf, Shon and Kamali'i  
Managers on the part of the House

Conf. Com. Rep. No. 10 on S.B. No. 90

The purpose of this bill is to clarify: that fishing vessel charter service operations for the taking of marine life in or outside the State must obtain commercial marine licenses; that a commercial marine license is required for taking fish inside and outside of the State, for selling within the State, and for landing in the State for transshipment and sale elsewhere; and that a commercial marine license may be issued to a vessel with the fee determined by the number of persons on the vessel contributing to the taking of marine life for commercial purpose.

As received by your Committee, this bill does not provide for any increase in the fees for commercial marine licenses. After due consideration, your Committee has amended page 3, lines 19-21 of the bill to increase the fee for marine licenses for any person who has resided in the State for one year or longer from \$10 to \$25 and to increase the fee for marine licenses for all others from \$20 to \$50.

Your Committee has further amended the bill to clarify its effective date as July 1, 1985.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 90, 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. 90, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Apo, Crozier, Kihano, Kim, Nakata, Oshiro, Shon, Isbell and Kamali'i  
Managers on the part of the House

Representative Oshiro did not sign the report.

Conf. Com. Rep. No. 11 on H.B. No. 268

The purpose of this bill is to amend H.R.S. 571-52 to prohibit any employer from refusing to hire, discharging or taking any other disciplinary action against an employee whose wages are assigned to satisfy a child support obligation. It also declares that the penalty for any violation of the section is established by H.R.S. 710-1077(1)(g).

Cooperation of all employers is essential if child support enforcement is to be successful. However, many employers are still reluctant to comply with the wage assignment law.

Imposing a penalty is one effective method to gain compliance. This in turn ensures that children will be able to receive timely and regular payments made on their behalf.

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

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 268, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 268, S.D. 1, C.D. 1.

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

Representatives Tungpalan, Tom and Hemmings  
Managers on the part of the House

Conf. Com. Rep. No. 12 on H.B. No. 488

The purpose of this bill is to permit long term health care facility and hospital patients to be visited by certain animals.

Under this bill, animals of the kind commonly kept as household pets may be brought into long term health care facilities and hospitals for the purpose of patient visitations. Such visitations would be made under guidelines established by the institution, which also may require, at its discretion, the production by the animal's owner of documentation from a veterinarian attesting to the animal's good health.

Your Committee finds that animals have been found to be therapeutically valuable for patients, especially for the elderly and mentally ill, and, therefore, that such visitations should be permitted for patients in long term health care facilities, but should not be permitted for patients in hospitals because of various health concerns.

Your Committee has amended H.B. No. 488, H.D. 1, S.D. 1, page 1, Section 2, line 11 by deleting the words "and hospitals" to reflect the above view.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 488, 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. 488, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Bunda, Hashimoto, Hirono, Lindsey, Morgado and Cavasso  
Managers on the part of the House

Conf. Com. Rep. No. 13 on S.B. No. 78

The purpose of this bill is to repeal Part II of Chapter 378, Hawaii Revised Statutes, and to add a new Part II permitting the use of various lie detector tests under certain conditions.

Currently, Part II 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 and provides that violation of this part is a misdemeanor and constitutes a criminal offense.

This bill provides civil and criminal penalties for violations of the Part, authorizes the attorney general or the county prosecutors to take civil and criminal actions, and requires employers to inform employees or prospective employees in writing, as well as orally, that the test is voluntary and that the refusal to submit will not result in job termination or jeopardize prospective employment opportunities.

Your Committee has amended the bill by clarifying that the criminal penalty for violating the Part is a fine of not more than \$1,000, or imprisonment for not more than one year, or both. Your Committee has also made a technical, nonsubstantive amendment to correct a drafting error.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 78, 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. 78, S.D. 1, H.D. 2, C.D. 1.

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

Representatives Tom, Tungpalan, Takamine, Leong, Metcalf, Nakata and Anderson  
Managers on the part of the House

Conf. Com. Rep. No. 14 on S.B. No. 249

The purpose of this bill is to insure the confidentiality of adult probation records by amending section 806-73, Hawaii Revised Statutes.

There are two kinds of adult probation records originated by adult probation officers: (1) the case record, which is a running log of events relative to the offender and includes internal notes and memoranda, and (2) the presentence report. The case record contains confidential information concerning the offender. This information is necessary for the adult probation officer to effectively monitor the offender. The presentence report contains detailed information about the offender, including a personal history, the offender's version of the crime, and an assessment of the offender's contrition.

Records originated by adult probation officers pursuant to duties and powers already established in section 806-73, Hawaii Revised Statutes, are not clearly and expressly confidential. This fact sometimes hampers adult probation officers in the performance of their duties. This bill makes explicit the documents which can be released and to whom they can be released.

Your Committee upon further consideration amended the bill to provide that the presentence report may be released to a psychiatrist, psychologist, or other mental health practitioner who is treating the defendant pursuant to a court order for mental health care. As the bill previously read, it could have been interpreted as permitting the release of the documents to any mental health practitioner when a defendant is under a court order for treatment. Your Committee also deleted the reference to the Department of Health as an agency to which the report can be released, as any Department of Health mental health practitioner who is treating the defendant will be allowed to obtain the report.

Your Committee also made technical, nonsubstantive amendments for clarity.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 249, 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. 249, S.D. 1, H.D. 1, C.D. 1.

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

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

Representatives Blair and Pfeil did not sign the report.

Conf. Com. Rep. No. 15 on H.B. No. 830

The purpose of this bill is to prohibit, subject to minor exceptions, affixing or attempting to affix lights, lamps, reflectors and illuminated devices that are blue or made to appear blue on any motor vehicle, motorcycle, motor scooter, bicycle or moped.

Your Committee is concerned about the increase in the incidence of police impersonators and believes that it is important to be able to prosecute persons who operate vehicles set up to resemble police vehicles or that at night could be mistaken for police vehicles but who are not in the act of impersonating a police officer.

Your Committee agrees that provisions should be adopted to prohibit persons from using blue lights, lamps, reflectors and illuminated devices which enable a more realistic impersonation of a law enforcement official.

Your Committee upon further consideration has made the following amendments to the bill, at section 1, page 1, line 6, to expand the class of persons in violation of the new Hawaii Revised Statutes section proposed by this bill by penalizing persons who operate, knowingly display or knowingly possess a prohibited device on or within a motor vehicle, motorcycle, motor scooter, bicycle or moped:

- 1) the word "operate" has been added between the words "shall" and "affix";
- 2) the phrase "knowingly display or knowingly possess" has been inserted between the words "affixed" and "any"; and

- 3) a comma has been inserted between the words "operate" and "affix" and between the words "affixed" and "knowingly display".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 830, 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. 830, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 16 on S.B. No. 1264

The purpose of this bill is to establish new maximum bumper height specifications for passenger vehicles, and to increase the maximum allowable bumper heights for vehicles with a gross vehicle weight rating.

Your Committee finds that S.B. No. 1264, S.D. 1, H.D. 1, proposes to establish new bumper height limitation which attempt to balance the legitimate interests of persons who operate off-road vehicles with the interests of public safety. It is the opinion of your Committee, however, that the bumper height limitations contained in the bill are too restrictive, particularly since the hazard believed to be caused by such vehicles has not been completely established.

Your Committee believes that greater flexibility is required in this bill to permit person to pursue the business of reconstructing vehicles and the opportunity to operate vehicles off the road. Your Committee, therefore, has proceeded to balance these considerations with the overriding public interest in safety by amending S.B. No. 1264, S.D. 1, H.D. 1 as follows:

- (1) Increasing the maximum allowable bumper heights for vehicles with a gross vehicle weight rating by amending lines 11 through 13 on page one of the bill to read as follows:

4,500 lbs. and under	[22] 29 inches	[22] 29 inches
4,501 lbs. to 7,500 lbs.	[24] <u>33</u> inches	[26] <u>33</u> inches
7,501 lbs. to 10,000 lbs.	[28] <u>35</u> inches	[30] <u>35</u> inches

- (2) Providing that for vehicles which have been modified or altered from the original manufacturer's design that the bumper height be measured from a level surface to the bottom of the bumper rather than the "vehicle frame rail where the original bumper brackets were installed";
- (3) Removing the exception that this section shall not apply to motor vehicles which, at manufacture, have a bumper height in excess of that provided in this section;
- (4) Inserting on line 5 on page two of the bill as received the following language relating to the maximum height for a vehicle's rail frame and the maximum distance between a vehicle's body and its rail frame:

"The vehicle frame rail, measured from a level surface to the bottom of the vehicle frame rail, shall not exceed the attached bumper height. The maximum distance between vehicle body to vehicle frame rail shall not exceed three inches. The distance between the vehicle body to the vehicle frame rail shall be measured from the vehicle body mount seat to the vehicle frame rail mount seat";

and

- (5) Requiring, for reasons of safety, that certain vehicles install audible reverse warning devices that would sound when the vehicle is backed up by inserting at the end of Section 1 of the bill the following language:

"Any vehicle that exceeds the Vehicle Equipment Safety Commission-Regulation 12 recommended bumper height, based on the GVWR, shall be equipped with an audible reverse warning system. The audible reverse warning system is not required on any open cab vehicle with a distance of less than four feet from the rear of the driver's seating position to the rear most part of the vehicle body."

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1264, 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. 1264, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Oshiro, Nakasato, Lardizabal, Tungpalan and Anderson  
Managers on the part of the House

Conf. Com. Rep. No. 17 on H.B. No. 1393

The purposes of this bill are: 1) to provide that \$100,000 be granted to the Civil Air Patrol from the airport revenue fund pursuant to Chapter 42, Hawaii Revised Statutes; 2) to specify that the current \$3,000 grant shall be made available to Hawaii-based squadrons and flight units only; 3) to allow the purchase of fuels and oils not otherwise provided to the organization by the federal government; and 4) to allow assistants to the adjutant to perform certain administrative and fiscal duties.

Your Committee finds that the Civil Air Patrol is presently statutorily provided with a grant of \$100,000 annually from the airport revenue fund. However, in recent years, the Hawaii Wing of the Civil Air Patrol has exhibited a lack of careful financial management and has shown little or no accountability for the state grant it receives. In the past, little or no financial controls have been imposed on the \$3,000 grant given to individual squadrons or flight units.

Your Committee concurs with the finding that the Hawaii Civil Air Patrol has not fulfilled a fiduciary responsibility to the State for the state funding the organization receives annually. Because of the way it has managed its funds, your Committee finds that there is a need for stronger legislative oversight of funds granted to this organization.

Your Committee is cognizant that a new wing commander, Colonel John Parrish, has been appointed to head the organization, and he has testified that there will be stronger fiscal controls and more efforts made to hold the Civil Air Patrol accountable. Your Committee believes that the provisions of this bill will better assist the organization in reaching these goals.

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

- 1) At section 1, page 1, line 5, the words "so much thereof as may be necessary" have been added between the words "annually" and "[is]"; and
- 2) At section 1, page 1, line 5, the word "may" has been replaced with the word "will".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1393, 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. 1393, H.D. 2, S.D. 1, C.D. 1.

Senators Cayetano, Hagino and Soares  
Managers on the part of the Senate

Representatives Taniguchi, Takamine, Oshiro, Lardizabal and Anderson  
Managers on the part of the House

Conf. Com. Rep. No. 18 on H.B. No. 89

The purpose of this bill is to provide for a mandatory seat belt law in Hawaii.

The following amendments are made to the bill.

**Mandatory Seat Belt Use.** Throughout this legislative session, testimony has been presented on the merits of mandatory seat belt use. The department of transportation has said that such a policy may be the most effective way of reducing the probability of fatalities and injuries to occupants involved in auto accidents. A study by the National Highway Traffic Safety Administration has concluded that safety belt use is the most cost-effective highway safety measure that is currently available.

The usefulness of seat belts is especially evident for protection against the second crash, the human crash, which occurs a split-second after the vehicle comes to a halt. Seat belts extend the time during which the body stops and distributes the crash force over a larger area of the body.

In reviewing this issue, your Committee has concluded that in any accident the risk of harm to front seat passengers is far greater than that to back seat passengers, and as a result, a higher standard of safety for front seat passengers is required. Data received from the



department of transportation support this contention. For the period of 1979 through 1984, 88 per cent of car crash fatalities in Hawaii were front seat occupants. Further, more accidents involve occupants in the front seat and, according to the department of transportation, statistics from the past six years reveal that the chances of fatality or injury to the occupants in a motor vehicle accident are far greater if they are sitting in the front seat.

As a result, and in order to minimize the intrusion of this law upon personal freedoms, your Committee has amended the bill to provide for mandatory seat belt use for front seat occupants of a motor vehicle.

Driver-Passenger Responsibility for Seat Belt Use. In reviewing this concern, your Committee has viewed the mandatory seat belt requirement as the responsibility of individuals to protect themselves from harm. Your Committee has amended the bill to require passengers 15 years of age or older to be responsible for their own use of seat belts and to be cited for any violation of this law. The driver of a motor vehicle shall still be responsible for the driver's own use and for that of passengers under 15 years of age.

Penalties. Your Committee has reviewed both House and Senate proposals for penalties for noncompliance. Your Committee believes that, because the harm and risk is to the individual not wearing the belt and because no harm or injury is caused to another person, the penalty or fine should not be severe.

Moreover, your Committee believes that any fine should be set at less than \$25 in order to avoid a federal rule that would make it unnecessary for manufacturers of cars to provide automatic passive restraint systems if two-thirds of the population of the United States reside in states that have passed mandatory seat belt laws meeting certain federal requirements. Imposing a fine of less than \$25 assures that our law will fall short of those federal requirements.

Your Committee believes that Hawaii's passage of a mandatory seat belt law should not be part of any effort to prevent manufacturers from being required to install automatic protection systems in all automobiles manufactured after September 1, 1989.

For these reasons, a person who fails to comply will be subject to a fine of \$15.

Insurance Premium Reduction. Throughout the discussions on this bill, testimony has been received that indicates that its passage will result in a substantial reduction in fatalities and injuries. The department of transportation has estimated that a mandatory seat belt law in Hawaii would result in a 57 per cent reduction in motor vehicle fatalities and a 60 per cent to 70 per cent decrease in injuries. When these estimates are applied to 1984 when 140 automobile occupants died and more than 11,852 were injured in Hawaii, it is easy to see the substantial public traffic safety benefits of this law.

Since the reduction of fatalities and injuries resulting from mandatory seat belt use will reduce the number of claims and size of claims against insurers, it can be expected that insurance companies will realize immediate savings and benefits from a mandatory seat belt law.

Your Committee believes that such savings should be passed on to the consumer in the form of a reduction in the costs of their automobile insurance premiums. However, representatives of the insurance industry have said that it would be necessary to review the effectiveness of the law in reducing fatalities and injuries for 3 years before they adequately can gauge the reduction that the consumer should receive. If this is done, consumers would have already lost 3 years of savings they should have received as a result of this law.

In considering this issue, your Committee has reviewed information from the U.S. Department of Transportation which estimated the potential savings from the use of automatic restraint systems such as automatic belts and airbags.

Based on estimates of the potential safety benefits in reduced fatalities as a result of these devices, the department determined the value of insurance savings to be approximately ten per cent and found a potential annual savings for a vehicle's insurance of \$9 to \$17 for air bags and \$10 to \$14 for automatic belts, assuming 70 per cent usage.

The data of the department also showed that mandatory seat belt laws were immediately more effective than automatic belts in assisting in reducing fatalities and injuries. Assuming 70 per cent use for both systems, mandatory seat belt use laws could potentially result in 5,920 to 7,510 fewer fatalities nationally each year while such reductions for automatic belts is estimated at 5,030 to 7,510. Moderate-critical injuries, mandatory seat belt laws would reduce nationally by 100,430 to 124,570, and 86,860 to 124,570 for automatic belts.

Since these estimates indicate relatively similar effectiveness for the reduction of fatalities and injuries for both automatic belts and mandatory seat belt laws, and, if anything, that mandatory seat belt laws would be more effective than automatic belts, your Committee believes that a similar reduction, if not greater, in insurance premiums should be realized for mandatory seat belt use.

Your Committee notes that offering insurance reductions and discounts because of safety measures taken is not new. Hawaii's no-fault insurance law requires a mandatory ten per cent discount for those motorcyclists who attend a department of transportation-approved driver education course. Other states, such as New York, have provided a mandatory discount on premiums for personal injury protection and medical payment coverage on automobile insurance for vehicles equipped with passive restraint systems.

Accordingly, the bill has been amended to provide a ten per cent reduction in premium charges for no-fault benefits and medical payment coverage. According to the insurance commissioner, personal injury protection is synonymous with the definition of "no-fault benefits" as defined under section 294-2(10), Hawaii Revised Statutes. The ten per cent reduction shall apply to all new and renewal policies issued after the effective date of this bill and will be repealed December 31, 1988. According to the insurance commissioner, it is expected that any savings the customer would realize from improved traffic safety would be reflected in the rates and the continuance of the mandatory discount would then be a penalty on the insurer.

Police Warnings. The bill includes a section which will allow law enforcement officials to issue verbal warnings prior to the date the law goes into effect. These warnings may be given from November 1, 1985 through December 15, 1985.

Effective and Repeal Date. Mandatory seat belt use will commence December 16, 1985. Provisions for a repeal date that appeared in the Senate draft have been deleted.

Report to the Legislature. The department of transportation and the insurance commissioner are required to report annually for the next five years to the legislature relating to public compliance with the law, statistics on traffic accidents and resulting injuries and fatalities, and the effect of this law on insurance rates.

Compatibility with Support for Automatic Crash Protection Systems. A section has been included which would express the legislature's intent that Hawaii's mandatory seat belt law is compatible with support for federal safety standards requiring automatic crash protection and should not be interpreted or applied in any manner to rescind federal automatic crash protection systems for new vehicles.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 89, 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. 89, H.D. 1, S.D. 2, C.D. 1.

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

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

Conf. Com. Rep. No. 19 on H.B. No. 519

The purposes of this bill are: 1) to increase from \$3.50 to \$6.00, the maximum amount a towing company may assess vehicles towed from private or public property and stored for a 24 hour period; 2) to include in Section 290-11, Hawaii Revised Statutes, a provision adding a mileage fee of \$2.50 per mile on tows over five miles; and 3) to include in Section 290-11, Hawaii Revised Statutes, a provision limiting the mileage fee to a sum of \$25 for towing mileage over five miles.

Your Committee finds that towing companies, especially on the neighbor islands, have been hesitant to service outlying areas due to the low ceiling on allowable towing charges. Adding a mileage fee of \$2.50 and imposing a ceiling of \$25 was suggested to enable towing companies to receive adequate compensation for services provided to outlying areas.

Your Committee finds that the proposed increase in towing rates and the imposition of a \$25 ceiling on additional towing charges may sufficiently compensate towing companies which tow vehicles over a distance exceeding five miles. However, your Committee believes that towing companies as well as consumers of services provided by such companies could be dealt with more equitably. Therefore, your Committee upon further consideration has made the following amendments to this bill:

- 1) At page 2, line 1, the figure \$2.50 has been replaced with the figure \$1.00 to reflect a reduced per mile fee for towing charges over five miles;
- 2) At page 2, lines 1 to 2, the phrase "but not more than has been deleted to remove the ceiling on additional towing charges; and
- 3) At page 2, line 2, a dollar sign has been inserted between the left bracket symbol and the number 3 to accurately reflect the text as set forth in Section 290-11, Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 519, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 519, S.D. 1, C.D. 1.

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

Representatives Taniguchi, Oshiro, Takamine and Anderson  
Managers on the part of the House

Conf. Com. Rep. No. 20 on S.B. No. 133

The purpose of this bill is to prohibit aircraft from being operated at any airport owned or operated by the State Department of Transportation unless the aircraft has a certificate of registration issued in accordance with the Department's rules. The bill provides certain exemptions to the registration requirements, sets the annual registration fee at \$5, and provides penalties for failure to register aircraft as required.

Your Committee has amended page 2, line 4 of the bill to provide for a registration fee of \$10 rather than \$5 to be paid by the operator of each aircraft registered under this measure.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 133, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 133, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Taniguchi, Souki, Kim, Oshiro, Tajiri and Isbell  
Managers on the part of the House

Conf. Com. Rep. No. 21 on H.B. No. 329

The purpose of this bill is to provide mandatory for driving with a suspended or revoked license that was ordered because of a conviction for driving under the influence of intoxicating liquor (DUI) or refusal to submit to a blood or breath test.

Your Committee finds that the threat of license suspension is an effective deterrent to drunk driving. It believes that persons who receive a license suspension or revocation due to a conviction for DUI or refusal to submit to a blood or breath test, deserve harsh penalties if they continue to drive.

Upon further consideration, your Committee has amended H.B. No. 329, H.D. 1, S.D. 2 by:

(1) Replacing the word "and" with the word "or" on page 1, line 7 of the bill. In making the amendment, your Committee's intent is to subject those convicted of either DUI or refusing to submit to a breath or blood test to the provisions of the bill.

(2) Requiring a minimum imprisonment of three consecutive days.

(3) Providing that violators of the section shall be subject to a fine of not less than \$250 but not more than \$1,000.

(4) Adding Section 3 to the bill to clarify that persons penalized under the provisions of this bill will not have an opportunity to ask the court to apply the lighter penalties provided in section 286-132, Hawaii Revised Statutes, for driving while their license is suspended or revoked. In addition, your Committee made certain technical, nonsubstantative amendments to clarify the section.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 329, 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. 329, H.D. 1, S.D. 2, C.D. 1.

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

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

Representative Blair did not sign the report.

Conf. Com. Rep. No. 22 on H.B. No. 1257

The purpose of this bill is to amend the election statutes to improve the administration of elections in Hawaii.

This bill proposes the following amendments:

1. Section 11-18, H.R.S. is amended to allow a challenge as provided in Section 11-25 where there is a questionable change of registration due to a change of residence.
2. Section 11-21(e), H.R.S. is amended to provide that a challenge to the registration of a voter may be made in accordance with Section 11-25, H.R.S.
3. Section 11-25, H.R.S. is amended to allow a person whose right to vote is challenged on election day to first be given the opportunity to make the relevant correction pursuant to Section 11-21, H.R.S.
4. Section 11-112, H.R.S. is amended to allow consolidation of offices, candidates, questions, or issues on the same ballot unless prohibited by the state constitution.
5. Section 11-119, H.R.S. is amended by adding a new subsection (b) which would require that the exact wording to be printed on the ballots be submitted to the chief election officer not later than 4:30 p.m. on the sixtieth calendar day prior to the election.
6. Section 11-139, H.R.S. is amended to allow a blind, disabled, or illiterate voter to receive assistance in casting a ballot. The amendment further provides that the voter's employer or employer's agent or agent of the voter's union cannot render assistance and that two precinct officials who are not of the same political party may render assistance.
7. Section 12-42, H.R.S. is amended to clarify the term of office of candidates running for state office in special or special primary elections. This bill provides that the term for such a candidate begins as of the day of the special election or of the succeeding special general election, whichever is applicable. This bill further provides that a candidate for state office who is unopposed after nomination in a special primary election begins his or her term of office on the day of the special general election.
8. The bill adds a new subsection (e) to Section 13D-3, H.R.S. which requires each county clerk to add in the general county register any person who on November 6, 1982 was registered to vote only for the board of trustees of the office of Hawaiian affairs.
9. Section 15-9(b), H.R.S. is amended to require that return envelopes of absentee ballots which arrive after the closing of the polls be time stamped.

Your Committee, upon further consideration, recommended that the proposed subsection (c) to Section 11-112, H.R.S. be deleted. Your Committee raised a concern that the bill will allow for consolidation of ballot items at the discretion of the chief election officer. However, there are no safeguards contained in the bill to ensure the ballot is fair and will not confuse or mislead voters.

In addition, your Committee made technical, nonsubstantive amendments to conform with recommended drafting style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1257, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1257, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 23 on H.B. No. 28

The purpose of this bill is to amend the rules of evidence to permit videotaped testimony of a child victim to be used in the prosecution of a child abuse or sexual offense case.

Presently, the rules of evidence do not allow the videotape of a child's testimony and therefore relieve the child of having to testify in court.

For a child victim, testifying in court can be a traumatic experience. This bill attempts to minimize the potential harm to a child who is called to testify. The bill permits videotaped testimony where the child is interviewed in a non-adversarial setting prior to trial. The bill also authorizes the child's testimony to be taken in another room and televised by closed circuit television into the courtroom during a trial.

Your Committee, upon further consideration made several amendments to the bill.

The rule will be applicable to children under sixteen years of age. Your Committee finds that under sixteen years of age would be more appropriate in applying this rule. Although the "threshold age" for certain sex crimes such as rape and sodomy is fourteen, child abuse in the first and second degree establish sixteen as the "threshold" age for those offenses. As this rule is designed to apply to child abuse cases, your Committee amended the age to be consistent with the age set forth in child abuse crimes.

Subsection (b)(6) of the rule is amended to require that the person conducting the interview be present and available to testify at the trial and that other persons who were present at the interview be available to testify. Your Committee finds that it is unnecessary to require everyone who was at the interview to be present at the trial and available to testify. Unless an issue is raised regarding the manner in which the interview was conducted, these persons may never be called upon to testify.

Subsection (b)(7) is amended to allow discovery of the recording by the defendant or defendant's attorney. Your Committee believes that discovery of the recording by defendant or defendant's attorney is made available pursuant to Rule 16 of the Hawaii Rules of Evidence.

Subsection (d) is amended to provide that persons necessary to operate the equipment and such other persons as the court determines necessary shall be present in the room where the child is testifying. Further, the bill is amended to give the attorneys a choice of whether or not they desire to be in the room with the child. Your Committee believes it is important that the people permitted in the room are closely monitored by the court. While cognizant of the need to protect the child victim, your Committee wishes to avoid a situation where a child is coached in giving testimony. If the attorneys are present in the room during the examination of the witness, the defendant and the defendant's attorney shall be allowed spontaneous communication during the taking of testimony.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 28, 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. 28, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 24 on H.B. No. 104

The purpose of this bill is to: (1) clarify that only name change orders for persons born in the State need to be reported to the state registrar, and (2) increase the filing fee for a petition for a name change from \$5 to \$10 and make this filing fee non-refundable.

Under present law, the lieutenant governor must, regardless of the petitioner's place of birth, record the name change order with the bureau of conveyances and report the order to the registrar of births within 60 days after signing the order. However, the registrar is empowered only to issue new birth certificates to those born in Hawaii; thus unnecessary paperwork is created for the registrar.

In addition, the measure will increase the filing fee for a name change order. Your Committee finds that the increase is justified considering the costs incurred in processing the order. In addition, the fee will be non-refundable.

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

(1) Deleting reference to name change by decree. Your Committee finds that changes of

name presently are only executed by order and such wording burdens the statutes.

(2) Creating two new subparagraphs to cover situations for persons born in Hawaii, and for those persons born outside the State. Your Committee believes this amendment clarifies the measure.

(3) Making a technical, nonsubstantive amendment.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 104, 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. 104, H.D. 2, S.D. 1, C.D. 1.

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

Representatives Tom, Souki, Lardizabal, Menor, Metcalf, Nakata, Tajiri, Tungpalan, Jones and Kamali'i  
Managers on the part of the House

Representative Jones did not sign the report.

Conf. Com. Rêp. No. 25 on H.B. No. 436

The purpose of this bill is to amend chapter 346, Hawaii Revised Statutes, by: (1) providing personal care services to medical assistance recipients whose physical disabilities are of a degree that would require placement in an intermediate care facility if the personal care services were not provided; (2) expanding the definition of "personal care services" to include assistance with medication which is ordinarily self-administered, as well as assistance with mobility and transfer activities; and (3) providing that the ceiling for payment for personal services be sixty-five per cent of the average monthly medical assistance payment for a recipient in an intermediate care facility.

Your Committee amended section (e) of the bill to clearly reflect that recipients of personal care services are not precluded from receiving chore services and other medical services necessary to keep the recipients out of institutions. Your Committee believes that the personal care services program is a cost-effective way of assisting persons with serious physical disabilities and enables them to carry on with their lives with dignity and pride.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 463, 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. 436, H.D. 2, S.D. 2, C.D. 1.

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

Representatives Graulty, Souki, Cachola, Crozier, Leong, Takamine, Isbell and Liu  
Managers on the part of the House

Conf. Com. Rep. No. 26 on H.B. No. 776

The purposes of this bill are to: (1) establish mandatory registration as the regulatory scheme for family child care homes; (2) simplify the procedure for registration of these homes; (3) establish minimum requirements for health and safety of children in family child care homes; (4) require the Department of Social Services and Housing (DSSH) to maintain a registry of family child care homes and make the information available to the general public upon request; (5) provide for the compliance with minimum requirements; (6) provide guidelines for the development of standards to assure the reputable and responsible character of applicants and their employees; (7) provide for the establishment of child care systems; (8) delineate a program of incentives for registration; (9) suspected child abuse/neglect cases; and (10) clarify the exclusions contained in the act.

Your Committee has amended H.B. No. 776, H.D. 2, S.D. 1 by:

- 1) amending the definition of "child care facility" to reflect that a facility caring for three or more children would come under the purview of chapter 346;
- 2) amending the definition of "family child care home" by specifying "three or more children", in order to be consistent;
- 3) amending the exclusions section to exclude those caring for two or less children, for consistency;

- 4) providing for a fine of up to \$500 for a violation of any provision of chapter 346;
- 5) eliminating the DSSH director's discretion to grant exemptions from the law.

Your Committee believes that multi-service organizations which promote recreation, health, safety or social group functions should not be subject to licensure. Your Committee therefore amended paragraph 5 of the exclusions section to reflect that multi-service organizations, such as the YMCA and YWCA, in addition to community associations which are excluded under current law, are excluded from coverage of the act.

Under current law, children participating in programs described in paragraphs 4 and 5 of the exclusions section must be between the ages of five to seventeen.

Your Committee is aware that children under age five may be enrolled in public and private schools and therefore create a problem for providers of before and after school care. Your Committee amended the language of paragraphs 4 and 5 to read: "eligible pupils in public and private schools through age seventeen" to resolve the problem.

While administrative rules for family day care homes need to be developed by the Department of Social Services and Housing as a result of this legislation, your Committee wishes to clearly establish the legislative intent to strike a proper balance between realistic costs on one hand and the availability and quality of child care on the other.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 776, 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. 776, H.D. 2, S.D. 1, C.D. 1.

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

Representatives Grauly, Cachola, Hashimoto, Leong and Liu  
Managers on the part of the House

Conf. Com. Rep. No. 27 on S.B. No. 149

The purpose of this bill is to provide the Land Use Commission (LUC) with new decision making criteria which emphasizes greater conformity between LUC decisions and identified areas of statewide concern. This bill also authorizes the LUC to conduct a five year review of land classification in this State, limits the review to County general and development plans, and allows the LUC to initiate amendments toward greater conformance between land use district boundaries and these plans. In addition, the bill provides that boundary amendments involving areas of fifteen acres or less, except those involving conservation districts, should be processed by the counties, and that all parties participating in hearings involving petitions for changes in district boundaries involving conservation districts and areas greater than fifteen acres may enter into stipulations as to the findings, conclusions and conditions of reclassification regarding the proposed boundary change.

Your Committee concurs with the Department of Planning and Economic Development that improvements should be made to the existing land use district boundary process and that this measure will: (1) reduce the time and cost to an applicant, facilitate processing of applications and reduce duplication; (2) protect the State's interests; (3) increase emphasis on long-range planning; and (4) provide for a smooth transition from the current system to an improved system. Your Committee believes this measure will address the concerns of applicants while providing sufficient safeguards to protect the use and condition of the land.

Your Committee finds that the intent of the provisions amending State land use district boundaries of areas fifteen acres or less, except in conservation districts, as provided for in Section 205-3.1, is to consolidate such boundary change petitions with the consideration of the existing county general plan, development and community plans, and zoning or such other proceedings of the respective county and not to require a separate proceeding pursuant to Section 205-4.

Your Committee has amended the bill by requiring that the Department of Planning and Economic Development: (1) conduct a five year review of land classification in this State instead of the LUC; (2) focus its efforts in reviewing land use district boundaries on the Hawaii State Plan, the County general plans, and development and community plans, and (3) submit a report of its findings to the LUC. Subsequent to the LUC's review, the Department may, and is strongly encouraged to, initiate boundary amendments it deems appropriate to conform the land use district boundaries to these plans. Your Committee also amended the five year boundary review procedure to conform with the provision of the contested case procedure of the LUC.

This bill also clarifies provisions of Section 205-4(j) by specifying that the LUC may, but shall not be required to, approve the stipulations of the parties. Your Committee has also made technical and nonsubstantive changes to the bill for clarity.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 149, 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. 149, S.D. 1, H.D. 1, C.D. 1.

Senators Aki, Hagino, Holt, Matsuura and Henderson  
Managers on the part of the Senate

Representatives Andrews, Say, Apo, Crozier, Tajiri and Pfeil  
Managers on the part of the House

Conf. Com. Rep. No. 28 on S.B. No. 1358

The purpose of this bill is to specify, but not limit, the items allowed to be recovered as costs by the prevailing party from a losing party in a lawsuit.

Under the traditional application of the present law, only a portion of the actual expenses incurred by the successful party have been awarded by the courts. With the advancement of technology, litigation has become more complex and more expensive. Yet the items permitted to be taxed as costs against the losing party have not changed to meet the rising expenses. Parties have to make serious financial sacrifices to properly prepare for the litigation of a case. This bill would alleviate the problem by authorizing the recovery of costs for intrastate travel expenses for counsel and witnesses, deposition transcript originals and copies, and other incidental expenses, such as copying costs, intrastate telephone charges, and postage.

Upon further consideration, your Committee amended the bill to provide that in determining whether and what costs should be taxed, the court may consider the equities of the situation. By permitting the court to examine the equities of the situation, your Committee intends that the court review the merits of the claims, the reasonable necessity of the items sought to be taxed for the prosecution or the defense, the relative hardship of costs are taxed against the losing party, and other relevant factors.

Your Committee does not believe that this bill will "open the floodgates" and allow the court to tax all costs relevant to the litigation against the losing party. Because case law has interpreted the present statute very narrowly, the only cost which is clearly allowable is the reimbursement of witness and sheriff's fees. The bill will give litigants the opportunity to receive reimbursement for additional out-of-pocket expenses. Your Committee expects that the court will continue to carefully scrutinize the proposed costs and only tax those costs which are reasonable, keeping in mind that excessive cost taxation will discourage meritorious litigation.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1358, 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. 1358, S.D. 1, H.D. 2, C.D. 1.

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

Representatives Tom, Kihano, Blair, Hirono, Kim, Lardizabal, Metcalf, Takamine, Kamali'i and Liu  
Managers on the part of the House

Representative Blair did not sign the report.

Conf. Com. Rep. No. 29 on H.B. No. 1285

The purpose of this bill is to require national criminal history record checks for all operators, staff or employees, or prospective operators, staff, or employees of child care, detention and correction/treatment facilities in the State.

Your Committee has made various amendments to the bill as received by:

- 1) substituting "shall" for "may" in referring to the department of social services and housing's rule making authority in protecting the welfare of children in child placing organizations, child caring institutions and foster boarding homes;
- 2) clarifying that standards to assure the reputable and responsible character of operators and employees of child caring institutions, child placing organizations and foster boarding



homes shall be developed;

- 3) deleting the specific references to chapter 707,708, 709, 710, 711, and 712 and instead requiring that any crime, other than a minor traffic violation involving a fine fifty dollars or less, be reported to the department of social services and housing (DSSH);
- 4) providing that a certificate of approval may be denied if the criminal history record of the operator, employee or new employee poses a risk to the health, safety or well-being of the children in care;
- 5) requiring that operators and employees be fingerprinted to comply with FBI rules on criminal history record checks;
- 6) requiring that new employees be fingerprinted within five working days of employment;
- 7) requiring that criminal history record checks be conducted on staff members of the HYCF and the detention or shelter facilities under the family court to comply with federal law and regulations; and
- 8) various technical, non-substantive amendments for the purpose of style, clarity and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1285, 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. 1285, H.D. 2, S.D. 1, C.D. 1.

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

Representatives Graulty, Souki, Hashimoto, Hirono, Kim, Levin, Tajiri, Anderson and Liu  
Managers on the part of the House

Conf. Com. Rep. No. 30 on S.B. No. 615

The purpose of this bill is to allow a court to award reasonable attorney's fees to the private party who prevails in an action for injunctive relief against another private party who allegedly has been or is undertaking any development work without obtaining the necessary permits and approvals for development.

Your Committee finds that as a result of the volume of development in this State, it is difficult for the State or counties to enforce development permit and approval requirements under the law. It is sometimes left to the initiative of private parties to assert positions of public interest in development issues. However, the high costs of raising these issues in litigation limits the ability of private individuals or parties to undertake such initiatives.

To protect a developer from a judgment proof plaintiff, the bill provides that upon the filing of certain claims for injunctive relief, plaintiffs must post a bond of at least \$2,500. This bond is to be used to pay for attorney's fees and costs if the party undertaking the development prevails. This bond should serve to ensure that meritorious claims will be asserted in court.

The bill provides protection to developers who proceed in good faith with a development project after receiving a statement from the appropriate government body that a permit or approval is not necessary. However, concern was raised regarding the necessary proof for such a claim by a developer who does not get a permit or approval prior to starting the development. Therefore, your Committee amended the bill to require that upon written notice to the developer, the developer has 30 days in which to send to the party seeking the injunction a copy of a written statement which should have been received prior to the start of the development that is the subject of the civil action.

Your Committee further amended the bill by restructuring portions of the bill for style and clarity.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 615, 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. 615, S.D. 1, H.D. 2, C.D. 1.

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

Representatives Andrews, Say, Tom, Apo, Metcalf and Kamali'i  
Managers on the part of the House

Representative Kamali'i did not sign the report.

Conf. Com. Rep. No. 31 on S.B. No. 854

The purpose of this bill is to require a safety inspection every six months of all non-exempt motor carrier vehicles having a gross vehicle weight rating of 10,000 pounds and all motor carrier vehicles having a gross vehicle weight of 10,000 pounds or less which transport passengers in the furtherance of a commercial enterprise, including car rental transport vehicles.

Under current law, those motor carrier vehicles weighing less than 10,000 pounds are given a safety inspection only once each year, whereas heavier motor carrier vehicles are inspected every six months. Because of the frequency of use of commercial motor carrier vehicles and the large numbers of passengers transported by them, your Committee believes that these vehicles should be given and pass a safety inspection two times each year. Car rental transport vehicles are examples of heavy use commercial carriers that require more frequent inspections to ensure passenger safety.

Your Committee has amended subsection (e) by changing the term "car rental customer transport vehicles" to "car rental transport vehicles", which is the term used in subsection (a).

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 854, 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. 854, S.D. 1, H.D. 1, C.D. 1.

Senators Cayetano, Toguchi and Soares  
Managers on the part of the Senate

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

Conf. Com. Rep. No. 32 on S.B. No. 253

The purpose of this bill is to amend H.R.S., Sec. 586-3 and 4 to: 1) permit a family or household member to apply for an order for protection on behalf of a minor or an incapacitated person, and 2) extend the protection of the order to the applicant's family or household members.

The current law, providing that orders for protection may only be made on behalf of minor children, is too restrictive. It does not offer assistance to those disabled and elderly persons who are not capable of completing a petition and attending the court hearing in person. They are presently without recourse to an order for protection.

Furthermore, under the present law, the Court is limited to granting protection to the applicant and the applicant's children or relatives who are residing with the applicant at the time of the filing of the petition. Since relatives who were not living with the applicant at the time of the filing of the petition, and relatives who never lived with the applicant, may need the same protection against harassment and abuse, the distinction between these two types of relatives is artificial and irrational. For instance, the statute does not afford protection to the children who were sent to stay with relatives prior to the parent's filing for an order for protection against the abusive parent. The bill would remedy this situation.

Upon further consideration, your Committee amended the bill to clarify that the petition for relief may be made on behalf of a person who is incapacitated as defined in the guardianship statute, section 560:5-101(2), Hawaii Revised Statutes, or who is physically unable to go to the appropriate place to complete or file the petition. As the bill previously read, it appeared that an "incapacitated person" was someone who lacks the capacity to understand; it did not consider other factors. That interpretation would have been too limited to achieve the purposes of the bill.

Your Committee also made a technical, nonsubstantive amendment to correct spelling.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 253, 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. 253, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 33 on S.B. No. 461

The purpose of this bill is to create a civil penalty for shoplifting.

Currently, a store owner may sue in civil court only for actual damages. However, the economic loss to the store owner includes the time and money spent on the apprehension and processing of a shoplifter and the subsequent reporting of the incident to the police. In addition, further time and money are spent if the store owner is forced to sue in civil court to recover damages. This bill places the economic burden of shoplifting on the shoplifter and not on the honest consumers who are forced to pay a higher price for their merchandise because of shoplifters.

Your Committee amended the bill to provide for a flat civil penalty of \$75, which represents the time and money spent in the apprehension of the shoplifter, reporting the incident to the police, and attempting to recover actual damages by a written demand for payment. If the store owner is forced to sue in civil court to recover his damages, the court can award not only the \$75 flat civil penalty, but also an additional civil penalty of not less than \$50 nor more than \$500.

Your Committee made other technical, nonsubstantive amendments to the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 461, 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. 461, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 34 on S.B. No. 462

The purpose of this bill is to reestablish specific and uniform beginning and ending dates for the terms of board and commission members appointed pursuant to section 26-34, Hawaii Revised Statutes.

This bill specifies a beginning date of July 1 and an ending date of June 30. A person whose nomination to a board or commission is confirmed by the Senate can begin serving a full term from July 1. If a starting date of January 1 were used instead of July 1, the board or commission member would lose several months of the term while the appointment was considered in the confirmation process of the Senate. In addition, the member's predecessor would have to serve as a hold over member.

The bill provides for hold over members during the transition period so that all terms will uniformly end on June 30 within four years of this bill's enactment.

Your Committee amended the bill to provide for the same effect for terms of the members of the statewide Health Coordinating Council. This was done so that a change to January 1 - December 31 beginning and ending dates could be effected as it was expected that the law in this area would be conformed to the current practice as evidenced by the original version of this bill. As a July 1 - June 30 term is now proposed by this bill, the changes made to the terms of members of the Council have to be adjusted to coincide with a January 1 - December 31 term.

Your Committee further amended the bill to allow the chairpersons of the Board of Agriculture, the Board of Land and Natural Resources, and the Hawaiian Homes Commission to have terms commencing on January 1 and expire on December 31 instead of a term coinciding with the term of the governor as proposed by the bill as received. This amendment reestablishes prior law and allows these chairpersons, who are considered part of the Governor's cabinet, to serve fully and actively until the end of the Governor's term which is the first Monday in December. Because of a need or period to wind down the activities of the Boards, and because these Board chairpersons are considered cabinet members and should serve fully under the Governor until the Governor is no longer in office, an expiration date of December 31 is more appropriate for these three Board chairpersons.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 462, 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. 462, S.D. 1, H.D. 1, C.D. 1.

Senators Chang, Aki and George

Managers on the part of the Senate

Representatives Yoshimura, Takamine and Hemmings, Jr.  
Managers on the part of the House

Conf. Com. Rep. No. 35 on H.B. No. 1231

The purpose of this bill is to require the counties to establish and implement the regulation of sewerage and wastewater treatment systems by July 1, 1987. In addition, this bill requires the Department of Health (DOH) to administer and control sewerage and wastewater systems until July 1, 1987 or until such time as the counties receive funding to assume the administration of this program.

Your Committee finds that Chapter 57 of the Administrative Rules of the Department of Health was adopted by the Department in 1983 as a replacement to Chapter 38 which required the State to regulate individual wastewater systems and private wastewater treatment works. The intent of Chapter 57 was to provide for the eventual transfer of the State's regulatory responsibilities over private and individual sewerage systems to the various counties of the State of Hawaii. To date, however, the respective counties have maintained that none are in the position to accept this responsibility without adequate assistance in funding. Consequently, program control over private and individual sewerage systems remains uncertain and poorly managed. This has resulted in an undesirable business climate for both the development industry and the consumer. Further, without the proper safeguards and controls in place, the potential for adverse consequences to the environment as well as to the general public remains a distinct possibility.

Your Committee finds that this bill, as presently drafted, allows the Department of Health to maintain its current program of regulation in accordance with DOH Administrative Rules Chapter 57. Whereas, a definite date for the overall transfer of authority of individual and private sewerage system has yet to be determined, your Committee finds that this industry should be regulated in a sound and comprehensive manner. To this end, your Committee has recommended the following amendments:

A new SECTION 1 has been added to this bill to allow for the reassignment of individual and private sewerage treatment control responsibilities from the State to a county on the date that the expenditure of start-up funds is made by the State to such county.

SECTION 2 has been amended to clarify that a county may implement its program of individual and private sewerage systems effective July 1, 1987, provided that a county shall implement this program immediately upon the receipt of start-up funds for this purpose.

SECTION 4 has been added to this bill to provide a definition of "individual wastewater systems" and "private wastewater treatment works".

SECTION 5 has been added to require the Director of Health to administer and regulate individual wastewater systems and private wastewater treatment works until such time that each county assumes complete administration of this program. This section also requires that all plans for the development of individual wastewater systems or private wastewater treatment works be submitted to the Director of Health for review. In addition, the Director is required to inspect and review any individual or private sewerage system following its construction but prior to its operation.

SECTION 5 further authorizes the Department to exercise its professional judgment in its assessment of individual and private sewerage systems. This provision affords the Department the necessary flexibility to impose variable or more stringent standards on a case by case basis as individual situations may warrant in order to better ensure the protection of public health.

SECTION 7 has been added to this bill to provide that the Department of Health shall administer this program pursuant to the provisions set forth within the section.

Technical non-substantive amendments have been made throughout this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1231, 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. 1231, H.D. 2, S.D. 1, C.D. 1.

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

Representatives Andrews, Bunda, Tajiri, Hagino, Honda and Isbell  
Managers on the part of the House

Conf. Com. Rep. No. 36 on S.B. No. 1413

The purpose of this bill is to afford the public more participation in the open meetings of the government.

This year marks the tenth anniversary of Hawaii's Sunshine Laws, Chapter 92, Hawaii Revised Statutes. To make government as open to the public as possible to protect the public interests, strengthening of the Sunshine Law is necessary.

Specifically, the bill amends various sections of Chapter 92, Hawaii Revised Statutes, as follows:

(1) Section 92-3: A provision was added to require the board to give an opportunity for interested persons to submit written testimony, and at the discretion of the board, present oral testimony.

(2) Section 92-4: Two provisions were added to mandate that a majority of the board vote to close the meeting, and if so voted, the reason for the closed meeting be publicly announced and the vote of each member be recorded.

(3) Section 92-5: Three provisions were added a) to protect in a closed meeting personal information about applicants for vocational and professional licenses; b) to require that closed meetings with the board's attorney be limited to questions pertaining to the board's legal responsibilities, to legal issues, and to matters relating to actual, threatened, or proposed lawsuits which may involve the board; and c) to prohibit the board from making a decision or deliberating toward a decision in matters not reasonably related to the open meeting exceptions.

(4) Section 92-7: A provision was added to require the board to give the public notice of an executive meeting, if known in advance, and the reason for it.

(5) Section 92-12: A provision was added to authorize and set standards for the initiation of a suit in court for any violation and to provide the court the discretion to award reasonable attorney fees to the prevailing party.

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

(1) Section 92-3: This section was revised to require the board to hear oral testimony but allow the board to establish its own rules governing oral testimony. The amendment will give the board the authority to reasonably administer the presentation of oral testimony. By this amendment, your Committee does not intend to provide rule-making powers pursuant to Chapter 91, Hawaii Revised Statutes, to any board which does not already have that power.

(2) Section 92-5: a) This section was amended to permit the board to consult with its attorneys on questions and issues pertaining to the board's powers, duties, privileges, immunities, and liabilities. The amendment would limit the situations in which a board could call an executive meeting with its attorney. b) The section was also amended to insure that a board would not deliberate toward or make a decision in an executive meeting on matters not directly related to the open meeting exceptions.

(3) Section 92-7: This section was amended to require a board which is unable to complete its agenda to continue consideration of items of reasonably major importance to a reasonable day and time.

Your Committee also made technical, nonsubstantive amendments to conform with recommended drafting style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1413, 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. 1413, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 37 on H.B. No. 266

The purpose of this bill is to amend the law providing for a wage assignment for child support to: 1) authorize that the assignment will continue in effect throughout the obligor's employment and shall be terminated when appropriate; 2) to mandate that an employer who

refuses to honor or otherwise fails to comply with an order of assignment shall be liable to the obligee for the full amount of all sums ordered to be withheld; and (3) to allow wage assignments for children over the age of majority.

Your Committee amended the bill by clearly stating that the primary responsibility for the termination of a wage assignment initiated by an obligee who has retained private counsel or is proceeding pro se belongs to the obligee, with secondary responsibility to the department or agency. Further, if the obligee fails to terminate the assignment when appropriate, the obligee, the agency or the department shall fully reimburse the obligor for any overpayment.

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

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 266, 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. 266, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Grauly, Tom, Cachola, Kihano, Leong and Cavasso  
Managers on the part of the House

Representative Cavasso did not sign the report.

Conf. Com. Rep. No. 38 on H.B. No. 453

The purpose of this bill is to amend section 279E-3, Hawaii Revised Statutes, relating to the Metropolitan Planning Organization (MPO) by: 1) changing the composition of the Policy Committee; 2) determining who among the MPO Policy Committee members is eligible to be elected chairperson; and 3) easing quorum requirements.

Your Committee is concerned about the difficulty the Oahu Metropolitan Planning Organization has encountered in obtaining a quorum for its Policy Committee meetings, and therefore has agreed to amend the Policy Committee's quorum requirements, the composition of the Committee, and its voting procedures to allow for the streamlining of its procedures.

Your Committee upon further consideration has made the following amendments to H.B. No. 453, H.D. 1, S.D. 1:

- 1) At page 1, line 6, the word "five" has been deleted and the word "thirteen" has been inserted between the words "[nineteen]" and "members";
- 2) At page 1, line 6, the word "nine" has been bracketed, and the word "five" has been inserted after the word "nine";
- 3) At page 1, line 7, the word "five" has been bracketed, and the word "three" has been inserted between the words "five" and "members";
- 4) At page 1, line 9, the word "five" has been bracketed and the word "three" has been inserted following the word "five";
- 5) At page 1, line 11, the end bracket symbol following the word "house" has been deleted;
- 6) At page 1, lines 8 to 9, and lines 10 to 11, the phrases "who are residents of the county and who are" have been deleted from present statutory language and respectively replaced with ", one of whom shall be the chairperson of the senate committee with primary responsibility for transportation issues, and the other two of whom shall be" and ", one of whom shall be the chairperson of the committee of the house of representatives with primary responsibility for transportation issues, and the other two of whom shall be";
- 7) At page 1, line 11, the phrase "one member appointed by the governor; and one member appointed by the mayor of the city and county of Honolulu" has been inserted following the word "house";
- 8) Page 1, lines 11 to 16, have been deleted;
- 9) Page 2, lines 1 to 3, have been deleted;
- 10) At page 3, line 1, brackets enclosing the phrase "at least five members" have been removed and brackets have been placed around the word "five";

- 11) At page 3, line 1, the words "any member" have been deleted and the word "three" has been inserted between the words "[five]" and members;
- 12) At page 3, line 10, the bracket preceding the word "where" has been removed;
- 13) At page 3, lines 12 to 13, brackets have been placed around the phrase "seven legislative members and five city or county council members of the ";
- 14) At page 3, line 13 brackets have been placed around the words "and the";
- 15) At page 3, line 13 the phrase "six members of the MPO" has been inserted between the end bracket symbol and the word "policy";
- 16) At page 3, line 13, the phrase ", of whom at least three shall be legislative members and at least three shall be county members." has been inserted between the words "[and the]" and "decision";
- 17) At page 3, line 14, the word "The" has been inserted prior to the word "decision";
- 18) At page 3, line 14, the word "must" has been bracketed and the word "shall" inserted between the words "must" and "be";
- 19) At page 3, line 14, a bracket has been inserted prior to the word "entire";
- 20) At page 3, lines 15 to 17, the last sentence has been deleted and the following has been inserted in its place "members present.";
- 21) At page 3, line 20, the words "upon its approval" have been replaced with "January 1, 1986" to reflect the new effective date of this Act.

Your Committee in amending section 1 of the bill relating to the composition of the Policy Committee intends that flexibility be provided in the naming of Policy Committee members.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 453, 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. 453, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Taniguchi, Oshiro, Kim, Yoshimura and Anderson  
Managers on the part of the House

Conf. Com. Rep. No. 39 on H.B. No. 229

The purpose of this bill is to improve and strengthen the laws regulating commercial employment agencies.

Under the present statutes, only employment agencies are licensed. This bill provides licensure for principal agents of individuals and requires each agency to have a licensed agent or individual as a requirement for obtaining its agency license. A provision is made for inactive status should the principal agent not engage in the business. Also, in order to regulate branch operations, the bill requires an employment agency to maintain separate employment agency branch office licenses.

Currently, an employment agency pays a single fee for licensure. This bill provides for separate application, examination, reexamination, license renewal, and restoration fees. A biennial license renewal period is also adopted to lessen the administrative cost of maintaining the program.

The bill provides for automatic suspension of an employment agency's license effective immediately upon the expiration or cancellation of the required bond. Under present administrative procedure, the director is required to conduct a formal hearing to prevent the licensee from operating after the expiration or cancellation of a bond and this procedure may take several weeks. In the meantime, there is nothing to prevent a licensee from continuing to engage in business and exposing the consuming public to potential losses.

The bill currently contains a provision prohibiting an employment agency from requiring the employer to withhold from the applicant's actual earnings from employment any fee or service charge that has been negotiated by contract between the applicant and the employment agency unless specifically requested by the applicant. Your Committee feels that further clarification

is necessary by inserting new language to state that this request be authorized by an applicant's full signature. Therefore, your Committee has amended page 11, subparagraph 14, lines 13 and 14 to read as follows:

"such fee or service charge is specifically authorized or requested, by full signature, in writing by the applicant."

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 229, 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. 229, H.D. 2, S.D. 1, C.D. 1.

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

Representatives Shito, Crozier, Hashimoto, Hirono, Kiyabu, Leong, Metcalf, Oshiro, Takamine, Anderson and Medeiros  
Managers on the part of the House

Conf. Com. Rep. No. 40 on H.B. No. 557

The purpose of this bill is to amend section 294-10(b), Hawaii Revised Statutes, by changing the method of determining the medical-rehabilitative tort threshold.

This bill also provides for the following: an increase in no-fault benefit amounts; an increase in the liability and uninsured coverage amounts under the no-fault law; and a new optional "underinsured" motorist coverage provision.

Currently, the threshold is subject to change each year based upon the no-fault claims experience for the preceding year. In essence, current law mandates that the Insurance Commissioner set a new threshold at a level below which 90% of all medical-rehabilitative claims for the previous year would fall. The 90% cut-off was constructed to permit only seriously injured claimants to bring a tort action arising out of a motor vehicle accident. Further, this bill would establish a threshold that is calculated by using an indexing feature tied to the Honolulu consumer price index for medical care expenses as determined by the U.S. Bureau of Labor Statistics.

Your Committee finds that increasing the no-fault benefit amounts and the liability and uninsured coverage amounts under the no-fault law would affect those least able to afford additional insurance. Accordingly, your Committee, has made amendments which would take into consideration the concerns of these individuals.

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

- (1) On page 2, line 17, the threshold level has been amended to \$5,000;
- (2) On page 3, line 20, the monthly earnings loss has been amended to \$900;
- (3) On page 4, lines 10 and 11, the brackets around "\$800 per" have been deleted and the following proposed language has been deleted: "\$1,000 a";
- (4) On page 4, line 12, the brackets around "\$1,500" have been deleted and the following proposed language has been deleted: "\$3,000";
- (5) On page 5, line 13, the liability coverage has been amended to \$35,000;
- (6) On page 5, lines 19 and 20, the brackets around "\$10,000" have been deleted and the following proposed language deleted: "\$25,000"; and
- (7) On page 6, lines 18 and 19, the brackets around "set forth in section 287-7" and the following proposed language has been deleted: "of not less than \$50,000,".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 557, 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. 557, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Shito, Andrews, Apo, Bunda, Hashimoto and Medeiros  
Managers on the part of the House



Conf. Com. Rep. No. 41 on H.B. No. 995 (Majority)

The purpose of this bill, as received, is to allow the Board of Massage to waive for good cause the requirements established for massage apprenticeship applicants, and to require said Board to prepare an annual report to the Legislature summarizing the application waivers granted.

Your Committee is of the opinion that Native Hawaiians, as aboriginal people, have special innate talents which should be recognized as unique, and therefore exempted from stringent licensing requirements. As a result, your Committee believes that the bill should focus on the special talents of Native Hawaiians for therapeutic massage, and exempt this group of individuals from apprenticeship requirements.

Your Committee, therefore amended this bill by returning it to the form proposed by the House in H.B. No. 995, H.D. 2, and by deleting the provisions that would have:

- (1) Allowed the Board of Massage to waive for good cause the requirements set for apprentices; and
- (2) Required the Board to make an annual report to the legislature of the waivers which are granted.

Thereafter, your Committee amended the bill by adding provisions that would:

- (1) Define "Native Hawaiian" as any individual whose ancestors were native to the Hawaiian Islands prior to 1778; and
- (2) Waive the apprenticeship requirements and other examination requirements for apprentices established by the Board for Native Hawaiian license applicants.

As amended by your Conference Committee, this bill would exempt Native Hawaiians from apprenticeship requirements for massage therapist licenses. In short, this bill would allow Native Hawaiians who have learned from a kupuna the traditional Hawaiian art of massage, commonly referred to as "lomilomi", to become massage therapists. However, there is an apparent misunderstanding as to the nature of the exemption, your Committee emphasizes the fact that Native Hawaiians as a group of people are being exempted from regulations related to apprentice ship requirements, and it is not the practice of "lomilomi" which is being exempted from regulations related to massage.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 995, 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. 995, H.D. 2, S.D. 1, C.D. 1.

Senators Cobb, Cayetano, Kawasaki, McMurdo and A. Kobayashi  
Managers on the part of the Senate

Senator Kawasaki did not concur.

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

Conf. Com. Rep. No. 42 on S.B. No. 610

The purpose of this bill is to increase the amount of fees notaries public are entitled to charge for their notarial services.

Notary public fees have not increased in almost ten years. This bill establishes fee schedules that are comparable to charges prevalent in other communities. The fees continue to be differentiated according to the service and function provided by the notary. In particular, the notary services for duplicate originals for oaths and acknowledgments are given lower fees because the work performed and responsibility undertaken in notarizing a pair of identical documents is somewhat less than notarizing a pair of dissimilar documents.

Your Committee amended the bill to provide for increased fees for each type of notary services.

Your Committee made several technical, nonsubstantive amendments to conform with recommended drafting style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 610, 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. 610, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Tom, Takamine, Blair, Hirono, Lardizabal, Metcalf, Nakata, Oshiro,  
Jones and Kamali'i  
Managers on the part of the House

Conf. Com. Rep. No. 43 on S.B. No. 1353

The purpose of this bill is to provide the chairperson of the Board of Agriculture the authority to suspend, cancel or restrict the use of certain pesticides when such usage is deemed to have unreasonable adverse effects on the environment.

Under this bill, determination of unreasonable adverse environmental effects exist when residues of pesticides are detected in drinking water at levels exceeding ten percent of any applicable maximum contaminant level, and when a special local need registration is requested for any pesticide for which any use has been suspended or canceled by the United States Environmental Protection Agency.

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

1) Making language changes to clarify that a determination of whether unreasonable adverse effects exist may be made in circumstances other than the two circumstances enumerated in the measure.

2) Deleting references to specific contaminant levels as one trigger for governmental response. As amended, the bill would require a review process whenever residues of a pesticide is detected without regard to the level of contamination.

3) Clarifying the language regarding special local needs registration of a pesticide for which any use has been suspended or canceled by the U.S. Environmental Protection Agency.

4) Adding a new Section 3 to the bill to amend the definition of "unreasonable effects on the environment" as set forth in Section 149A-2, Hawaii Revised Statutes. The amendment broadens the definition by making "unreasonable risk" to man or the environment as the criterion rather than actual injury or unreasonable adverse effects.

Your Committee notes that Section 149A-33(3), Hawaii Revised Statutes, provides the Department of Agriculture the authority to establish, as necessary, specific standards and guidelines which specify those conditions which constitute unreasonable adverse effect on the environment. Your Committee suggests that the Department of Agriculture consider reviewing and reevaluating these standards and guidelines periodically in consultation with the University of Hawaii in light of current local concerns involving the use of pesticides.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1353, 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. 1353, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Andrews, Honda, Nakata, Tajiri and Kamali'i  
Managers on the part of the House

Conf. Com. Rep. No. 44 on S.B. No. 201

The purpose of this bill was to improve and clarify the statutes relating to the practice of psychology by changing the name of the Board of Certification for Practicing Psychologists to the Board of Psychology, substituting the word "license" for the word "certificate", clarifying the limitations on persons exempt from the licensing requirements, clarifying the licensing requirements, and deleting gender references.

Your Committee finds that the measures proposed in this bill are necessary to modernize and strengthen the laws regulating the practice of psychology in Hawaii and are therefore in the public interest.

Your Committee has amended the bill by providing that a person who holds a doctoral degree from a training program approved by the American Psychological Association (APA), or holds a doctoral degree from a regionally accredited institution of higher education and also meets the experiential requirements for inclusion in the National Register of Health Service Providers in Psychology, may apply for a license to practice psychology, as long as the other requirements of

section 465-7, Hawaii Revised Statutes, are met. The purpose of this amendment is to strengthen the educational criteria for licensure by insuring that the institution which grants the doctoral degree in psychology is, at the minimum, regionally accredited.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 201, 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. 201, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Shito, Bunda, Hashimoto, Menor and Liu  
Managers on the part of the House

Conf. Com. Rep. No. 45 on S.B. No. 224

The purpose of this bill was to amend Chapter 514A, Hawaii Revised Statutes as it relates to requirements for condominium sales to owner-occupants.

Act 189, Session Laws of Hawaii 1980, among other things, created Part IV of Chapter 514A which generally requires a developer of a condominium project to designate at least fifty percent of a residential condominium project for sale to prospective owner-occupants and to sell such units to qualified owner-occupants. In furtherance of this purpose, Section 514A-102, Hawaii Revised Statutes, requires a developer to publish in a newspaper not less than twice in each of two successive weeks an announcement containing certain information regarding a proposed condominium project, including the following: (1) the location of the project; (2) a fair and reasonable estimate of: the total number of apartments included in the project; the number of apartments designated as residential units; the number of floors in the project; the number of bedrooms and square feet of each residential unit; the price and amount of monthly maintenance fees for each unit; and the amount of lease rent for each unit.

This bill would reduce the number of times the required announcement is required to be published from twice to once in each of two successive weeks and eliminate the need to publish specific information regarding the number of floors in the project, the number of bedrooms and square feet of each unit, the price and monthly maintenance fee for each unit and the amount of lease rent for each unit. As a substitute for this information, the developer would be required to publish the price range of the units, the approximate size of the units and whether the units are fee simple or leasehold.

However, the developer would be required to provide each prospective purchaser with all the information contained in the present statute. Moreover, if the proposed condominium project is a conversion of existing rental units, the last tenant occupying each unit converted must be provided with the information required to be provided to each prospective purchaser.

This bill also amends Section 514A-106, Hawaii Revised Statutes, which currently requires a financial institution to notify a potential owner-occupant of a condominium unit within thirty days after receipt of an application for credit for the purpose of purchasing a unit designated for owner-occupants, of the action taken on the application. The bill would increase the time period for notification to forty-five days.

A further amendment to Part IV of Chapter 514A proposed by this bill would exempt the following types of condominium projects from the requirements of Part IV: (1) small projects where the developer sells or intends to sell the units to family members; and (2) projects where the developer builds or converts two houses on a single lot.

The provisions of this bill implement the recommendations of the Real Estate Commission contained in a report prepared in response to H.R. No. 390 adopted in 1983 and H.R. No. 144 adopted in 1981 requesting the Real Estate Commission to provide information to the Legislature on the administration of the statutes relating to sales to owner-occupants.

Upon further consideration, your Committee has amended this bill to delete the "drop dead" clause contained in Act 189, Session Laws of Hawaii 1980. This amendment is necessary as all of the provisions of the Hawaii Revised Statutes amended by this bill were created by Act 189 and would be repealed on December 31, 1985, absent the amendment. Your Committee finds that the owner-occupant statutes serve a useful purpose and should be extended indefinitely as amended by this bill.

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

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 224, H.D.

1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 224, H.D. 1, C.D. 1.

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

Representatives Shito, Hashimoto, Apo, Metcalf and Jones  
Managers on the part of the House

Representative Apo did not sign the report.

Conf. Com. Rep. No. 46 on S.B. No. 932

The purpose of this bill was to: (1) provide that upon the transfer of title of real property from a vendor to a vendee under an agreement of sale, any liens or claims upon the property recorded subsequent to the agreement of sale would be extinguished; (2) delete the date restriction limiting the exemption from usury for agreements of sales made from May 30, 1980 to June 30, 1985 and restrict, after July 1, 1987, the maximum rate of interest that could be charged upon extension at maturity or renegotiation of an agreement of sale for the purchase of real property; and (3) delete the date restriction limiting the exemption from usury for purchase money junior mortgage liens made from June 18, 1982 to June 30, 1985.

Under current statute, any claim or lien against the vendor, that is filed or recorded after the filing or recordation of the agreement of sale, attaches to the real estate covered by the agreement of sale and would not be removed by the mere transfer of title to the vendee. In this respect, the vendee would receive title to property subject to claims or liens that were against the vendor. This bill provides for an automatic extinguishment of a claim or lien on the real estate if the buyer has satisfied the agreement of sale as defined in the bill. In order to protect the holder of the claim or lien, the bill further provides for an automatic transfer of the claim or lien to the proceeds received in satisfaction of the agreement of sale in the same priority which it held immediately prior to its extinguishment.

Your Committee has amended the bill by deleting the provision that after July 1, 1987, upon extension at maturity or renegotiation of an agreement of sale, the maximum rate of interest charged thereafter on the agreement of sale shall not be more than four percentage points above the highest rate of interest charged on any mortgage on the property sold under the agreement of sale or four percentage points above the contracted rate of interest in the agreement of sale, whichever is greater.

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

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 932, 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. 932, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Shito, Hashimoto, Metcalf and Medeiros  
Managers on the part of the House

Conf. Com. Rep. No. 47 on H.B. No. 40

The purpose of this bill is to eliminate the "drop dead" provisions in chapters 408 and 478, Hawaii Revised Statutes, that provide for the reversion of certain interest rates on July 1, 1985, as follows. In the case of loans governed by chapter 408, Hawaii Revised Statutes, the rates would revert to the maximum rates in effect prior to May 31, 1980. In the case of credit cards, interest rates would revert to the rates existing prior to May 30, 1980 and, for other interest rate ceilings under chapter 478, Hawaii Revised Statutes, to the ceilings in effect before June 28, 1982.

This bill also provides the following: (1) deletes all limitations on interest rates the chapter 407, 408, 405 and 410, Hawaii Revised Statutes; (2) deleted provisions which would exempt from the usury law any loan made pursuant to chapters 407, 408, 409 and 410, Hawaii Revised Statutes; and (4) deleted provisions which would provide that no interest would be charged on interest.

Your Committee concurs that these interest rate ceilings should not be reimposed. In addition, your Committee believes that existing interest rate ceilings should be eliminated as they apply to regulated lenders, retail installment sales, transactions of merchants, and credit

cards and that provision should be made for the recomputation of interest for renegotiated agreements of sale. Your Committee finds that interest rates should be controlled by the marketplace rather than by arbitrary ceilings set by law.

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

(1) The bill has been amended back to the original house language;

(2) Section 478-8(e)(2), Hawaii Revised Statutes, is amended to read as follows:

(2) "Agreement of sale made after May 30, 1980 under which a vendor agrees to sell real property to a vendee but retains legal title to the real property and in which the rate of interest is clearly stated[.]; provided that upon extension of maturity or renegotiation of any agreement of sale made on or after the effective date of this Act, the maximum rate of interest charged thereafter shall not be more than four percentage points above the weekly average yield on United States Treasury securities adjusted to a constant maturity of three years, as made available by the Federal Reserve Board at the time of extension or renegotiation. As used in this paragraph, agreement of sale includes subagreement of sale or other subsequent subagreement of sale made [during the period from [June 18, 1982] to midnight on June 30, 1985.] on or after the effective date of this Act; or"

(3) A severability and saving clause has been added as section 4 and 5 respectively.

Your Committee on Conference is in accord with the intent and purpose of H.B. 40, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 40, S.D. 1, C.D. 1.

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

Representatives Shito, Andrews, Bunda, Metcalf and Medeiros  
Managers on the part of the House

Conf. Com. Rep. No. 48 on H.B. No. 347

The purpose of this bill is to replace the existing statutes which govern the creation and operation of non-profit corporations with a new chapter to be referred to as the "Hawaii Non-profit Corporation Act".

Under present law, non-profit corporations are governed by and subject to "all general laws enacted in regard to corporations," pursuant to section 416-19, Hawaii Revised Statutes. Passage of the Hawaii Business Corporation Act (Act 167, Session Laws of Hawaii 1983), a companion bill to this Hawaii Non-profit Corporation Act, necessitates passage of a statute governing non-profit corporations.

Your Committee received testimony from the Department of Commerce and Consumer Affairs that an extension till July 1, 1987, would be required in order to incorporate the Hawaii Business Corporation Act (HBCA). Further, the Department reassured your Committee that this would be the last time that an extension of the HBCA and Model Professional Corporation Act would be requested, notwithstanding a change of administration or directorship. It is your Committee's firm intent that no further extension of the effective date of July 1, 1987 be granted for any of the model corporation acts.

Your Committee, upon further consideration, has amended the bill by adding a new section 4 which changes the effective date of Act 167, Session Laws of Hawaii 1983, Hawaii Business Corporation Act (HBCA), to July 1, 1987. Accordingly, the July 1, 1987 effective date would permit the Department to examine the potential effects of this bill and HBCA on department operations.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 347, 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. 347, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Shito, Souki, Blair, Bunda, Kim, Metcalf, Oshiro, Tajiri, Anderson and Medeiros  
Managers on the part of the House

Representatives Blair, Kim and Anderson did not sign the report.

Conf. Com. Rep. No. 49 on S.B. No. 309

The purpose of this bill was to remove motorcycles and motor scooters from the requirements of Chapter 294, Hawaii Revised Statutes, the Motor Vehicle Accident Reparations Act, and to delete proportionate reimbursement among insurers and self insurers in Section 294-34(c), Hawaii Revised Statutes.

This bill would allow persons to operate motorcycles and motor scooters on public streets without the necessity of obtaining and maintaining no-fault motor vehicle insurance. However, in order to afford protection to the general public from the negligent or reckless operation of motorcycles and motor scooters, the bill would require insurance coverage for bodily injury to others in the amount of \$25,000 and property damage insurance in the amount of \$10,000. Persons operating a motorcycle or motor scooter without such insurance would be subject to a fine of up to \$1,000, imprisonment for thirty days, or suspension of driver's license for one year, or any combination of the above penalties.

In effect, the bill would allow persons to operate motorcycles and motor scooters without insurance coverage for personal injuries to themselves, or for their wage loss or medical expenses. Further, an owner or operator of a motorcycle or motor scooter who is involved in an accident with an insured motor vehicle would not be able to collect no-fault benefits from the insurer of the insured motor vehicle.

Your Committee recognizes the problem faced by owners and operators of motorcycles and motor scooters with respect to high no-fault insurance premium rates. This bill is intended to afford some measure of relief to such persons.

This measure also amends Section 294-23, Hawaii Revised Statutes, to delete the provisions dealing with proportionate reimbursement among insurers.

Your Committee upon further consideration has amended the bill as received by deleting the words "owner or" from page 4, line 16; page 5, line 8; page 8, line 6; and page 9, line 17. The purpose of the amendments are to clarify that owners of motorcycles and motor scooters are not to be denied applicable no-fault benefits when injured in a motor vehicle accident while not operating a motorcycle or motor scooter.

Your Committee also made a technical nonsubstantive change to correct a typographical error.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 309, 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. 309, S.D. 1, H.D. 1., C.D. 1.

Senators Cobb, Abercrombie, Cayetano, Kawasaki and Henderson  
Managers on the part of the Senate

Senator Kawasaki did not sign the report.

Representatives Shito, Apo, Hirono and Liu  
Managers on the part of the House

Representative Apo did not sign the report.

Conf. Com. Rep. No. 50 on S.B. No. 539

The purpose of this bill was to regulate alarm businesses which install, maintain, and repair burglar alarm systems.

This bill establishes a new chapter prescribing minimum standards of conduct and responsibility for alarm businesses and users of the alarms. This bill contains provisions which:

- 1) Define terms necessary for the functioning of the chapter;
- 2) Require maintenance of records and reports;
- 3) Require the posting of the name, address, and telephone number of the business monitoring the alarm;
- 4) Require audible systems to have automatic termination of the signal within fifteen minutes;
- 5) Prohibit automatic telephone dialers to be programmed for police or emergency telephone numbers;

6) Prohibit intentional activation of an alarm unit except to report an unauthorized intrusion or for testing purposes;

7) Allow consumers to obtain restitution from violators of the chapter; and

8) Impose a fine of up to \$2,500 for any unlawful act or practice.

Your Committee upon further consideration has made the following amendments to S.B. No. 539, S.D. 1, H.D. 1:

1) Added a new section to the chapter which provides for bonding requirements for alarm sales businesses of \$5,000 for the first five years;

2) Added language to require that alarm repairs businesses share information on false alarms with the police for comparative statistical purposes;

3) Made a distinction between "alarm sales business" which sell, lease, or install alarms and "alarm repairs business" which maintain, service, repair, alter, replace, or move alarm systems; and

4) Made clarifying language changes which have no substantive effect.

Your Committee on Conference is in accord with the intent of S.B. No. 539, 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. 539, S.D. 1, H.D. 1, C.D. 1.

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

Senator Kawasaki did not sign the report.

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

Conf. Com. Rep. No. 51 on S.B. No. 588

The purpose of this bill was to make various amendments to the Horizontal Property Act to allow for more efficient administration of the affairs of associations of apartment owners of condominium projects and to provide greater safeguards for owners of condominium units.

Specifically, this bill would require a yearly audit of the financial accounts of all associations of apartment owners; allow a managing agent to collect ground lease rents from leasehold owners and place the sums collected into the association account and pay the ground lessor from such account; prohibit telephone transfer of association funds between accounts; require every association of apartment owners to purchase and maintain directors' and officers' liability insurance; and require all managing agents to be licensed as real estate brokers.

Your Committee is in general agreement with the provisions of this bill insofar as they provide for more efficient administration of the affairs of a condominium project and increased protection for apartment owners. However, upon further consideration, your Committee has amended S.B. No. 588, S.D. 1, H.D. 1 as follows:

(1) On page 1, line 10: Deleted the words "during the annual" and added the words "at an" before the word "association".

(2) On page 8, line 22: Added after the words "ground lessor;" the clause which reads as follows:

"and that the system of lease rent collection is approved by a majority vote of all apartment owners at a meeting of the association of apartment owners;"

This change allows affected owners to vote on the particular system of lease rent collection they wish to employ; thus, leaving the option or choice in the hands of the majority of the owners.

(3) On page 9, lines 20-22: Recasted the underscored language to read as follows:

"The manager or board of directors shall not transfer association funds between accounts by telephone, including, but not limited to, the general operating account and reserve fund account."

This language specifies clearly the responsible parties who control the accounts and specifically disallows them from transferring funds by telephone.

(4) On page 10, lines 1-7: Deleted Section 5 in its entirety. The intent is to leave the association's authority to purchase director's and officer's liability insurance coverage optional. It is the intent of your Committee that the question of mandatory payment and coverage by the association should be reviewed by the Real Estate Commission and a report of any findings be presented to the 1986 Session of the Legislature.

(5) On page 10, line 12: Inserted after the word "commission" the clause "or a corporation authorized to do business under chapter 406, Hawaii Revised Statutes,". This change allows a trust company licensed under chapter 406 to be a managing agent.

(6) On page 10, line 17: Added a new sentence which reads:

"Any person aggrieved by an act, representation, transaction, or conduct of a managing agent upon the grounds of fraud, misrepresentation, or deceit shall recover by order of the circuit court or district court of the county where the violation occurred first from the bond required by section 514A-84, and if the managing agent is a licensed real estate broker, secondly from the real estate recovery fund established under section 467-16."

(7) Added three new sections which are required to give the Real Estate Commission the power to enforce the "commingling" provisions of section 3 of the bill. These sections amend sections 514A-47, 514A-48 and 514A-49.

(8) Renumbered section numbers to conform with the amendments described above.

(9) Made technical, nonsubstantive amendments.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 588, 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. 588, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Shito, Andrews, Apo, Metcalf and Medeiros  
Managers on the part of the House

Representatives Apo and Medeiros did not sign the report.

Conf. Com. Rep. No. 52 on S.B. No. 665

The purpose of this bill was to regulate the practice of acupuncture in Hawaii by establishing a Board of Acupuncture within the Department of Commerce and Consumer Affairs.

Your Committee finds that the acupuncture profession should be allowed to regulate and control itself through a Board of Acupuncture. In the past, many abuses and factional disputes that existed on the prior regulatory Board had worked a disservice to the practitioners of the profession by causing dissension and ineffective control of the profession. Now, with the establishment of a new Board of Acupuncture pursuant to this bill, which is the product of a compromise agreement between different factions within the profession, your Committee believes that the profession will rectify its past failures and shortcomings to make a strong and effective regulatory body.

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

- 1) On page 2, line 6: Added a new definition as follows: "'Earned Degree' means an academically or a clinically obtained degree (not honorary)."
- 2) On page 2; line 22: Added the phrase "by reason of formal training in acupuncture," after the word "acupuncture", and before the word "shall".
- 3) On page 3, lines 9 and 10: Added a period after the word "acupuncturist" and deleted the phrase "or qualified private tutor approved by the board in a clinic site approved by the board." and placed that language in section 4(b) in section 5 of the bill as section 5(b)(2) and renumbered the existing section 5(b)(2) in the bill to 5(b)(3).
- 4) On page 5, line 2 after "one clinical year" inserted "in a clinical internship program supervised by a licensed acupuncturist" for purposes of clarification.



- 5) On page 3, lines 12-15, deleted section 4(c) and placed that language in section 5 of the bill as section 5(c).
- 6) On page 3, lines 21-24 and page 4, lines 1-10, deleted section 4(e) and placed that language in section 5 of the bill as section 5(d) and deleted the language "and licensure under this chapter" and added "For purposes of this chapter" to clarify that students who started their training prior to December 31, 1984 shall be licensed under this bill upon meeting the requirements for examination and licensure as provided in chapter 436D, Hawaii Revised Statutes, as it existed prior to December 31, 1984.
- 7) On page 10, lines 1 and 9: Replaced the word "academic" with the word "earned".
- 8) On page 10, lines 5 and 10-11: Deleted the clause "within the United States and".
- 9) On page 10, line 19: Added a new section -14 which contains the following language:  
  
"Section -14 Foreign school curricula and standards. The board of acupuncture shall not recognize and approve an earned doctoral degree from a foreign university or college whose curricula and standards are not equivalent to or higher than institutions in the United States which have been recognized and approved by the board in the study or practice of acupuncture."
- 10) On page 10 after item 6: Added a new section -15 which reads as follows:  
  
"Section -15 Any action taken by the board which was established by chapter 436D prior to December 31, 1984 not in contravention of this Act shall remain in full force and effect."
- 11) On page 10, lines 16-18: Deleted the word "No" on line 16; replaced the word "unless" on line 17 with the word "when"; and added the phrase "or a department of education curriculum" after the word "board" on line 18.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 665, 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. 665, S.D. 1, H.D. 2, C.D. 1.

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

Senator Kawasaki did not sign the report.

Representatives Shito, Tajiri, Hashimoto, Kim, Kiyabu, Leong, Nakata, Taniguchi, Anderson and Medeiros  
Managers on the part of the House

Representative Taniguchi did not sign the report.

Conf. Com. Rep. No. 53 on H.B. No. 1

The purpose of this bill is to provide for the operating and capital improvement appropriations for agencies in the executive branch for the fiscal biennium 1985-87.

The executive branch requested \$2,994 million for the fiscal biennium 1985-87, \$1,481 million for fiscal year 1985-86 and \$1,513 million for fiscal year 1986-87. Further, in his State of the State address, the Governor recommended an additional \$10 million be added in each fiscal year for various programs.

The capital improvements general obligation bond request for the fiscal biennium 1985-87 amounted to \$239.4 million.

This bill in its amended form provides an additional \$13.6 million in general funds in fiscal year 1985-86, and another \$6.8 million in fiscal year 1986-87. It also adds \$25.1 million to the general obligation bond request for capital improvements.

#### BUDGET APPROACH

Throughout its deliberations, your Committee sought a balance between maintaining a reasonable measure of spending discipline while taking major steps toward stimulating Hawaii's business climate, improving and building our educational system, and impacting social concerns such as child abuse.

Your Committee is aware that this general appropriations bill has been reviewed during a

time when several revenue enhancement and tax relief measures are under consideration by the legislature. The appearance of such measures after a decade of the status quo represents a demarcation from the past. Thus in the funding of government services in the next biennium, your Committee is committed to a new direction for funding in economic development, education, and human services.

#### ECONOMIC DEVELOPMENT

Your Committee expanded government's role as a catalytic agent in the promotion of economic activity in the State. It has directed funding toward opening up potential industries and markets, stimulating product development and promotion, and enhancing the general business climate in the State.

Tourism. Your Committee recognized the importance of tourism by increasing the promotion and marketing budget of the Hawaii Visitors Bureau by \$1.7 million for each year of the biennium, bringing its total advertising budget to approximately \$2.2 million. This significant increase will impact on the Bureau's ability and effectiveness to promote Hawaii as a tourist destination.

Beyond the overall promotion of tourism in Hawaii, your Committee is highlighting certain areas such as Molokai for special promotion and development through a \$100,000 appropriation. In addition, a study on the benefits and costs of tourism on the State has been requested to allow for the fullest development of tourism without inflicting major problems on our island life.

Marketing support has been provided the Hawaii Visitors Bureau through instituting a yearly visitor expenditure pattern report. This information is expected to guide the Hawaii Visitors Bureau in attracting more tourists to the island through effective use of their advertising budget.

High technology development corporation. In 1983, the Legislature established the high technology development corporation to promote Hawaii as a high technology center and develop support facilities for companies locating in Hawaii. Your Committee has increased the funding for marketing and project development on a statewide basis.

Pacific international center for high technology research. Funding for the Pacific international center for high technology research has been increased by \$1 million for each year of the biennium and specifically earmarked for research studies. This research undertaken by the center will open the door to advancements in high technology applications which will benefit the economic growth of the State.

International services. Your Committee provided funds to forward the development of Hawaii as a n international business center among foreign business communities. Marketing and promotional programs to educate business people on the advantages of doing business in Hawaii will be undertaken.

Agriculture. This year your Committee provided strong support toward revitalization of our agriculture industry. Agriculture is a major economic force in our State and funding in this budget will strengthen the marketing of agricultural products. Over \$400,000 has been provided for marketing support to pineapple, papaya, and diversified agricultural industries.

Your Committee has recognized the importance of the sugar industry and directs the department of agriculture to assist the independent sugar growers by making low interest loan funds available to sugar growers who require interim financial assistance.

#### EMPLOYMENT

Job training and preparation are key to developing skilled individuals who can meet the challenges of the future. Your Committee has provided funding support to programs which will ensure a vital and effective labor force.

Transition center. Job counseling assistance for high school students faced with making career choices is a priority concern. The transition center program which has been in several local high schools offering self-assessment, career awareness, career exploration, and job preparation and placement services, is being expanded to Kailua, Nanakuli, McKinley, and Hilo High Schools.

Job training partnership act. Labor force upgrading and retraining is a vital need in continually developing a responsive labor force. Funding has been provided in each year of the biennium for the job training partnership Act (JTPA) to prepare youths and unskilled adults for entry or re-entry into the labor force.

State fire council. Since its establishment in 1978, the state fire council has not been administratively assigned to any of the State's principal executive departments. Your Committee has funded the state fire council and placed it within the department of labor and industrial relations for administrative purposes.

#### TRANSPORTATION

State highway fund. Your Committee is gravely concerned with the financial condition of the state highway fund. In recent years, the fund's permanent sources of revenues have not been adequate to meet the operating and maintenance costs of Hawaii's roads and highways. As a temporary remedy to this situation, the legislature in previous sessions had reduced moneys for special maintenance of our highways, and allowed for the transfer of general excise tax revenues on the sale of fuel to supplement the ailing highway fund. However, these measures are only temporary solutions, and any deferment of this problem will allow further deterioration of our State's highway system, thus increasing long-run costs and compounding the impact of any solution once chosen.

This year, your Committee has considered a bill to provide various strategies to augment the depleting fund and to extend the period allowing for the transfer of tax revenues, thus providing sufficient revenues to allow the highway fund's solvency through fiscal years 1990-91, while apportioning the costs among all highway users in the most equitable manner possible. In addition, your Committee has thoroughly examined the highway division's program expenditures in an effort to efficiently allocate resources where they are needed most, and reduce expenditures in lower priority areas that unnecessarily deplete the highway fund. As a result, your Committee believes that these proposed increases in revenues with corresponding decreases in operating expenditures will allow the safe transportation of our citizens on our State's highways, and provide for the long-term stability of the state highway fund.

Harbor promotion. Your Committee believes that Hawaii's harbors may be commercially underutilized and has provided funds to permit marketing and promotion of Hawaii's harbors.

Improvement of transportation facilities. Your Committee has provided approximately \$27 million for major repair and maintenance improvements to the state highway system, harbors, and airports.

#### ENVIRONMENTAL PROTECTION

Monitoring of pesticides and ground water contamination. Your Committee has provided funds to continue the management, control and monitoring of pesticide use and groundwater contamination. This work is critical to maintaining a safe and healthy environment.

Your Committee supports assisting the State's agricultural producers in an effort to reduce crop losses due to insect pests, weeds and diseases, while ensuring a healthy environment. The recent milk and water contamination crises emphasized the need for stringent monitoring and regulatory programs. Your Committee has provided funds for personnel to conduct additional field inspections to address this situation. It is your Committee's belief that, through constructive and cooperative efforts, careful use of pesticides can effect optimal agricultural production without compromising the health and safety of the community.

Hazardous materials. Your Committee has provided funds to support a cooperative agreement between the federal Environmental Protection Agency and the state department of health to provide compliance inspections of generators and handlers of hazardous wastes.

Forest and wildlife resources management. Your Committee is concerned about the protection of forest and wildlife resources from non-native plants and animals. Funds are provided for the preparation of an environmental impact statement to assess eradication methods of marijuana, and for the management of natural area reserves in recognition of the need to maintain and preserve existing state parks.

Aquatic resources. Your Committee has appropriated funds for the establishment of an aquatic education program to educate the public on the importance of recognizing those aquatic species that are appropriate to catch versus those that are not.

#### HEALTH

Organizational management. In its review of the health program, your Committee found numerous requests for additional positions in areas which had a large number of vacancies. To ensure efficient management, your Committee directs the department of health to redescribe and redistribute vacant positions to meet specific needs of the various program areas. It recommends that the department conduct periodic reviews of all vacancies and redistribute or redescribe positions, as necessary, within and between programs, to meet its staffing

deficiencies.

Deinstitutionalization of the mentally retarded. Re-emphasizing its support in deinstitutionalizing the mentally retarded and the mentally ill, your Committee has expanded its funding support for community services including group homes, transitional living and day activity programs. Your Committee directs the department of health to take the necessary action to accelerate the deinstitutionalization of such patients.

County/state hospitals. Your Committee is disturbed to find that the county/state hospital system has again failed to lapse excess amounts of special fund receipts generated prior to July 1984.

Substantial balances have accumulated from the prior year in the county/state hospital administration program, and a significant amount of the current balances are in excess of the program's requirements, including contingencies. Therefore, your Committee has again required, through special provisions in this bill, that such special fund balances lapse into the general fund.

Hepatitis B screening and treatment. The hepatitis B virus infection continues to be a persistent problem among certain sectors of our population, especially the institutionalized population. Funds for the purchase of vaccine to immunize the affected high risk population groups and for reporting and follow-up procedures have been provided.

Congenital metabolic diseases. Your Committee has provided funds to re-establish the department of health's authority to regulate the testing of newborns for congenital metabolic diseases (i.e., phenylketonuria (PKU) and hyperthyroidism). These funds will be used to support one full-time position to carry out promotion, education, coordination, monitoring, and follow-up activities.

Case management--frail and elderly. The continued success of the case management coordination project for the frail and elderly on Maui has prompted your Committee to fund this program for the next biennium.

Emergency medical services. Your Committee has provided funds for expanded emergency medical services in the Waialua area to ensure greater service accessibility.

Purchase of service. The purchase of service program in the department of health represents the most extensive use of private agencies in carrying out government functions. Your Committee has provided \$1.1 million for the prevention and early identification of child abuse. Your Committee believes that the alleviation of child abuse rests in providing a strong network of preventive services. This year's funding forms the basis of such a network.

#### SOCIAL PROBLEMS

Child protective services. Events over the last year and a legislative auditor's report have demonstrated the urgency in providing direct intervention and treatment services for child abuse and neglect. Your Committee took a major step toward supporting the child protective services system by the addition of supervisors, case workers, paraprofessional workers and clerical support for child protective services units. The Legislature will continue its monitoring of this important area through the review of the department of social service and housing's reorganization of the child protective services units.

Funds were also provided to establish a statewide computerized file of known perpetrators, a registry of abused and neglected children, and a risk matrix to help child protection workers determine priorities in case handling. Your Committee has also provided \$260,000 to be used in each year of the biennium for eight deputy attorneys general to work specifically on child protection activities.

Purchase of service--child abuse and neglect. In addition, your Committee, through the purchase of service system, has provided \$1.3 million in each year of the biennium for child abuse treatment and direct intervention services.

Foster care. Foster care parents are faced with ever increasing costs to support their foster children. Your Committee has provided additional funds to meet the cost of increased care. Your Committee has also established a state adoption program to support foster parents who wish to adopt foster children in their care. This program will facilitate the adoption of many hard to place children who should not be returned to their natural parents.

Public welfare. Your Committee recognizes the need for a more sophisticated welfare information system to ensure that eligibility standards are being met and to reduce the percentage of determination errors to within acceptable federal standards. Federal funds have

been matched with state funds for a Hawaii automated welfare information system to accomplish these goals.

Health care payments. Hawaii's Medicaid program is the largest monetary payment program in the State with a projected budget of \$211.7 million in fiscal year 1986-87. To ensure that an accurate and reliable cost projection methodology be established to maintain control over soaring medical costs, the department of social services and housing has adopted the prospective payment systems (PPS) which should allow for more accurate budgetary estimates. Your Committee feels, however, that more effort should be applied toward forecasting health care payments, and has provided additional technical staff to improve planning and fiscal accountability.

In addition, a new division has been established within the department that will oversee the state's health care payment program. By separating the medical care office from the public welfare division, your Committee has sought to emphasize the importance of prudent management in this costly program.

Long-term care services. Your Committee recognizes the cost of caring for the elderly and disabled who need long-term care. Additional planners were provided to the department of social services and housing and the executive office on aging to support long-term care planning. Funding was expanded to the neighbor islands for the "nursing home without walls" project to enable individuals to be cared for in their homes.

#### FORMAL EDUCATION

##### Lower Education.

Intermediate schools. Your Committee focused on the intermediate schools as it is a major transition period between the structured environment of the elementary schools and student independence at the secondary level. Statistics reveal that the number of alienated students increases during this period and that students in this age group are more prone to becoming involved in conflicts with the law.

Your Committee has provided the critical funding support to alleviate some of the problems experienced by the intermediate school. Each intermediate school has been given an additional instructional or administrative support position to meet its unique needs. In addition, your Committee has provided for remedial programs for intermediate school students scoring below average on standardized tests.

School priority fund. The school priority fund was designed to provide schools some flexibility in meeting their individual needs and to supplement the regular instructions program. Your Committee has increased the cash portion of the school priority fund and has allowed the schools to expand the use of their instructional resource augmentation (IRA) teachers to grades seven and eight.

Textbooks and classroom equipment. Textbooks and classroom equipment form part of the foundation of a solid educational system. Funds have been provided for these basic supplies.

Early provisions for school success. To maximize school success throughout the child's learning process, early identification and treatment of development difficulties are crucial. The early provisions for school success (EPSS) program is an essential component in ensuring each child's achievement to his fullest potential. However, your Committee has found that the department of education is providing EPSS services to all kindergarten children, and is redirecting the department to concentrate on those children who have been identified as having developmental difficulties. In addition, your Committee has provided \$2.5 million in fiscal year 1985-86 for the program with the understanding that it is to be limited to the target group.

Gifted and talented program. Your Committee established a new component of the gifted and talented program in the intermediate school. Elementary schools have a solid program but the support for the gifted and talented diminishes in the intermediate years. Your Committee feels it is important to continue to strengthen the program through the secondary years.

Speech pathologists and therapists. Your Committee has consolidated all speech pathologists and therapists into one program. Such consolidation will integrate the speech pathologists, who conduct the student evaluations with the therapists, who provide direct services to the students, resulting in a more efficient delivery of services.

Athletics. Concern for the safety of participants in athletic activities has led your Committee to provide funds to upgrade and replace athletic equipment. Furthermore, funds were provided for bus transportation for athletic events.

Repair and maintenance of school structures. Your Committee provided \$40 million for the repair and maintenance of school structures to ensure the health and safety of students. This appropriation will give students a more conducive learning environment.

Higher Education.

Your Committee has provided the University with the legislative support necessary to make significant progress towards becoming a leading institution of higher learning. In determining the optimum allocation of state funds for higher education, your Committee has followed many of the objectives outlined in the University's strategic plan, thus assuring that the best interests of the University are addressed.

Student enhancement computer program. Funds for faculty and computer equipment to respond to the demands of advanced technology have been provided. It is important that the University provide students the fullest educational opportunity to be competitive in the job markets of the future.

Pacific and Asian legal studies. Your Committee is committed to excellence in law with an emphasis on Pacific and Asian legal studies. Therefore, it has provided funds for a Professor of Law to establish a Pacific and Asian legal studies program.

Research projects. Your Committee recognizes the applicability of university research projects to assist in resolving some very practical issues facing the State. To this end, funding was provided for the pesticide hazard assessment project, water resources research, and the North Hawaii pasture and diversified crop program.

Expanded programs. New programs, such as the visitor industry research, the North Hawaii food service and hotel operations training program, an expanded training program for dental hygienists, and the establishment of a research/demonstration agricultural experiment station on Molokai have been included in this year's budget.

Computerized operations. This year, your Committee funded phase II of the university of Hawaii's computerized registration and record system. Upon completion of this phase, the university will have a modern and efficient registration system. In addition, your Committee has provided \$1.4 million in the first fiscal year and \$.9 million in the second fiscal year to implement a library automation system.

Supportive educational projects. Educational equipment is essential in maintaining the quality of our higher education system. In order to support and benefit the students, an additional \$2.9 million in fiscal year 1985-86 and \$2.6 million in fiscal year 1986-87 have been provided. In addition, funds have been provided for the purchase of library books to build collections in newly developing research and instructional areas.

Improvement projects. Your Committee has also recognized the great need for repair and maintenance work by funding various projects throughout the university system. The results of these projects will result in an environment conducive to learning.

Tuition related support. Your Committee has made a conscious effort to ensure that a portion of the revenues from tuition increases has been allocated for direct support to the University. Therefore, the biennium budget of the University includes additional amounts of funding in all areas of operations to reflect this support.

CULTURE AND RECREATION

Waikiki Aquarium. Funding for improvements to the Waikiki Aquarium of \$5.5 million in fiscal year 1985-86 and \$10.0 million in fiscal year 1986-87 have been provided. This represents a major step toward the development of a full-scale aquarium.

Performing and visual arts. Your Committee has serious concerns regarding the accountability of funding for purchases of service contracted by the state foundation on culture and the arts. Your Committee strongly recommends the foundation to develop a responsible funding plan and solicit additional proposals from all eligible private and public agencies before assessing requests for proposals during the next biennium.

PUBLIC SAFETY

Corrections. Your Committee has added 115 non-supervisory adult corrections officers to the security force and provided personnel and equipment to improve medical and dental programs at a majority of the state corrections facilities. Personnel and equipment for recreation, vocational education, and community service programs have also been provided.

Your Committee has directed the corrections division to study electricity consumption for possible implementation of energy conservation measures and to investigate cost-effective alternatives for providing medical care. Your Committee has also requested the corrections division to analyze the continuing overtime expenditure problem.

The problems of overcrowding in the State's correctional facilities have led your Committee to provide \$11.5 million to construct an additional 248-room medium security facility at Halawa and to provide funds for improvements to various correctional facilities statewide. Funding was also provided for the conversion of a military site at Waiawa to an educational facility for minimum security inmates.

Your Committee has also included funding for repair and maintenance of plumbing and electrical systems, roof repairs and fumigation at various correctional facilities.

#### INDIVIDUAL RIGHTS

Department of commerce and consumer affairs. With over 77,000 licensees and over 30,000 registered businesses, your Committee is concerned that the department of commerce and consumer affairs does not have sufficient resources to effectively monitor each area.

Your Committee is directing the department to review its present organizational structure for the purpose of providing timely and appropriate responses to consumer concerns. To support this action, your Committee has provided positions and funds which will allow for improved communication with the public and more efficient use of existing resources.

Recent failures in the industrial loan industry have called your Committee's attention to the urgent need to enhance the bank examiner's supervisory and enforcement activities. Therefore, your Committee has provided additional resources to strengthen the monitoring functions of the banking services division. Your Committee is optimistic that these resources will provide much-needed support to the division's activities.

An appropriation has been made for a comprehensive study of Hawaii's insurance laws to simplify, clarify and update the laws which have not been revised since 1955. The study has been requested in H.B. 1059, H.D. 1, S.D. 2, and will explore the standards required of insurance companies to do business to prevent insolvency.

#### GOVERNMENT-WIDE SUPPORT

Grants-in-aid to counties. Your Committee has recommended to continue grants-in-aid funding to counties at the current level of approximately \$19 million annually. The State provided funding of about \$9 million to the City and County of Honolulu, \$3 million to Maui county, \$4 million to Hawaii county, and \$3 million to Kauai county.

Informational processing and resource management. Throughout the budget, your Committee noted departmental requests for computer equipment and other related cost items. However, upon closer examination, your Committee found a lack of inter- and intra-departmental planning and coordination. Your Committee is of the opinion that the departments do require computer support in order to effectively carry out many of their functions. However, it is disturbing that independent systems are being established without some coordination for future integration. Therefore, your Committee directs the department of budget and finance to develop a strategy for assisting the various state departments in planning and establishing integrated computer systems. Your Committee has appropriated a lump sum amount for computer purchases centrally budgeted to be allocated later to the various departments. In addition, funds for a local area network were appropriated to connect the data processing capabilities of all state agencies in the state capitol complex.

Legal service. Your Committee recognizes the critical need to maintain high standards of legal services available to state agencies and departments. Continued funding was provided for temporary deputy attorney general positions. Your Committee is aware of administrative problems in the department of the attorney general and requests that a management audit or budget review be conducted by the Legislative Auditor to aid in correcting these problems. Where possible, the budget of the attorney general was adjusted to more accurately reflect the true means of financing for various deputies and clerical staff.

Your Committee feels that the proper management of the litigation fund is an essential responsibility of the attorney general, but because of the department's lack of commitment to properly administer these funds, your Committee has deleted litigation funds in the second year of the biennium. During the next fiscal year, your Committee strongly recommends that the attorney general project the litigation and special deputy expenses for the fiscal year 1986-87 which would truly reflect the litigation needs of all general-funded departments. This would also promote the necessary communications between these departments and the attorney

general to collectively resolve all litigation matters encountered by the State. If proper justification is provided for such expenditures, your Committee will recommend adequate funding in the second year of the fiscal biennium.

Risk management system. A review of the recommendations from the risk management study by a private consultant was conducted. Your Committee supports the recommendation to consolidate insurance purchases by various state agencies into one central program. Your Committee is encouraged by the efforts of the department to establish a comprehensive risk management and insurance program.

State boundary determination. The state and federal governments are in dispute over the boundaries of the State of Hawaii. Your Committee supports the objectives of the public lands management program which concern eventual resolution of this dispute. Your Committee has therefore provided funds for conducting the legal and historical research necessary for the legal challenge expected from the federal government.

#### PURCHASES OF SERVICE

This year, for the first time, the state's entire purchase of service program was reviewed. It is your Committee's view that the purchase of service concept is appropriate when government cannot provide a similar service at a cost effective level or when extraordinary needs require swift response. This year your Committee used the purchase of service approach to meet the needs of child abuse and neglect. Approximately \$2.0 million for prevention and treatment services was provided through the purchase of service program.

However, your Committee is concerned about the growing cost of the program and directs the departments to re-evaluate their use of purchase of service, especially the development of requests for services.

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

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

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

Conf. Com. Rep. No. 54 on S.B. No. 726

The purpose of this bill is to establish a board of physical therapy within the department of commerce and consumer affairs and to transfer the licensure function of physical therapists from the department of health to this board of physical therapy.

This bill creates a new chapter which establishes a board of physical therapy and specifies the jurisdiction, composition, powers, and duties of the board. The board would be established on January 1, 1986, by this bill and the rules of the Department of Health would remain in effect until modified or repealed by the board. The board would be replaced effective December 31, 1991.

Your Committee has amended this bill as follows:

1. A proviso has been inserted at the end of paragraph (1) on page 2 to provide that if the care or treatment given by the physical therapist contravenes treatment diagnosed or prescribed by a medical doctor, osteopath, or as determined by the board, the physical therapist shall confer with the professional regarding the manner or course of treatment in conflict and take appropriate action in the best interests of the patient.

2. By adding at the end of section -3(a) a provision to prevent a person whether or not licensed under any law from claiming that the person is performing physical therapy or physical therapy services.

3. By adding a new subsection (b) to section -4 and redesignating the other subsections. The new subsection provides for staggered terms for the members first appointed to the board of physical therapy.

Your Committee notes that the requirement in section -4(d) that the governor fill vacancies from a list submitted by the Hawaii Chapter of the American Physical Therapy



Association only applies to the physical therapy members on the board and not to the public member or the member from other professions.

5. The appropriation provision has been deleted.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 726, 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. 726, S.D. 2, H.D. 2, C.D. 1.

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

Representatives Shito, Souki, Andrews, Apo, Cachola, Lardizabal, Oshiro, Taniguchi, Isbell and Medeiros  
Managers on the part of the House

Representative Apo did not sign the report.

Conf. Com. Rep. No. 55 on S.B. No. 460

The purpose of this bill is to specifically authorize the Hawaii criminal justice data center to use fingerprinting as part of their identification system currently in effect. The bill enlarges the class of persons to be included in this identification system by adding those persons to whom penal summons have been issued for a criminal offense and who have been convicted or granted a deferred acceptance of guilty or nolo contendere plea or a conditional discharge. It also requires the Hawaii criminal justice data center, in addition to collecting, to record and compile information relating to crime. The bill appropriates \$8,000 and designates the department of the attorney general as the expending agency for the purposes of the bill.

Your Committee recognizes a void in the comprehensive criminal justice information system. Currently, the criminal history system does not have stored in its data base cases where penal summons have been issued or where a deferred acceptance of guilty plea or a nolo contendere plea has been rendered. This bill will account for these people and will assure positive identification through the utilization of fingerprint identification techniques.

Your Committee has amended the bill by deleting the \$8,000 appropriation section as well as the section requiring the department of the attorney general to expend those moneys, and renumbered the sections of the bill accordingly.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 460, 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. 460, S.D. 2, H.D. 2, C.D. 1.

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

Representatives Tajiri, Tom, Kim, Leong, Metcalf, Tungpalan, Kamali'i and Liu  
Managers on the part of the House

Conf. Com. Rep. No. 56 on S.B. No. 459

The purpose of this bill is to replace the existing advisory committee of the Hawaii criminal justice data center with a formal criminal justice data interagency board, consisting of eleven members, appointed by the governor. The board, scheduled to sunset on June 30, 1989, is given the responsibility of promoting interagency cooperation and coordination in the development and management of a fully integrated state criminal justice information reporting and retrieval system. To accomplish this purpose, this bill appropriates \$7,000 to be expended by the department of the attorney general.

Your Committee, upon further consideration, has amended the bill by deleting the appropriation.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 459, 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. 459, S.D. 2, H.D. 2, C.D. 1.

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

Representatives Tom, Kim, Leong, Metcalf, Tajiri, Tungpalan, Kamali'i and Liu  
Managers on the part of the House

Conf. Com. Rep. No. 57 on S.B. No. 1186

The purpose of this bill as received by your Committee was to make technical, nonsubstantive amendments to section 27-22.5, Hawaii Revised Statutes, relating to the administration of county/state hospitals. The original purpose was to authorize the Director of Health to contract with private individuals or corporations for the collective administration or lease of all facilities of the county/state hospitals division in the County of Hawaii.

Your Conferees agree that the State needs more options than are currently available in order to arrive at the most efficient method of administering its hospitals. Therefore, your Committee has amended the bill by providing the Director of Health with the authority to contract with private individuals or corporations for the administration or lease of the facilities of the county and state hospitals division in the County of Hawaii. Your Committee has deleted the original condition that the administration or leasing must encompass all of the facilities on a collective basis, and believes that the increased flexibility provided by this bill will better enable the State to resolve hospital administration problems on the Big Island.

Your Conferees wish to note that certain important services such as laundry, payroll, nutrition, and laboratory consultation services are currently provided by the larger Big Island hospitals to the smaller ones. Your Conferees feel that the quality and viability of the smaller hospitals must be maintained regardless of who administers or leases the larger ones, and it is with this understanding that this amendment was agreed upon.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1186, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1186, S.D. 2, H.D. 1, C.D. 1.

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

Representatives Bunda, Kiyabu, Hashimoto, Kihano, Leong, Levin, Lindsey, Souki, Tajiri, Isbell and Liu  
Managers on the part of the House

Conf. Com. Rep. No. 58 on S.B. No. 702

The purpose of this bill is to extend Act 275, Session Laws of Hawaii 1984, relating to the study of and coordination of efforts to prevent and mitigate pesticide contamination and to amend the activities under the Act for more clarity, manageability, and appropriateness.

Act 275, Session Laws of Hawaii 1984, requires the office of environmental quality control to undertake certain activities concerning the contamination of water resources by pesticides. The Act is to terminate on June 30, 1985. The Act reflects the legislature's concerns over the seriousness of contamination and the lack of sufficient knowledge about and coordination among agencies to mitigate the problem.

Implementation of the Act has revealed the magnitude of the issues and factors which must be addressed to prevent and mitigate pesticide contamination and the necessity for stronger coordination among agencies. Implementation, however, has also revealed certain problems and inelasticities in the language of the enabling Act.

This bill reaffirms the legislature's commitment to the principles and objectives of the Act, but also seeks to improve implementation by necessary amendments. Thus, your Committee acts favorably on the extension of the office's authority under Act 275 from June 30, 1985 to June 30, 1987 and the amendments proposed by the bill, as received, with the following changes.

The proposed amendments to section 341-4, Hawaii Revised Statutes, in the bill, as received, have been amended as follows:

- (1) The proposed amendments to subsection (a) have been deleted. Thus, subsection (a) remains as is under current law.
- (2) The proposed new subsection (b)(1), requiring development of a comprehensive environmental quality action plan, has been deleted.
- (3) The proposed new subsection (b)(4), requiring coordination of research efforts, has been deleted.
- (4) Subsection (b)(4) in the current law, concerning recommendations for long-range programs, has been retained. The bill, as received, proposed to repeal that subsection.

- (5) Subsection (b)(5) in the bill, as amended, has been refined. The new language makes it clear that the office shall recommend administrative policies, objectives, and actions, as well as legislative bills. The new language also requires submittal of the recommendations directly to the legislature, as well as the governor.

Your Committee has also deleted the appropriations section from the bill, as received. Appropriations to implement this bill are included in the general appropriations bill. In addition, your Committee has made other technical, nonsubstantive amendments.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 702, 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. 702, S.D. 2, H.D. 2, C.D. 1.

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

Representatives Andrews, Crozier, Cachola, Kihano, Metcalf, Nakata, Shon, Isbell and Pfeil  
Managers on the part of the House

Conf. Com. Rep. No. 59 on H.B. No. 49

The purposes of this bill are: (1) to continue the cost-effective, long term, essential home care services to Medicaid-eligible patients, through the Nursing Home Without Walls program; and (2) to expand such services to the neighbor islands.

Under present statutes, the Nursing Home Without Walls Demonstration Project is set to expire on June 30, 1985. This bill re-enacts the project for another two years, and allows it to continue as a demonstration project until June 30, 1987. Your Committee amended the title from "Program" to "Demonstration Project" to reflect that the project will continue to operate under federal guidelines as a Demonstration Project during the two-year period. Brackets to delete the definition of "Demonstration Project" in Section 2 of the bill have therefore been removed and the definition of "Program" removed.

Under present statutes, total expenditures for the project could not exceed 75% of the Medicaid cost to maintain the project's approved number of patients at their appropriate level of institutional care. Your Committee has amended the bill by placing the ceiling on costs at 100% of the average statewide cost of institutional care for the counties of Hawaii, Maui and Kauai to allow for the special complexities and costs involved in the expansion of the program to the neighbor islands.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 49, 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. 49, H.D. 2, S.D. 2, C.D. 1.

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

Representatives Gaulty, Souki, Crozier, Leong, Levin, Lindsey, Takamine, Isbell and Liu  
Managers on the part of the House

Conf. Com. Rep. No. 60 on H.B. No. 101

The purpose of this bill is to establish a new office, the office of Community Services (OCS), within the Department of Labor and Industrial Relations for administrative purposes and to merge within it the Office of Progressive Neighborhoods Program (PNP), the Hawaii Office of Economic Opportunity (HOEO), the Refugee Assistance Office (RAO), and the State Immigrant Services (SISC).

This bill serves to facilitate and enhance the development, delivery, and coordination of effective programs for those in need through research-oriented activities and to provide assistance to governmental and private agencies in the human services field. In addition, the merging of the various agencies would integrate related human service programs presently in the Office of the Governor and assign them to a single department whose purposes and functions are compatible.

Your Committee upon further consideration has made the following amendments to H.B. No. 101, H.D. 1, S.D. 2:

- (1) Deleted the words "established by the legislature", on page 3, line 2, with regards to the programs, policies, and priorities for which the newly established office would fix responsibility

and accountability, replacing the deleted language with "of the office";

(2) Deleted the requirement that the appointment of the executive director be subject to the advice and consent of the Senate;

(3) Deleted language which set the salary of the executive director a \$46,800 a year, instead setting the salary level at that no less than that of a second deputy;

(4) Clarified the membership composition of the advisory council for community services, explicitly providing that one member from each client group previously served by OCS, PNP, RAO, and SISC be included;

(5) Provided that nothing contained in the new chapter shall terminate any existing contracts between departments and agencies of the State or counties and private organizations for the development of administration of programs or services to disadvantaged, refugees, and immigrants;

(6) Repealed Section 202-9, Hawaii Revised Statutes, with the understanding that functions, powers, and authority there established in the State Immigrant Services Center are transferred to the Office of Community Services, as provided in the new chapter, reflecting the Committee's strong concern that there be no reduction in services to immigrants and the Committee's hope that that level of these services will be enhanced;

(7) Deleted sections 6 and 10 of the bill, appropriately renumbering subsequent sections; and

(8) Made other technical, non-substantive amendments.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 101, 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. 101, H.D. 1, S.D. 2, C.D. 1.

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

Representatives Takamine, Grauly, Bunda, Cachola, Crozier, Lardizabal, Leong, Nakata, Anderson and Jones  
Managers on the part of the House

Conf. Com. Rep. No. 61 on H.B. No. 463

The purpose of this Act is to amend the Hawaii Workers' Compensation law to improve the system's efficiency and cost-effectiveness.

Your Committee recognizes the delicate balance of social and economic considerations underlying our Workers' Compensation law. On one hand, injured workers have a legitimate right to be compensated when they are injured as a result of their employment. On the other, the cost of production for employers must be reasonable in order that economic prosperity is achieved. Accordingly, your Committee has addressed the concerns expressed regarding Hawaii's Workers' Compensation law by diverse segments of our community in a manner that it believes is consistent with the humanitarian and remedial objectives of our law.

Each section of this bill is aimed at the causes of the problem including: (1) excessive premium increases due to the failure to consider investment income in setting premium rates for workers' compensation insurance; (2) the absence of sufficient market competition in the underwriting and sales of workers' compensation insurance; (3) the increased frequency of industrial accidents in Hawaii; (4) the lack of effective controls on the utilization of medical benefits and in the availability of other benefits; and (5) the lack of administrative controls by carriers and the Department of Labor and Industrial Relations in handling cases involving extended wage loss. Senate Standing Committee Report No. 806 and Senate Standing Committee Report No. 853 highlight how these causes are addressed in a meaningful way without affecting basic rights of injured workers who are legitimately entitled.

#### SAFE AND HEALTHY WORK ENVIRONMENT

Your Committee is well aware that statutory changes alone are not enough to reduce the escalating costs of Hawaii's Workers' Compensation system. Indeed, the best method for reducing costs in our Workers' Compensation system is by reducing the occurrences of work-related injuries and illnesses. We believe that a safe and healthy working environment will not only reduce costs but also improve employee morale and lead to a more productive work force. However, government cannot possibly anticipate all the health and safety needs of

the thousands of diverse and varied types of employment and working places in our state. Ultimately, the responsibility for insuring a healthy and safe working environment resides with those most directly affected. For these reasons, your Committee strongly urges that employers, insurance carriers, employees and employee organizations work cooperatively to develop programs and strategies designed to reduce work-related injuries and illnesses. Further, your Committee believes that the promotion of a safe and healthy working environment is in the best public interest and requests that our state administration initiate any action necessary to facilitate such cooperative efforts.

#### THE INSURANCE PROBLEM

Your Committee shares the sentiments expressed in Senate Standing Committee Report No. 853 regarding the insurance crisis confronting employers and businesses in Hawaii brought about by the skyrocketing costs of workers' compensation insurance coverage in recent years.

Your Committee agrees that a non-profit insurance fund, whose purpose is to sell workers' compensation insurance at the lowest actuarially responsible price in competition with private carriers, is a meaningful alternative to the existing system of providing insurance. Your Committee, however, is also aware that the establishment of such a fund requires careful planning and preparation. Accordingly, your Committee has amended H.B. No. 463, H.D. 2, S.D. 2, to provide that the nonprofit insurance fund created by this Act will be operational upon funding by special appropriation by the legislature. Your Committee has provided funding to hire a consultant who is to work with an interim legislative committee and develop a report to be submitted to the legislature prior to the 1986 session.

In the meantime, to avoid a recurring of the workers' compensation insurance crisis, your Committee has carefully reviewed the concept of establishing a business advocate to help effectively regulate the insurance industry and fully implement Act 263, Session Laws of Hawaii 1983, which mandates that premium rates be set with meaningful consideration of insurer investment income. While persuaded of the merits of this concept, your Committee decided that objectives to be achieved by establishing a business advocate might also be met by strengthening the actuarial and other resources of the Insurance Commissioner and effectuating a program of business advocacy in that office. Your Committee is inclined to take this alternative primarily because the Insurance Commissioner has yet to decide any rate increase request under the provisions of Act 263, Session Laws of Hawaii 1983. Thus, we have amended the bill to provide the Insurance Commissioner additional powers and staff. We have also given businesses the option to intervene, if they do wish to, in rate-making and rate-filing proceedings.

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#### THE PRESUMPTION

Your Committee concurs with the discussion regarding the statutory presumption found in Senate Standing Committee Report No. 806 and Senate Standing Committee Report No. 853.

Much of the debate regarding the statutory presumption has focused on (1) quality and quantity of evidence needed to overcome the presumption; and (2) applicability of the presumption to issues considered under Chapter 386, Hawaii Revised Statutes.

First, for the reasons stated in the above-mentioned standing committee reports, your Committee believes that the present requirement of substantial evidence to overcome the presumption must be maintained. Furthermore, your Committee endorses the definition of substantial evidence as set forth by our Supreme Court in Akamine v. Hawaiian Packing & Crating Co., 53 Haw. 406 (1972), to wit:

"Substantial evidence is relevant and credible evidence of a quality and quantity sufficient to justify a conclusion by a reasonable man that an injury or death is not work-connected." Ibid at 408.

Your Committee believes that this definition correctly defines substantial evidence for

purposes of Chapter 386, Hawaii Revised Statutes.

Second, your Committee notes that the statutory presumption applies to the following four items:

- (1) That the claim is for a covered work injury;
- (2) That sufficient notice of such injury has been given;
- (3) That the injury was not caused by the intoxication of the injured employee to injure himself or another;
- (4) That the injury was not caused by the wilful intention of the injured employee to injure himself or another.

#### FRAUD

In order to insure the integrity of our workers' compensation program, your Committee has amended H.B. No. 463, H.D. 2, S.D. 2, to strengthen the prohibition against fraud within the system.

Your Committee intends that any person who wilfully makes a false statement or representation for the purpose of directly obtaining compensation or payment or for the purpose of avoiding on behalf of any employer or insurance carrier any payment or compensation under chapter 386, Hawaii Revised Statutes, be penalized in accordance with one or more of the enumerated penalties listed in the amendment.

However, your Committee is aware that it would be impossible to prejudge the merits, facts and circumstances of each case. Thus, while a penalty is mandated in each case where a violation is found, the Director and the Appellate Board are given the discretion to fashion a penalty that would be appropriate for that case.

Your Committee believes that any person charged with a violation is afforded due process by the following procedure:

- (1) Proof of wilful misconduct to establish a violation;
- (2) A written complaint filed within two years of the alleged violation;
- (3) Notice of charges specifying the nature of the alleged violation given at least twenty days prior to the hearing;
- (4) A full and fair hearing and a right to appeal the determination to the appellate board as specified under Section 386-87 and the Supreme Court under Section 386-88.

Furthermore, your Committee intends that the determination of fraud be strictly limited to falsehoods that come within the provisions of this Chapter. For example, your Committee agrees with our Intermediate Court of Appeals that misrepresentations made to obtain employment are not covered by Chapter 386, Hawaii Revised Statutes. See Teixeira v. Kauikeolani Children's Hospital, 3 Haw. App. 432 (1982). While your Committee does not condone such misrepresentations or any other falsehoods, it does believe that matters which do not directly relate to the workers' compensation system are better handled in other more appropriate forums.

Finally, the amendment is intended to prohibit the commission of fraud by any person who directly profits from the workers' compensation system; i.e. claimants, employers, insurance carriers, health care providers, and vocational rehabilitation providers.

#### TEMPORARY TOTAL DISABILITY

Your Committee has amended the provisions of H.B. No. 463, H.D. 2, S.D. 2, relating to temporary total disability as follows:

First, present law provides a two-day waiting period with recapture after five days of disability. H.B. No. 463, H.D. 2, S.D. 2, extended the waiting period to three calendar days and allowed a recapture after five days of disability only in cases where the injured employee had not received or become entitled to any type of full wage loss replacement for the initial waiting period. Your Committee accepted the extension of the waiting period to three calendar days but has eliminated the recapture provision.

Your Committee believes that the basis for eliminating the recapture provision should be clarified. We have heard but are unpersuaded by the arguments made to the effect that the recapture provision of the present law is a disincentive for workers to stretch their absence from work to take advantage of retroactivity. We are aware, however, that Hawaii's workers' compensation benefits are among the lowest in the country and that the elimination of the

recapture provision is a reduction of those benefits. Thus, your Committee considers the elimination of the recapture provision to be a real sacrifice on behalf of Hawaii's injured employees to reduce the costs of our workers' compensation system.

Second, your Committee has amended the section requiring a hearing after the rehabilitation unit has certified that an injured worker is not a feasible candidate for rehabilitation services to allow the Director to make a determination of permanent partial disability as well as temporary total disability or permanent total disability.

Your Committee notes that while the above amendments are designed to reduce costs and improve the processing of claims, the best method for containing temporary total disability costs is to make it possible for an injured worker to return to work. Accordingly, your Committee requests that our State Administration and Department of Labor and Industrial Relations work with employers, insurance carriers, employee organizations and other appropriate parties to (1) establish incentives to encourage employers to assist injured workers to return to work; and (2) review Sec. 386-142 and Sec. 378-32(b), Hawaii Revised Statutes, to determine whether those statutory provisions offer adequate protection for the injured worker who desires to return to work but is not given the opportunity by an employer.

#### VOCATIONAL REHABILITATION

Your Committee agrees with the amendments regarding vocational rehabilitation contained in H.B. No. 463, H.D. 2, S.D. 2.

Your Committee has reviewed and shares the concerns raised regarding the potential for increasing costs if vocational rehabilitation services are not adequately regulated. Much of the discussion has focused on whether a limit should be established on the duration of vocational rehabilitation services since such limits may have a tendency to become the minimum length of service and may actually increase rather than decrease vocational rehabilitation in most cases. Instead, your Committee believes the better alternative for controlling vocational rehabilitation costs is to strengthen such items as eligibility criteria, participation requirements and the delivery of suitable vocational rehabilitation services. In this regard, we are informed that the Department of Labor and Industrial Relations in January 1985 promulgated revised regulations to accomplish these objectives.

Your Committee is satisfied that the proposed amendments contained in this Act should help to contain vocational rehabilitation costs in the workers' compensation system. Moreover, your Committee believes that if specific adjustments have to be made to better regulate vocational rehabilitation services, such matters are more appropriately handled through the Chapter 91, Hawaii Revised Statutes, rule making procedures to implement the provisions of this Act.

#### MEDICAL AND HEALTH CARE

Your Committee is concerned about the increasing costs of medical and health care which currently represents approximately one-third of all benefit payments for workers' compensation. Accordingly, except for technical amendments, your Committee strongly endorses the regulatory scheme outlined in H.B. No. 463, H.D. 2, S.D. 2.

Your Committee also believes that this is an area of our workers' compensation system that requires the cooperation of those most directly involved if increasing costs are to be contained. Government has always been loathe to regulate those who are performing humanitarian services. However, if we are to continue to provide the quality of care required by the humanitarian and remedial character of our workers' compensation law, we must find alternatives to reduce medical and health care costs. Regulation alone is not enough. Accordingly, your Committee requests that our state administration take the initiative to work with the various health care provider organizations along with interested employer and employee organizations to develop such alternatives.

#### ATTORNEYS, HEALTH CARE PROVIDERS AND OTHER FEES

Your Committee believes that fees charged by all attorneys and physicians as well as other health care providers for services rendered to prosecute or defend a claim for compensation under this Chapter should be regulated to contain unwarranted costs in the workers' compensation system. However, your Committee is also concerned that such regulation be done by the appropriate entity.

Claimant attorney and witness fees need to be regulated by the Director to protect the claimant against any excessive charges since such fees are enforced as a lien against the

compensation awarded the claimant. In addition, the fee schedules for physicians and other health care providers are established by the Director who should appropriately regulate such fees.

Employer attorney and witness fees are not a lien against any award. They are, however, costs that must be borne by the employer either directly through self-insurance or indirectly through the payment of insurance premiums.

Your Committee believes that self-insured employers should be responsible for regulating their own attorney and witness fees. Indeed, one of the primary advantages for being self-insured is to have the ability to develop your own cost containment programs.

However, the same opportunity to control attorney and witness fees does not exist for employers who purchase workers' compensation insurance. Decisions regarding these costs are made by insurance carriers and not individual employers. Thus, your Committee believes that such costs should be regulated by the Insurance Commissioner to insure that they are not excessive.

Your Committee is aware that insurance carriers are required to report attorney and witness fees to the Insurance Commissioner as part of their loss adjustment expenses which are used with other items to justify premium rates. Your Committee strongly encourages the Insurance Commissioner to monitor and review insurance carrier attorney and witness fees as well as other loss adjustment expenses to contain premium rates.

Your Committee has deleted prior amendments proposed to section 386-94 except those relating to the inclusion of all health care providers within the coverage of the section.

#### DEDUCTIBLE OPTIONS FOR INSURANCE COVERAGE

Your Committee concurs with the amendments made by H.B. No. 463, H.D. 2, S.D. 2, to allow employers to purchase workers' compensation insurance coverage with an option for medical deductibles.

However, your Committee believes that this concept could be expanded to include deductibles for indemnification benefits as well as medicals. Such an expanded concept, in essence, would allow employers to have the option of being self-insured for short periods of time. This option would be especially advantageous for those employers that have injury-free records. We also believe that this option would tend to encourage employers who purchase such coverage to maintain safe and healthy work environments as well as facilitate an injured employer's early return to work.

Accordingly, your Committee requests that our State Administration and Insurance Commissioner review this expanded concept and submit a report on this matter to the 1986 session of the legislature.

#### OTHER AMENDMENTS

Due Date for Decisions. Your Committee has amended the bill by providing that decisions by the Director are to be rendered within sixty days after the conclusion of the hearing but may be extended without a specific time limit for good cause provided the parties are in agreement. This amendment gives the Director sufficient flexibility to extend the due date when such extension is in the interest of the concerned parties.

Accident Prevention Unit. Your Committee has deleted section 10 of H.B. No. 463, H.D. 2, S.D. 2, and included promotion of safety programs in the section establishing the State Fund. Your Committee believes that the State Fund should have this capability to properly service its employer clients.

Computation of Average Weekly Wages. To avoid increasing costs to businesses, your Committee has deleted the provisions which changes from 25 to 30 the age in which an injured employee's average weekly wage will be computed.

Standing to Intervene in Appeals. To provide pre-paid health plan contractors fair treatment at the Appellate Board level with the objective of reducing unnecessary duplication of medical payments, your Committee has limited intervention for the purpose of protecting past liens only in accordance with the appropriate health provider fee schedule.

Appropriations. Your Committee has appropriated the amounts of \$707,400 for fiscal year 1985-1986 and \$742,770 for fiscal year 1986-1987 for personnel and other related costs to the



Department of Labor and Industrial Relations to administer Sections 3, 5 and 7 of the bill.

### COST REDUCTIONS

Your Committee concurs with the discussion regarding cost reductions in Senate Standing Committee Report No. 853 and believes that the amendments made by your Committee further increases such reductions. As a result, your Committee intends that future workers' compensation insurance premium rates be lowered to meet the sacrifices made by many participants in the workers' compensation process, including our injured workers.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 463, 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. 463, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Abercrombie, Holt, Machida and Henderson  
Managers on the part of the Senate

Representatives Tungpalan, Shito, Kiyabu and Isbell  
Managers on the part of the House

Conf. Com. Rep. No. 62 on H.B. No. 1393

The purposes of this bill are: 1) to provide that upon to \$100,000 annually may be granted to the Civil Air Patrol from the airport revenue fund pursuant to Chapter 42, Hawaii Revised Statutes; 2) to specify that the current \$3,000 grant shall be made available to Hawaii-based squadrons and flight units only; 3) to allow the purchase of fuels and oils not otherwise provided to the organization by the federal government; and 4) to allow assistants to the adjutant to perform certain administrative and fiscal duties.

Your Committee finds that the Civil Air Patrol is presently statutorily provided with a grant of \$100,000 annually from the airport revenue bond. However, in recent years, the Hawaii Wing of the Civil Air Patrol has exhibited a lack of careful financial management and has shown little or no accountability for the state grant it receives. In the past, little or not financial controls have been imposed on the \$3,000 grant to individual squadrons or flight units.

Your Committee concurs with the finding that the Hawaii Civil Air Patrol has not fulfilled a fiduciary responsibility to the State for the state funding the organization receives annually. Because of the way it has managed its funds, your Committee finds that there is a need for stronger legislative oversight of funds granted to this organization.

Your Committee is cognizant that a new wing commander, Colonel John Parrish, has been appointed to head the organization, and he has testified that there will be stronger fiscal controls and more efforts made to hold the Civil Air Patrol accountable. Your Committee believes that the provisions of this bill will better assist the organization in reaching these goals.

Your Committee upon consideration of H.B. No. 1393, H.D. 2, S.D. 1 made the following amendments:

- 1) At section 1, page 1, line 5, the words "so much thereof as may be necessary" have been added between the words "annually" and "[is]"; and
- 2) At section 1, page 1, line 5, the word "may" has been replaced with the word "will".

In effecting the aforesaid changes, your Committee inadvertently omitted substantive language from the bill by retaining brackets at page 1, line 16 and page 2, line 4. The following language which was deleted in H.B. No. 1393, H.D. 2, S.D. 1, C.D. 1, is retained in H.B. No. 1393, H.D. 2, S.D. 1, C.D. 2:

"for upkeep, replacement or purchase of communication equipment (provided that only such sums shall be expended on communication systems as will be necessary for the procurement of replacement of equipment not otherwise obtainable by grant or gift from any other source);".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1393, 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. 1393, H.D. 2, S.D. 1, C.D. 2.

Senators Cayetano, Hagino and Soares  
Managers on the part of the Senate

Representatives Taniguchi, Takamine, Oshiro, Lardizabal and Anderson  
Managers on the part of the House

Conf. Com. Rep. No. 63 on H.B. No. 99

The purpose of this bill is to appropriate funds to the Judiciary for the 1985-87 fiscal biennium.

This bill has been amended to reflect your Committee's determination of the needs of the Judiciary to operate effectively and efficiently.

Your Committee acknowledges the dilemma the Judiciary faces. The Judiciary is responsible for identifying the resources needed to effectively and efficiently operate our state court system. And in presenting its budget to the Legislature, the Judiciary must also be aware of the spending ceiling prescribed by law and imposed on all state departments and agencies. And it must also contend with funding the numerous functions that have been transferred to the Judiciary from other departments and agencies.

In 1983, the Judiciary was directed to continue to improve its capability to perform program analysis and evaluation of performance. This in essence is to form the basis for assisting Judiciary management, and Legislature as well, in making sound budgetary decisions.

Your Committee acknowledges the fine analysis and evaluation of the services purchased from private organizations under the requirements of Chapter 42, Hawaii Revised Statutes. Your Committee directs the Judiciary to continue to improve its program analysis and evaluation capability and extend the effort to all Judiciary operations.

In reviewing the operations of the Judiciary, your Committee was made aware of a planning and statistics office within the Administration Office. Because of increasing legislative demands for more statistical data and analysis for its budget review, your Committee recommends that the Judiciary immediately examine its organization for the purpose of merging the budget preparation component with the planning and statistical effort. The merging of these components under a single office will strengthen the Judiciary's planning-programming-budgeting effort and enhance compliance with the intent and purpose of Chapter 37, Hawaii Revised Statutes. The Judiciary is directed to ensure that its next budget submittal reflects the use of relevant statistical and planning data.

A total of \$44,400,862 in general funds is provided for each fiscal year. In addition, capital improvement projects representing \$13,314,000 in general obligation bond funds have been provided for the 1985-87 fiscal biennium.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 99, 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. 99, H.D. 1, S.D. 2, C.D. 1.

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

Senator Soares did not sign the report.

Representatives Kiyabu, Tom, Cachola, Crozier, Hashimoto, Kihano, Kim, Lardizabal, Leong, Metcalf, Nakata, Oshiro, Souki, Tajiri, Takamine, Taniguchi, Anderson, Isbell, Kamali'i and Medeiros  
Managers on the part of the House

Conf. Com. Rep. No. 64 on H.B. No. 463

The purpose of this Act is to amend the Hawaii Workers' Compensation law to improve the system's efficiency and cost-effectiveness.

Your Committee recognizes the delicate balance of social and economic considerations underlying our Workers' Compensation law. On one hand, injured workers have a legitimate right to be compensated when they are injured as a result of their employment. On the other, the cost of production for employers must be reasonable in order that economic prosperity is achieved. Accordingly, your Committee has addressed the concerns expressed regarding Hawaii's Workers' Compensation law by diverse segments of our community in a manner that it believes is consistent with the humanitarian and remedial objectives of our law.

Each section of this bill is aimed at the causes of the problem including: (1) excessive premium increases due to the failure to consider investment income in setting premium rates for workers' compensation insurance; (2) the absence of sufficient market competition in the underwriting and sales of workers' compensation insurance; (3) the increased frequency of industrial accidents in Hawaii; (4) the lack of effective controls on the utilization of medical

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Your Committee is satisfied that the proposed amendments contained in this Act should help to contain vocational rehabilitation costs in the workers' compensation system. Moreover, your Committee believes that if specific adjustments have to be made to better regulate vocational rehabilitation services, such matters are more appropriately handled through the Chapter 91, Hawaii Revised Statutes, rule making procedures to implement the provisions of this Act.

#### MEDICAL AND HEALTH CARE

Your Committee is concerned about the increasing costs of medical and health care which currently represents approximately one-third of all benefit payments for workers' compensation. Accordingly, except for technical amendments, your Committee strongly endorses the regulatory scheme outlined in H.B. No. 463, H.D. 2, S.D. 2, C.D. 1.

Your Committee also believes that this is an area of our workers' compensation system that requires the cooperation of those most directly involved if increasing costs are to be contained. Government has always been loathe to regulate those who are performing humanitarian services. However, if we are to continue to provide the quality of care required by the humanitarian and remedial character of our workers' compensation law, we must find alternatives to reduce medical and health care costs. Regulation alone is not enough. Accordingly, your Committee requests that our state administration take the initiative to work

with the various health care provider organizations along with interested employer and employee organizations to develop such alternatives.

#### ATTORNEYS, HEALTH CARE PROVIDERS AND OTHER FEES

Your Committee believes that fees charged by all attorneys and physicians as well as other health care providers for services rendered to prosecute or defend a claim for compensation under this Chapter should be regulated to contain unwarranted costs in the workers' compensation system. However, your Committee is also concerned that such regulation be done by the appropriate entity.

Claimant attorney and witness fees need to be regulated by the Director to protect the claimant against any excessive charges since such fees are enforced as a lien against the compensation awarded the claimant. In addition, the fee schedules for physicians and other health care providers are established by the Director who should appropriately regulate such fees.

Employer attorney and witness fees are not a lien against any award. They are, however, costs that must be borne by the employer either directly through self-insurance or indirectly through the payment of insurance premiums.

Your Committee believes that self-insured employers should be responsible for regulating their own attorney and witness fees. Indeed, one of the primary advantages for being self-insured is to have the ability to develop your own cost containment programs.

However, the same opportunity to control attorney and witness fees does not exist for employers who purchase workers' compensation insurance. Decisions regarding these costs are made by insurance carriers and not individual employers. Thus, your Committee believes that such costs should be regulated by the Insurance Commissioner to insure that they are not excessive.

Your Committee is aware that insurance carriers are required to report attorney and witness fees to the Insurance Commissioner as part of their loss adjustment expenses which are used with other items to justify premium rates. Your Committee strongly encourages the Insurance Commissioner to monitor and review insurance carrier attorney and witness fees as well as other loss adjustment expenses to contain premium rates.

Your Committee has deleted prior amendments proposed to section 386-94 except those relating to the inclusion of all health care providers within the coverage of the section.

#### DEDUCTIBLE OPTIONS FOR INSURANCE COVERAGE

Your Committee concurs with the amendments made by H.B. No. 463, H.D. 2, S.D. 2, C.D. 1, to allow employers to purchase workers' compensation insurance coverage with an option for medical deductibles.

However, your Committee believes that this concept could be expanded to include deductibles for indemnification benefits as well as medicals. Such an expanded concept, in essence, would allow employers to have the option of being self-insured for short periods of time. This option would be especially advantageous for those employers that have injury-free records. We also believe that this option would tend to encourage employers who purchase such coverage to maintain safe and healthy work environments as well as facilitate an injured employer's early return to work.

Accordingly, your Committee requests that our State Administration and Insurance Commissioner review this expanded concept and submit a report on this matter to the 1986 session of the legislature.

#### OTHER AMENDMENTS

Due Date for Decisions. Your Committee has amended the bill by providing that decisions by the Director are to be rendered within sixty days after the conclusion of the hearing but may be extended without a specific time limit for good cause provided the parties are in agreement. This amendment gives the Director sufficient flexibility to extend the due date when such extension is in the interest of the concerned parties.

Accident Prevention Unit. Your Committee has deleted section 10 of H.B. No. 463, H.D. 2, S.D. 2, C.D. 1, and included promotion of safety programs in the section establishing the State

Fund. Your Committee believes that the State Fund should have this capability to properly service its employer clients.

Computation of Average Weekly Wages. To avoid increasing costs to businesses, your Committee has deleted the provisions which changes from 25 to 30 the age in which an injured employee's average weekly wage will be computed.

Standing to Intervene in Appeals. To provide pre-paid health plan contractors fair treatment at the Appellate Board level with the objective of reducing unnecessary duplication of medical payments, your Committee has limited intervention for the purpose of protecting past liens only in accordance with the appropriate health provider fee schedule.

Appropriations. Your Committee has appropriated the amounts of \$707,400 for fiscal year 1985-1986 and \$742,770 for fiscal year 1986-1987 for personnel and other related costs to the Department of Labor and Industrial Relations to administer Sections 3, 5 and 7 of the bill.

### COST REDUCTIONS

Your Committee concurs with the discussion regarding cost reductions in Senate Standing Committee Report No. 853 and believes that the amendments made by your Committee further increases such reductions. As a result, your Committee intends that future workers' compensation insurance premium rates be lowered to meet the sacrifices made by many participants in the workers' compensation process, including our injured workers.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 463, H.D. 2, S.D. 2, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 463, H.D. 2, S.D. 2, C.D. 2.

Senators Yamasaki, Abercrombie, Holt, Machida and Henderson  
Managers on the part of the Senate

Representatives Tungpalan, Shito, Kiyabu and Isbell  
Managers on the part of the House

Conf. Com. Rep. No. 65 on H.B. No. 134

The purpose of this bill is to provide fund authorizations and appropriations for collective bargaining cost items, including the cost of salary adjustments negotiated between the State and bargaining unit representatives for the fiscal biennium 1985-87.

Fund authorizations and appropriations by the legislature are necessary, in accordance with section 89-10(b), Hawaii Revised Statutes, to cover the expected cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1985.

Your Committee has amended this bill by inserting the appropriation amounts necessary for collective bargaining cost items.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 134, 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. 134, H.D. 1, S.D. 1, C.D. 1.

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

Senator Soares did not sign the report.

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

Conf. Com. Rep. No. 66 on H.B. No. 146

The purpose of this bill is to provide fund authorizations and appropriations for wage and other adjustments in Fiscal Biennium 1985-87 for executive, judiciary, and legislative officers and employees excluded from collective bargaining.

Section 89C-2, HRS, stipulates that the compensation, laws, terms and conditions of employment, and other benefits for public officers and employees who are excluded from

collective bargaining shall be adjusted by the chief executive of the state, the board of education, the board of regents, or the chief justice, as applicable. Further, section 89C-5, HRS, stipulates that any such adjustments which constitute cost items shall be subject to appropriation by the legislature.

Your Committee has amended this bill by: (1) adding a new part providing appropriations for the salary increases and other cost adjustments for officers and employees of the office of Hawaiian affairs excluded from collective bargaining, for fiscal biennium 1985-87 and (2) adding to section 5 of the bill a provision appropriating funds for the salary increases and other cost adjustments for officers and employees of the State Ethics Commission excluded from collective bargaining.

Further, your Committee has amended this bill to stipulate exact amounts needed for wage and other adjustments pursuant to recent collective bargaining agreements.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 146, 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. 146, H.D. 1, S.D. 1, C.D. 1.

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

Senator Soares did not sign the report.

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

Conf. Com. Rep. No. 67 on H.B. No. 147

The purposes of this bill are to establish the amounts of the state and county contributions to the Health Fund for officers and employees not covered by collective bargaining, as provided by chapter 89C, HRS, and to provide appropriations to fund the state's contribution for fiscal biennium 1985-87.

Act 254, Session Laws of Hawaii 1984, authorized collective bargaining negotiations to determine the amount of employer contributions to the Health Fund for employees covered by collective bargaining, the negotiated amounts becoming effective July 1, 1985. The Act also authorized the chief executives of the state and counties, the board of education, the board of regents, the legislative auditor, the director of the legislative reference bureau, the ombudsman, and the chief justice of the supreme court to establish the amount of employer contributions to the Health Fund for officers and employees excluded from collective bargaining in accordance with processes outlined in chapter 89C, HRS. For officers and employees not covered by either of the foregoing provisions, the Act provided that adjustments to the amounts of employer contributions to the Health Fund shall be made by legislative enactment.

This bill will permit timely adjustments to the amount of employer contributions to the Health Fund for officers and employees not covered by collective bargaining or the provisions of chapter 89C, HRS, and provide appropriations for that purpose.

Your Committee upon further consideration has made the following amendments to H.B. No. 147, H.D. 1, S.D. 1:

(1) Subparagraph 1 of section 2 has been amended to read:

"\$27.34 for each respective employee-beneficiary and \$84.05 for each respective employee-beneficiary with a dependent-beneficiary..."

(2) Subparagraph 2 of section 2 has been amended to read:

"\$5.72 effective July 1, 1985, and \$5.96 effective July 1, 1986, for each child..."

(3) Subparagraph 3 of section 2 has been amended to read:

"\$2.25 for each respective employee to be used towards the payment of group life insurance benefits."

(4) Section 3 has been amended to appropriate \$220,517 for fiscal year 1985-86 and \$221,272 for fiscal year 1986-87.



Your Committee on Conference is in accord with the intent and purpose of H.B. No. 147, 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. 147, H.D. 1, S.D. 1, C.D. 1.

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

Senator Soares did not sign the report.

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

Conf. Com. Rep. No. 68 on S.B. No. 1198

The purpose of this bill is to provide for early payment to the thrift account holders of Manoa Finance Company, Inc., Great Hawaiian Financial Corporation, and Commercial Finance, Limited.

After reviewing the plight of the account holders of Manoa Finance and Great Hawaiian which are debtor companies in bankruptcy reorganization, and giving consideration to the resources available, your Committee on Conference has agreed to recommend a plan which will provide to the account holders payments at least equal to the guaranteed amount and still recover as much as possible for the State. This plan is reflected in the bill attached as S.B. No. 1198, S.D. 2, H.D. 1, C.D. 1.

Your Committee on Conference amended S.B. No. 1198, S.D. 2, H.D. 1, to provide for a State loan of \$9,500,000 to Thrift Guaranty Corporation of Hawaii to be used in connection with loans from the industrial loan industry and Thrift Guaranty's own funds for plans of reorganization of Manoa Finance and Great Hawaiian confirmed by the bankruptcy court. An additional \$1,000,000 would be made available for a similar plan of reorganization for Commercial Finance, if it elects to participate on similar terms. The loan will be made to Thrift Guaranty to allow payment of at least the guaranteed amount of all thrift accounts in the debtor companies as part of the plans of reorganization. Central to the amended bill is Section 5, where the requirements for the plans of reorganization and the State loan are set out.

Under a bankruptcy plan of reorganization, the assets of the debtor companies would be sold to Thrift Guaranty, which would use funds from the appropriation, a substantial loan from member companies, plus up to \$2,000,000 of its own funds. The debtor companies would distribute the sale proceeds and their own available cash, pro rata, among all general creditors (including depositors).

Some depositors would therefore be paid more than \$10,000, which is more than the guaranty amount. This result is unavoidable under the Bankruptcy Code, because all general creditors must be treated equally; i.e., they are entitled to pro rata distributions from the debtor's estate.

Other depositors would receive less than the guaranty amount from the distribution of the sale proceeds. If so, Thrift Guaranty would pay the shortfall, as a guaranty payment under section 408A-14, Hawaii Revised Statutes.

The State loan to be made under this bill and the loan from the member companies will both be secured by liens on the assets of Thrift Guaranty acquired from the debtor companies. The bank examiner and the member companies will designate two separate pools of assets. The State will have a senior lien on one pool, equalling the full amount of the State loan, and the member companies will have a senior lien on the rest of the assets. The selection of collateral for the State pool will be by negotiation between the member companies and the bank examiner. These pools will be cross-collateralized. That is, the State will have a junior lien in the pool set aside for the member companies and vice-versa. After the member companies have recovered principal, interest and expenses on their loan from the member company pool, the pool will be available to repay the State's loan. Furthermore, once the member companies' loan has been repaid, all assets of Thrift Guaranty would be available to repay the loans made by the State to Thrift Guaranty in earlier years. This is provided in the new Section 7.

Your Committee on Conference is concerned that the assets of Manoa Finance and Great Hawaiian not be disposed of in a "fire-sale". Consequently, the bank examiner's approval will be required for all asset sales.

In addition to the above changes to Section 5, your Committee on Conference made the following amendments:

Section 1. This section expresses the simple purposes of the bill, which are to permit a prompt payment to account holders of the debtor companies and to terminate assessments of operating industrial loan companies in future years. This was necessary to obtain private industry participation in the plan.

Section 2. A technical amendment of section 408A-5, Hawaii Revised Statutes, is made to provide a basis for allocating the voting power of industrial loan company members of Thrift Guaranty.

Section 3. A technical amendment of section 408A-8(b), Hawaii Revised Statutes, is made to conform statutory language to terminology used in the current Bankruptcy Code.

Section 4. Similar language changes to conform to Bankruptcy Code terminology are made to section 408A-14(a), Hawaii Revised Statutes. Further, Thrift Guaranty is given the express right to waive its subrogation rights under section 408A-14(c), Hawaii Revised Statutes, with the bank examiner's approval. It is understood that there will be such a waiver as part of the proposed plans of reorganization with respect to all payments which have been or may be made pursuant to the Program for Advance Payments To Account Holders dated June 7, 1983, among Manoa Finance, Great Hawaiian, and Thrifty Guaranty.

Section 5. This section has been described above. However, in addition, it should be understood that payment to certain account holders may be made more than ninety days after court confirmation of the plan for various reasons, including requirements for legal releases of the State and Thrift Guaranty and possible delays in completing paperwork with individual creditors.

Section 6. This section provides for the termination of the industrial loan companies' assessment liability under section 408A-9 and 408A-10, Hawaii Revised Statutes, but only after all of the requirements for a State loan under the new Section 5 have been met.

Section 7. This section is discussed above.

Section 8. This new section clarifies that loans made by the member companies to Thrift Guaranty to effect the plan will be deemed to comply with statutory provisions concerning industrial loan company loans, such as limits on loans to one borrower, collateral requirements, and the like.

Section 8 of S.B. No. 1198, S.D. 2, H.D. 1, a standard severability clause, has been deleted because of the interrelated nature of the provisions of the bill.

Sections 9 and 10 of S.B. No. 1198, S.D. 2, H.D. 1, have been renumbered as Sections 8 and 9.

Your Committee on Conference is concerned that the assets of Manoa Finance and Great Hawaiian not be reduced by excessive legal and liquidation costs. The Committee on Conference understands that the member companies and Thrift Guaranty will take prompt steps to achieve efficiency in Thrift Guaranty's liquidation operations, including the reasonable use of staff and attorneys and the containment of legal fees and other expenses. Those steps should be consistent with the maximum realization on the liquidation of its assets and the satisfaction of its past and future obligations.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1198, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1198, S.D. 2, H.D. 1, C.D. 1.

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

Senator Soares did not sign the report.

Representatives Kiyabu, Shito, Bunda, Crozier, Hirono, Souki, Taniguchi, Isbell and Jones  
Managers on the part of the House

Conf. Com. Rep. No. 69 on S.B. No. 463

The purpose of this bill is to authorize an appropriation to provide for payment of judgments against the State, settlements, and other miscellaneous claims as provided by section 37-77, Hawaii Revised Statutes. As received, this bill lists thirty claims for payment and appropriates the sum of \$3,790,009.49 to satisfy them.

Your Committee received from the department of the attorney general notice of a settlement by the State in the case of Randi Swift v. State of Hawaii, et al., Civil No. 74048,

First Circuit in the amount of \$22,500. Your Committee amended this bill to include this claim. Your Committee has further amended this bill by reinstating the claim for reimbursement of the City and County of Honolulu in the amount of \$2,024,952.99. Therefore, as amended, this bill lists thirty-two claims for payment and appropriates the sum of \$5,837,462.48.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 463, 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. 463, S.D. 1, H.D. 2, C.D. 1.

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

Representatives Kiyabu, Tom, Metcalf, Oshiro, Souki, Takamine, Tungpalan, Isbell and Medeiros  
Managers on the part of the House

Conf. Com. Rep. No. 70 on S.B. No. 20

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

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

Your Committee has amended this bill by changing the sum appropriated to \$2,500,000.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 20, 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. 20, S.D. 1, H.D. 1, C.D. 1.

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

Senator Soares did not sign the report.

Representatives Kiyabu, Honda, Crozier, Kim, Leong and Kamali'i  
Managers on the part of the House

Conf. Com. Rep. No. 71 on S.B. No. 1286

The purpose of this bill is to amend sections 304-4 and 304-17, Hawaii Revised Statutes, and to repeal sections 304-15 and 304-17, Hawaii Revised Statutes, in order to effect changes in the state-sponsored tuition assistance programs at the University of Hawaii. This bill will consolidate tuition waivers and scholarships, as there is no significant difference between the two, as interpreted by the University. Also, this bill recognizes the leadership role the University plays in Pacific-Asian affairs, and provides for tuition waivers for qualifying students from those areas.

Your Committee agrees that the increased flexibility in awarding tuition waivers will allow a greater number of those waivers to be utilized, and allow the granting of waivers to certain foreign students who have the potential to make beneficial contributions to this State.

Your Committee has amended this bill by increasing the tuition waivers which may be made for students who are well qualified or in need of financial assistance from 13 to 15 per cent of the total full-time enrollment of the previous fall semester for each campus in the system. Of this 15 per cent, 2 per cent shall be used for those highly qualified students whose presence advances the University's unique mission as a bridge between east and west and who enhance the leadership role the University and the State have assumed in the Pacific and Asian regions. Your Committee has deleted the limitation contained in the bill on such Pacific-Asian waivers as unnecessary due to this amendment. Your Committee has also made technical, nonsubstantive amendments.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1286, 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. 1286, S.D. 2, H.D. 2, C.D. 1.

Senators Yamasaki, Abercrombie, Holt, Young and Soares

Managers on the part of the Senate

Senator Soares did not sign the report.

Representatives Kiyabu, Levin, Hagino, Leong, Lindsey, Nakata, Onouye, Say, Souki, Takamine, Anderson and Pfeil

Managers on the part of the House

Conf. Com. Rep. No. 72 on S.B. No. 1287

The purposes of this bill are to establish a University of Hawaii at Manoa malpractice special fund, University of Hawaii at Manoa intercollegiate athletics special fund, University of Hawaii at Hilo intercollegiate athletics special fund, and systemwide computer services special fund and to require annual itemized income statements of each university special and revolving fund.

Your Committee has amended the bill by making the intercollegiate athletics funds at the University of Hawaii at Manoa and University of Hawaii at Hilo revolving, instead of special. The enabling language has also been made broader. The intent of your Committee is to give these campuses more authority in expending moneys earned from athletics activities than would have been available under the bill, as received.

Your Committee notes that under section 304-8, Hawaii Revised Statutes, the comptroller, upon the recommendation of the department of budget and finance, may establish special funds when "deemed in the best interests of the university and the State". A University of Hawaii at Manoa internal support services special fund and a University of Hawaii at Hilo internal support services special fund may be established under this section without specific legislative enactment. Your Committee finds that special funds for internal support services are in the university's and State's interest.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1287, 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. 1287, S.D. 2, H.D. 2, C.D. 1.

Senators Yamasaki, Holt, Mizuguchi, Young and Soares

Managers on the part of the Senate

Senator Soares did not sign the report.

Representatives Kiyabu, Levin, Cachola, Hagino, Kihano, Lindsey, Onouye, Oshiro, Say, Tajiri, Anderson and Hemmings, Jr.

Managers on the part of the House

Conf. Com. Rep. No. 73 on S.B. No. 239

The purpose of this bill is to clarify the problems created by the department of taxation's stand regarding "gross up" and to exempt sport tournament funds from the general excise tax in certain instances.

Your Committee finds that clarification of the departmental stance regarding "gross up" is required due to the artificiality of their concept. The principle of "gross up" is used by the department to provide that if a company uses an outside third party, whether or not there is an apparent agency relationship, to sell the company's services, any commissions or discounts the department attributes to the third party will be added to the gross proceeds of the company using such third party, even though the company never receives the money. Such additions to gross proceeds are subject to the general excise taxation. For example, if a tour company offers a tour at \$20 and advertises such fact and an independent person sells a ticket on that tour for \$15, the department attributes the difference between \$20 and \$15 as commissions paid to the independent person and includes the \$5 difference in the gross proceeds of the tour company. The department applies the concept even though the company never sees the extra \$5 and may have no control over the price at which the person sells the ticket. Your Committee finds that this practice is inequitable and carries a broader implication for businesses which use the discount and independent agent concepts. This is particularly true in Hawaii where many of the hotels and other tourist activities package their services with discounts.

The bill provides that funds paid by a customer or customer's agent to a travel agent or tour package for tickets, reservations, tour, or travel services which are not transmitted to the persons or entities furnishing the tour or package of travel services or accommodations shall be presumed not to be a part of the gross proceeds or gross income received by such persons or entities. This presumption may be rebutted by showing an agreement to the contrary.

Your Committee has amended this bill by deleting the provisions on the exemption of sport tournament funds. Your Committee has further amended the bill by further clarifying the general excise tax principles imposed on the taxpayers. This has been done to clarify the area of reimbursements for costs and advances made to a third party by one party for a second party. For example, if A reimburses B for payments made to C on A's behalf in many such instances, the department will attempt to impose the general excise tax on the amount of the reimbursement to B, even though such reimbursement is not gross income to B. This is an incorrect and inapplicable application of the general excise tax law which this bill clarifies. This is an area long in need of clarification due to the numerous misunderstandings regarding the application of the general excise tax between the department and the taxpayer.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 239, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 239, S.D. 2, H.D. 1, C.D. 1.

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

Senator Soares did not sign the report.

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

Conf. Com. Rep. No. 74 on S.B. No. 589

The purposes of this bill are to provide exclusive representatives of certain public employee bargaining units another opportunity to negotiate a model conversion plan for reducing salary range steps and to extend such opportunity to units representing employees paid according to the department of education's salary schedules.

Your Committee has amended the bill as follows:

- (1) All references to "reducing", or "reduction of", the number of steps have been replaced with references to "adjusting", or "adjustment of", the number of steps;
- (2) All references to the department of education's salary schedules added by the house draft to the model conversion plan section under chapter 77, Hawaii Revised Statutes, have been deleted;
- (3) The subsection outlining the required contents of model conversion plans agreed to between the employers and the exclusive representative has been repealed; and
- (4) A new section has been added to chapter 297, Hawaii Revised Statutes, which specifically provides the exclusive representatives of employees within the department of education's salary schedules the opportunity to negotiate model conversion plans in the same manner allowed for the other bargaining units.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 589, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 589, S.D. 2, H.D. 1, C.D. 1.

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

Representatives Kiyabu, Yoshimura, Cachola, Kim, Lardizabal, Souki and Anderson  
Managers on the part of the House

Conf. Com. Rep. No. 75 on S.B. No. 471

The purposes of this bill are to adjust the salaries or maximum salaries of certain public officers and employees, state explicitly that certain public officers and employees who are exempt from civil service are also exempt from the classification and collective bargaining laws, and make the requisite appropriations.

The salaries of most of the public officers and employees who are subject to this bill were adjusted last in 1982. Your Committee finds that increases to the salaries as proposed under this bill are appropriate at this time.

Your Committee has amended the bill by providing the governor with a salary of \$75,000

retroactive to January 1, 1985, and \$80,000 beginning July 1, 1985. Your Committee considers these amounts to be appropriate when compared to the salaries of other elective officers in this State and governors of other states.

Your Committee has also amended the bill by inserting for the other public officers and employees increased salary amounts retroactive to January 1, 1985, and beginning July 1, 1985. The salary amounts represent the same proportion to the governor's proposed salary amount as the proportion under current law, with certain exceptions. For example, the salary of a department head continues to be eighty-five per cent of the governor's salary. The exceptions to this principle are the following. The salary of the lieutenant governor has been adjusted to ninety-five per cent, from ninety per cent, of the salary of the governor. Salaries of the chairpersons of the labor and industrial relations appeals board, public utilities commission, and Hawaii public employment relations board have been adjusted to eighty-five per cent, from eighty per cent, of the governor's salary. Salaries of members other than the chairpersons of the labor and industrial relations appeals board, public utilities commission, and Hawaii public employment relations board have been adjusted to eighty per cent, from seventy-five per cent, of the governor's salary. The salary of the executive director of the Hawaii public broadcasting authority has been adjusted to seventy-five per cent, from sixty-five per cent, of the governor's salary. The salary of the special assistant to the governor for agriculture has been adjusted to sixty-five per cent, from fifty per cent, of the governor's salary. The salary of the state librarian, formerly seventy-five per cent of the governor's salary, has been made equivalent to the superintendent of education's salary, which is eighty-five per cent of the governor's salary under this bill. In addition, the discretion of the board of education to set the salary of the state librarian has been deleted.

Your Committee has also amended the bill by including salary increases for justices and judges. The chief justice's salary is increased from \$56,430 a year to \$74,500 retroactive to January 1, 1985 and \$78,500 beginning July 1, 1985. Your Committee intends that the chief justice's salary be near, but not equal to, the governor's. The intention reflects the co-equal nature of the judicial and executive branches, but recognizes the heavier duties of the governor.

The salaries of subordinate justices and judges retroactive to January 1, 1985 have been established to reflect your Committee's conception of the appropriate ranking within the judicial structure. The salaries beginning July 1, 1985 have been increased by approximately five per cent of the retroactive salaries. In addition, your Committee has included in this bill language in sections 571-8.2 and 604-2.5, Hawaii Revised Statutes, to stipulate that district court and district family court judges assigned temporarily to circuit court duties are to be paid at the rate based on the salary of a circuit court judge. Your Committee feels that this amendment makes the temporary assignment situation more equitable.

Your Committee notes that the administrative director and deputy administrative director of the courts will continue to receive the same salaries as a department head and a first deputy, respectively.

As amended, this bill increases the salaries or maximum salaries of the following public officers and employees. The public officers and employees are the: governor, lieutenant governor, superintendent of education, department directors, adjutant general, first and second deputies and assistants to department directors, administrative director of the State, federal programs coordinator, members of the Hawaii public employment relations board, chief negotiator, stadium manager and deputy stadium manager, special assistant to the governor for agriculture, commissioners of the public utilities commission, assistant, district, and deputy district superintendents of education, state librarian, executive director of the Hawaii public broadcasting authority, director of the executive office on aging, members of the Hawaii paroling authority, executive director of the Hawaii housing authority, members of the labor and industrial relations appeals board, deputy commissioner of credit unions, director of the office of consumer protection, director of the office of children and youth, state public defender, supreme court justices, intermediate appellate court judges, circuit court judges, district court judges, district family court judges, administrative director and deputy administrative director of the courts, legislative auditor, director of the legislative reference bureau, and ombudsman and their deputies or assistants, and executive director of the state ethics commission. Your Committee also notes that, because of sections 401-1 and 431-33, Hawaii Revised Statutes, the maximum salaries of the bank examiner and insurance commissioner are increased. The necessary appropriations are also inserted.

Your Committee finds that the salary amounts proposed under this bill are fair and will assist the State in recruiting and retaining qualified, competent, and motivated public officers and employees.

Your Committee has also made another major amendment to the bill. Language has been included in section 26-52, Hawaii Revised Statutes, to authorize the board of regents of the University of Hawaii to provide compensation to the president of the university which is

additional to the compensation provided by law. The authority of the board of regents to establish the salary up to \$95,000 has been retained, and your Committee intends and has stated explicitly in the amendment that the board cannot increase the salary over \$95,000. The amendment also requires the salary and compensation to be paid from general funds. Your Committee emphasizes that no part of the salary or compensation is to be paid from private contributions or other revenues of the university. It is the understanding of your Committee that, under this amendment, the university will replace the general fund appropriation which will be used to pay for the compensation package with funds solicited or received as gifts under section 304-7, Hawaii Revised Statutes.

In addition, your Committee has made technical, nonsubstantive amendments.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 471, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 471, S.D. 2, H.D. 1, C.D. 1.

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

Representatives Kiyabu, Yoshimura, Crozier, Kihano, Lardizabal, Souki, Takamine and Anderson  
Managers on the part of the House

Representative Yoshimura did not sign the report.

Conf. Com. Rep. No. 76 on H.B. No. 281

The purpose of this bill is to increase revenues for the state highway fund created pursuant to section 248-8, Hawaii Revised Statutes.

Your Committee has amended the bill as follows:

- (1) Four Per Cent General Fund Transfer. The temporary transfer to the highway fund of general excise tax revenues is extended to June 30, 1991.
- (2) Vehicle Registration Fee. The vehicle registration fee is increased from \$1 to \$10.
- (3) Fuel Tax. The state fuel tax is increased from 8-1/2 to 11 cents.
- (4) Diesel Oil Tax. The state diesel oil tax is increased from 7-1/2 to 11 cents.
- (5) Vehicle Weight Tax. The bill has been amended to increase the vehicle weight tax to the following:

<u>Category</u>	<u>Rate Charged (per pound)</u>
4,000 pounds or less	.50 cents
Over 4,000 pounds and up to and including 7,000 pounds	.55 cents
Over 7,000 pounds and up to and including 10,000 pounds	.60 cents
Over 10,000 pounds	\$65

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 281, 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. 281, H.D. 2, S.D. 2, C.D. 1.

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

Representatives Kiyabu, Taniguchi, Crozier, Oshiro, Souki and Anderson  
Managers on the part of the House

Conf. Com. Rep. No. 77 on S.B. No. 384

The purpose of this bill is to authorize the issuance of general obligation bonds to finance projects authorized in the General Appropriations Act of 1985, the General

Improvements Act of 1985, the Judiciary Appropriations Act of 1985, and the Act making an appropriation for payment of the settlement in the case of State of Hawaii vs. Goodfellow Bros., Inc., Civil No. 6635, Second Circuit.

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 S.B. No. 384, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 384, H.D. 1, C.D. 1.

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

Senators Hee and Soares did not sign the report.

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



## STANDING COMMITTEE REPORTS

## SCRep. 1                    Legislative Management

Informing the Senate that Senate Bill Nos. 1 to 148 have been printed and were distributed to the members of the Senate on January 30, 1985, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

## SCRep. 2                    Legislative Management

Informing the Senate that Senate Bill Nos. 149 to 236 have been printed and were distributed to the members of the Senate on January 31, 1985, prior to the 11:00 o'clock a.m. session.

Signed by all members of the Committee.

## SCRep. 3                    Legislative Management

Informing the Senate that Senate Bill Nos. 237 to 348 have been printed and were distributed to the members of the Senate on February 1, 1985, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

## SCRep. 4                    Legislative Management

Informing the Senate that Senate Bill Nos. 349 to 364 have been printed and were distributed to the members of the Senate on February 4, 1985, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

## SCRep. 5                    Legislative Management

Informing the Senate that Senate Bill Nos. 365 to 379 have been printed and were distributed to the members of the Senate on February 5, 1985, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

## SCRep. 6                    Ways and Means on H.B. No. 2

The purpose of this bill is to authorize funds for the expenses of the Legislature up to June 30, 1986, and also for the expenses of the legislative support agencies during the 1985-1986 fiscal year.

Your Committee has provided the following specific appropriations:

SENATE AND HOUSE OF REPRESENTATIVES

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

LEGISLATIVE AUDITOR

Your Committee approves the appropriation of \$1,483,000 to meet the basic operating budget of the Office of the Legislative Auditor. The total includes sufficient funds for special studies and other purposes to be jointly determined by the President of the Senate and the Speaker of the House of Representatives.

STATE ETHICS COMMISSION

Your Committee approves the appropriation of \$179,012 to the State Ethics Commission.

LEGISLATIVE REFERENCE BUREAU

Your Committee approves the appropriation of \$1,437,125 for the Legislative Reference Bureau. The total includes \$64,900 for the land evaluation and site assessment commission which is attached to the Bureau for administrative purposes by Act 273, Session Laws of Hawaii 1983.

OMBUDSMAN

Your Committee approves the appropriation of \$380,350 for the Office of the Ombudsman.

LAPSE OF FUNDS

Appropriations under this bill are subject to lapse as of June 30, 1986.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Machida.

SCRep. 7                    Legislative Management

Informing the Senate that Senate Bill Nos. 380 to 384 have been printed and were distributed to the members of the Senate on February 6, 1985, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 8                    Legislative Management

Informing the Senate that Senate Bill Nos. 385 to 406 have been printed and were distributed to the members of the Senate on February 7, 1985, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 9                    Legislative Management

Informing the Senate that Senate Bill Nos. 407 to 495 have been printed and were distributed to the members of the Senate on February 8, 1985, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 10                   Legislative Management

Informing the Senate that Senate Bill Nos. 496 to 582 have been printed and were distributed to the members of the Senate on February 11, 1985, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 11                   Legislative Management

Informing the Senate that Senate Bill Nos. 583 to 723 have been printed and were distributed to the members of the Senate on February 12, 1985, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 12                   Legislative Management

Informing the Senate that Senate Bill Nos. 724 to 1355 have been printed and were distributed to the members of the Senate on February 13, 1985, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 13                   Legislative Management

Informing the Senate that Senate Bill Nos. 1356 to 1487 have been printed and were distributed to the members of the Senate on February 14, 1985, prior to the 11:00 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 14                   Health on S.B. No. 72

The purpose of this bill is to transfer the Hawaii Advisory Commission on Drug Abuse from the Governor's office to the Department of Health for administrative purposes.

Your Committee heard testimony by the Department of Health supporting the bill and finds that the proposed transfer would bring the Commission's location and functions into

correspondence by reflecting the actual source of the Commission's administrative support.

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. 72, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 72, S.D 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 15 (Majority) Tourism and Recreation on S.B. No. 1190

The purpose of this bill is to impose a "hotel room tax" by raising the general excise tax on transient accommodations to 6 per cent, and establishing a Hawaii tourism promotion and protective fund with an advisory board to recommend expenditures from this fund to the legislature.

For many years, representatives of the tourist industry have constantly requested the legislature to provide the necessary funds to adequately support advertising and promotion of Hawaii as a visitor destination. It is estimated that in order to remain competitive in the world tourist market, promotional expenditures of approximately \$10 to \$15 million per year would be required. Much of our State's revenues, however, have been channeled to and will continue to be in demand for our educational, social, and health oriented priorities. As a result of the finite amount of resources that the legislature has to work with, and other programs needing our immediate attention, funding for tourism promotion has been difficult to acquire.

In December 1984, the Governor's Tourism Congress, composed of about 500 members of the visitor industry, local government, and the public met to discuss the issues and advise the legislature on the future of tourism for Hawaii. It was recognized that due to the State's commitment to support other programs, a source of continuous funding must be developed. From this meeting a proposal was made to increase the general excise tax to 4-1/2 per cent with a rebate to resident taxpayers. The revenues generated through this plan would be used to support various tourism related projects. Although this idea has been discussed it has not won the support of legislators. Opponents of the 1/2 per cent general excise tax increase criticize the plan as being regressive and imprudent because it tends to place yet another tax on the resident taxpayer.

As an alternative source of stable and permanent funding, the concept of a hotel room tax has been hotly debated in various forms over the past 15 years. Preliminary studies indicate that a hotel room tax is commonly imposed by many mainland cities and foreign tourist destinations. Proponents for the room tax argue that on the mainland, hotel tax rates range from 1 to 15 per cent, generally with little or no adverse effect on the visitor industry. In the past, the legislature, recognizing that Hawaii's economy is highly dependent on tourism, has been wary of imposing a room tax that could place our visitor industry at a competitive disadvantage.

Your Committee finds that there is a need to generate revenues to support the tourist industry on such projects as:

- (1) Tourism advertising and promotion,
- (2) Acquisition of land for state parks and recreation areas,
- (3) Upgrading and maintaining infrastructure in visitor destination areas, and
- (4) Establishing and operating a world class convention facility.

Such projects, if adequately funded, could ensure the long-term stability of the tourist industry and ultimately the vitality of Hawaii's economy. Your Committee finds that establishing a 6 per cent hotel room tax, is a reasonable and proven method of generating the needed funds.

Your Committee has amended the bill to specify that 4 per cent of the 6 per cent general excise tax on transient accommodations be deposited to the general fund and 2 per cent be deposited into the tourism special fund established in this bill.

Your Committee has further amended the bill to require the tourism advisory board to recommend expenditures for the planning, design, site selection, and operation of a major convention center, and to require the tourism advisory board to recommend expenditures to supplement programs of the University of Hawaii School of Travel Industry Management and other tourism educational programs.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S. B. No. 1190, as amended herein, and recommends that it pass Second Reading in the form attached

hereto as S.B. No. 1190, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.  
Senator Soares did not concur.

SCRep. 16                      Energy on S.B. No. 979

The purpose of this short form bill is to amend the laws of the State of Hawaii.

Your Committee has amended the purpose of the bill to extend the state tax credit for solar or wind energy devices and heat pumps until December 31, 1992, and to establish a revolving loan fund to assist individual and corporate residents to purchase energy saving devices.

The bill also:

- (1) provides an increase in the state tax credit should the federal energy tax credit expire;
- (2) designates the energy resources coordinator as the administrator of the loan program;
- (3) allows the energy resources coordinator to appoint an advisory committee to assist the coordinator with loan applications; and
- (4) provides an appropriation section to fund the energy device loan revolving fund.

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 979, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 979, S.D. 1, and be recommitted to the Committee on Energy for further consideration.

Signed by all members of the Committee.

SCRep. 17                      Agriculture on S.B. No. 20

The purpose of this bill is to appropriate funds for sugar research and development, including research on alternate crops, provided that the Hawaiian Sugar Planters' Association provide for a dollar-for-dollar match of funds.

Your Committee received favorable testimony from the Board of Agriculture, Hawaiian Sugar Planters' Association, the Governor's Agriculture Coordinating Committee and the College of Tropical Agriculture and Human Resources of the University of Hawaii at Manoa, who all agree that research on alternate crops and by-products of sugar are important for the future of Hawaii's sugar industry. It not only provides for the subsistence of the sugar industry at the present time, but also provides for a hopeful future of Hawaii's sugar industry.

Your Committee has amended this bill to provide that the Hawaiian Sugar Planters' Association, in cooperation with the College of Tropical Agriculture and Human Resources of the University of Hawaii at Manoa will utilize this appropriation for sugar research and development, including research on alternate crops and by-products.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 20, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 20, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 18                      Agriculture on S.B. No. 21

The purpose of this bill is to appropriate funds for the promotion of fresh Hawaiian pineapple in the United States west of the Mississippi River and in Western Canada, provided that private contributions for a dollar-for-dollar match of funds is made.

Your Committee finds that the pineapple industry is the second largest agricultural industry in Hawaii, and that it is a vital component of the State's economic base. The objectives of the promotion are to increase consumer demand for Hawaiian fresh pineapple by generating greater public awareness of the product and improve the stability of the pineapple industry in Hawaii through effective marketing programs.

Your Committee received favorable testimony from the Board of Agriculture, the Hawaii Farm Bureau Federation, the College of Tropical Agriculture and Human Resources of the University of Hawaii at Manoa, and the Pineapple Growers' Association of Hawaii that it is in the public interest to continue to assist the pineapple industry in its promotion of Hawaiian fresh pineapple.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 21 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                      Agriculture on S.B. No. 944

The purpose of this bill is to amend the laws of the State of Hawaii relating to agricultural water use.

Your Committee has amended this short form bill to include the following:

- 1) A purpose section. Your Committee finds that because the cost of water for irrigation plays a major factor in the growth of diversified agriculture in Hawaii, there is a need to control the rising cost of agricultural water in order to promote our agricultural industry.
- 2) Amendments to sections 54-26 and 54-63, Hawaii Revised Statutes, to ensure that agricultural water rates remain lower than domestic water rates.

Presently the agricultural water rates are lower than the domestic rates in all the counties - Maui, 54 per cent of domestic; Oahu, 82 per cent of domestic; Kauai, 54 per cent of domestic; and Hawaii, 88 per cent of domestic. Your Committee believes that agricultural water rates must be kept lower than domestic water rates in order to encourage development of the State's agricultural industry.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 944, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 944, S.D. 1, and be recommitted to the Committee on Agriculture for further consideration.

Signed by all members of the Committee.

SCRep. 20                      Consumer Protection and Commerce on S.B. No. 170

The purpose of this bill is to extend the expiration date of the Compliance Resolution Fund (CRF) from July 1, 1987 to July 1, 1997.

The Compliance Resolution Fund was created after a legislative auditor's study found that the professional and vocational licensing boards were generally unresponsive to consumers and the investigation and resolution of complaints were marked by unnecessary delays and bias by some boards. Thus, the legislature created the Regulated Industries Complaints Office (RICO) to handle consumer complaints from their inception to a final resolution. Since its inception RICO has eliminated a four year backlog of complaint investigations to where even complaints involving courtroom resolution will be resolved within a year.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs to the effect that the timely resolution of complaints has made the consumer more aware of the RICO service, thus, they are using it more, and RICO's timeliness has caused respondents to resolve complaints earlier due to quicker possible disciplinary action. The department stated that an extension of the repeal date is essential for the collection of fees and for the continuity of the CRF which funds RICO. Regulated programs which renew their licensees biennially could not be assessed for the second year (1987-1988) when they file for renewal after July 1, 1986 because the CRF would not be considered in effect after July 1, 1987. The extension of the compliance fund precludes this problem.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 170, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 170, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator A. Kobayashi.

SCRep. 21                      Consumer Protection and Commerce on S.B. No. 168

The purpose of this bill is to extend the expiration date of the special handling fees special fund, created pursuant to section 416-97, Hawaii Revised Statutes, for an additional three years until June 30, 1988 and to expand the types of documents that may be processed by the expedited services.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs

that the additional help from staff hired through the special fund has reduced the document processing workload delay from three months to three weeks. The expedited service provided to those businesses willing to pay an additional fee has resulted in a review and processing time of forty-eight hours for some documents.

The department stated that a high interest exists for expanding the types of documents that are subject to expedited processing and, therefore, the department supports expansion of the types of documents for expedited services to include various general and limited partnership documents, foreign corporations documents, as well as, trademark, trade name, service marks, and other similar registration marks. Special handling fees for each particular type of document are detailed in the bill.

Your Committee also heard favorable testimony from the Hawaii Business League.

Your Committee has made nonsubstantive amendments to the bill as received as follows:

- (1) By making minor language changes in SECTION 1;
- (2) Page 6, line 13, by changing the word "certificate" to "certification";
- (3) Page 7, line 4, by deleting the comma after the word "provided";
- (4) Page 11, line 18, by deleting the period after the word "used" and inserting a comma and the clause "and stating the manner in which the print, label, or trademark is used."

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 168, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 168, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator A. Kobayashi.

SCRep. 22                      Labor and Employment on S.B. No. 107

The purpose of this bill is to make it unlawful for an employer to discharge, bar, or refuse to hire an individual because the individual is subject to mandatory withholding of wages for payment of child support obligations.

Your Committee received supporting testimony from the Department of Social Services and Housing, the Department of Labor and Industrial Relations, the Department of the Corporation Counsel of the City and County of Honolulu, and the Family Court, and finds that in order to satisfy Public Law No. 98-378, Hawaii must enact a law by October 1985 which imposes a fine on any employer who engages in the above kinds of discrimination. The proposed bill would satisfy federal requirements and provide legal recourse should such discriminatory activities be perpetrated.

Your Committee has amended the bill by deleting gender references and correcting a technical error.

Your Committee on Labor and Employment 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 Judiciary.

Signed by all members of the Committee.

SCRep. 23                      Labor and Employment on S.B. No. 481

The purpose of this bill is to place the provisions of sections 76-32 and 76-33, Hawaii Revised Statutes, into Chapter 79, Hawaii Revised Statutes.

Section 76-32 relates to educational and certain other leaves of absence of public employees, and section 76-33 relates to sabbatical leaves. However, your Committee heard testimony from the Conference of Civil Service Commissioners and Personnel Directors to the effect that Chapter 79, Hawaii Revised Statutes, already provides for public employee leaves of absence including vacation leaves, sick leaves, and other leaves, and therefore finds that Chapter 79 is the appropriate location for the provisions of sections 76-32 and 76-33.

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

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

No. 481, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 481, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 24                      Consumer Protection and Commerce on S.B. No. 229

The purpose of this bill is to establish a temporary commission to conduct a comprehensive and systematic review of the insurance laws of the State.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs that a comprehensive review of the insurance laws is necessary. The Department concludes that the potential loss if the insurance laws are not updated far exceeds the likely cost of a comprehensive review that provides recommendations to clarify, update, consolidate, and simplify the present laws.

Your Committee also heard favorable testimony from the Hawaii Insurers Council, the Hawaii Independent Insurance Agents Association, and the Hawaii State Association of Life Underwriters.

Your Committee notes, as does the insurance industry testimony, that a significant cost is associated with such a comprehensive review. Therefore, the Committee recommends that the insurance industry share the cost of a review by contributing \$100,000 to be equally matched by the State. The funds are to be expended by the commission. Your Committee believes the \$200,000 is a minimum requirement for the study, but has left the appropriation amount blank in order to give the Committee on Ways and Means discretion to provide a greater amount if it can do so within the financial resources of the State.

Your Committee has amended section 1, subsection (b), on page 1, line 11 by adding the word "negotiated" before the word "contracts." This change gives the commission flexibility to seek and negotiate for the expertise required to undertake this complex review of insurance laws rather than be limited in the quality of such expertise by the bid process.

Your Committee also added to section 3, a new subsection (13) which reads as follows:

"(13) Any other issues have a significant impact on simplifying, clarifying, updating or consolidating any insurance law."

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 229, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 229, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 25                      (Majority) Consumer Protection and Commerce on S.B. No. 961

The purpose of this bill is to preclude out-of-state banking organizations from engaging in the business of banking within the State.

Your Committee believes there may be a detrimental impact to the financial institutions of the State by the influx of out-of-state "nonbank banks". Thus, the Committee has amended S.B. No. 961 (short form) to preclude such activities for discussion and consideration in further hearings.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 961, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 961, S.D. 1, and be recommitted to the Committee on Consumer Protection and Commerce for further consideration.

Signed by all members of the Committee.  
Senator Kawasaki did not concur.

SCRep. 26                      Education on S.B. No. 383

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

Presently, the Department of Education's regular summer school program involves

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

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

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

Your Committee on Education is in accord with the intent and purpose of S.B. No. 383 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                      Education on S.B. No. 1164

The purpose of this bill is to appropriate funds to repair and maintain Hawaii's public schools. Since a healthy and safe environment is essential to providing quality education, our public schools must be repaired and maintained to meet the needs of our students.

Your Committee has amended the bill by appropriating \$15,000,000 for fiscal year 1985-1986, and \$15,000,000 for fiscal year 1986-1987, and by changing the expending agency from the Department of Education to the Department of Accounting and General Services, which is the proper expending agency.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1164, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1164, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 28                      (Majority) Consumer Protection and Commerce on S.B. No. 552

The purpose of this bill is to limit the recovery for non-economic losses in a medical tort action to \$300,000.

Your Committee heard testimony by the Hawaii Medical Association and the Hawaii Federation of Physicians and Dentists in favor of the bill. The Hawaii Medical Association believes that pain and suffering damages are the primary source of inflated awards, and this bill attempts to provide a guideline to juries so they can make logical decisions about just compensation for injured patients. The Association testified that a 1982 Rand Institute for Civil Justice report found that states with statutory limits had an average drop of 19% in the severity of awards within two years of enactment. The Hawaii Federation of Physicians and Dentists supports limitation on non-economic losses because the costs of malpractice insurance coverage for the health care provider is being passed on to the consumers of health care and thus costly to our whole society.

While the Committee is cognizant of the legitimate concerns posed by the legal profession regarding the range of conditions included in "non-economic" losses and the value of such losses, it believes that from a broad-based consumer viewpoint some limitation on the amount of awards for non-economic losses is necessary to start the process of cost containment in the health field.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 552 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

Senators Cayetano, Chang and Kawasaki did not concur.

SCRep. 29                      Tourism and Recreation on S.B. No. 514

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$200,000 or so much thereof as may be necessary for fiscal year 1985-1986, for the acquisition of forest reserve rights-of-way for public access to the State forest reserve trails.

Testimony by the Department of Land and Natural Resources (DLNR) stated that in 1976 the DLNR, from funds appropriated under Act 195, Session Laws of Hawaii 1975, contracted and



published a "Study Report on Acquisition of Access to Forest Reserves Statewide." The funds appropriated by this bill would be used to initiate the acquisition of those accesses that have already been identified and given high priorities. Funds may also be used for survey and land appraisal of rights-of-way sought to be acquired.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 514 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. 30                      Tourism and Recreation on S.B. No. 343

The purpose of this bill is to establish a state park life-saving services system by authorizing the various counties to provide life-saving services at state parks that are heavily used and which have been identified by the parks and recreation department of each county in consultation with the Department of Land and Natural Resources as being in need of life-saving services.

Testimony submitted by the Department of Land and Natural Resources stated that responsibility for life-saving services should rest with the counties. The responsibility is similar to other life-saving or life-protecting functions carried out by the police and fire departments of the various counties. The counties presently provide this particular type of life-saving services at their recreational pools and appropriate county beach parks and have the advantage of integrating and coordinating such services countywide.

Your Committee finds that the Department of Land and Natural Resources is presently looking into several alternatives for providing life-saving services at state parks beaches. One alternative is to charge a fee for use of park facilities with income to be used for funding a life-saving services program. This, however, would require a statutory amendment because present law requires all state park income to be deposited into the general fund. Another alternative would be to develop and lease various park concessions and require the concessionaire to provide life-saving services as part of the concession fee.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 343 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. 31                      (Majority) Tourism and Recreation on S.B. No. 536

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$300,000, or so much thereof as may be necessary for fiscal year 1985-1986, for a grant-in-aid to the County of Hawaii for plans and construction for a municipal golf course at Kealahou, North Kona.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 536 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 B. Kobayashi did not concur.

SCRep. 32                      Tourism and Recreation on S.B. No. 548

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$200,000, or so much thereof as may be necessary, for the biennium of 1985-1987 for the promoting and advertising of the island of Molokai as a visitor destination area.

Your Committee has amended the bill by including a proviso allowing the Department of Planning and Economic Development to contract directly with the Molokai Destination Association.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 548, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 548, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 33                      Tourism and Recreation on S.B. No. 698

The purpose of this bill is to appropriate the sum of \$46,300, or so much thereof as may be

necessary, for each fiscal year in the next biennium for internal security services for Iolani Palace.

Testimony submitted by the Director of Iolani Palace stated that funds appropriated would be used for the service of a uniformed security attendant stationed inside the Palace at all times when staff is not present, that is, during evening and night hours and on Sundays and Holidays.

Your Committee finds that for a historical and cultural treasure of the significance of Iolani Palace, and housing such an array of irreplaceable and priceless objects, adequate security is not a luxury but rather is an absolute necessity.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 698 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. 34                      Tourism and Recreation on S.B. No. 795

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$50,000, or so much thereof as may be necessary for fiscal year 1985-1986, to the Waipahu Cultural Garden Park for the hiring of necessary staff and for overall general operations.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 795 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. 35                      Tourism and Recreation on S.B. No. 796

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$50,000, or so much thereof as may be necessary for fiscal year 1985-1986, for planning, design, and construction of improvements at the Plantation Village site of Waipahu Cultural Garden Park.

Testimony submitted by the Friends of Waipahu Cultural Garden Park stated that the bill would provide the necessary funds to complete the alterations in the park, which will become a major attraction within the State.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 796 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                      (Majority) Tourism and Recreation on S.B. No. 1257

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$119,000, or so much thereof as may be necessary for fiscal year 1985-1986 for West Hawaii ocean recreation facilities and programs.

Your Committee finds that an appropriation is needed for educational and interpretive programs in the West Hawaii area of the Big Island in the amounts of \$9,000 for boating and sailing programs to teach children basic seamanship and boating safety, \$40,000 for educational programs and a visitor center, and \$70,000 for a grant-in-aid to the County of Hawaii to renovate the Old Kona Airport Terminal building for the purposes of a visitor center.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1257 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.  
Senator B. Kobayashi did not concur.

SCRep. 37                      Tourism and Recreation on S.B. No. 1105

The purpose of this bill is to amend Sections 266-20 and 266-24, Hawaii Revised Statutes, to provide for funding of additional security personnel at the State's small boat harbors, and to allow for the recruitment of volunteer enforcement officers to augment the Boating Program's

enforcement personnel.

Testimony submitted by the Department of Transportation indicated that the presence of volunteer enforcement officers, during periods when regular Marine Patrol Officers are not present, may constitute a sufficient deterrent to prevent many minor situations from developing into serious incidents.

Your Committee realizes that the volunteer enforcement officers will not be empowered to take any direct enforcement action; however, their presence is expected to provide for faster response by the appropriate enforcement agency.

Your Committee finds that the harbors division of the Department of Transportation relies upon the boating special fund to cover the cost of security personnel and that additional funding is needed from general revenues to cover the costs of increased security and safety measures and programs.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1105 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. 38

Judiciary on S.B. No. 934

The purpose of this bill is 1) to appropriate a total of \$225,000 to computerize the land court system, 2) to revise the appropriate provisions of Chapter 501, Hawaii Revised Statutes relating to land court registration, to implement the new computerized system, 3) to increase the fees for registration of land court documents, 4) to eliminate land court procedures which are duplicative and cause unnecessary work, and 5) to codify present practices of land court.

Testimony by the Department of Land and Natural Resources and confirmation from practitioners in this area indicate that there is currently a seven month delay in processing land court documents. Over the past five years, because of the continuous backlog, a variety of administrative actions have been taken, such as mechanization with word processors, reassignment of personnel, and overtime work. The backlog was only reduced temporarily; within a short period, it climbed back up again. With the installation of the computer, the Department projects that the processing time will be reduced to ten days.

The new system also obviates the necessity for file cabinets by allowing micro-filming, referred to in the bill as "recording", to store the over 50,000 documents received each year. The Department estimates that all available storage space will be used within 2 years if they continue with the present system using file cabinets.

The bill also permits land court to increase their registration fees. The anticipated revenues from this increase will be more than the cost of installing the computer.

Furthermore, the bill frees land court from complying with administratively and financially burdensome procedures. For instance, in *lis pendens* proceedings, the assistant registrar is currently required to send by registered mail a memorandum of a pending action or a judgment to the registered owner, when the owner should have already been served by the sheriff. Since notification by mail is unnecessary, the requirement was eliminated. Similarly, when a new trustee is designated, the requirement that the assistant registrar issue a new certificate is deleted to allow the assistant registrar to do so at his discretion. This is a cost-saving device to allow the assistant registrar to change only one document rather than each certificate when a large estate, such as Bishop Estate, is involved.

Finally, the bill brings the statute up to date by codifying present practices.

Your Committee finds that the computer system is a much needed modernization measure for land court. It is also an appropriate remedy for the backlog and storage space problems.

Your Committee made technical, nonsubstantive amendments to the bill to conform it with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 934, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 934, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cobb, Kuroda, Aki and Toguchi.

SCRep. 39

Judiciary on S.B. No. 460

The purpose of this bill is to specifically authorize the Hawaii Criminal Justice Data Center to use fingerprinting as part of their identification system currently in effect for persons arrested for a criminal offense. The bill enlarges the class of persons to be included in this identification system by adding those persons to whom penal summons have been issued for a criminal offense and who have been convicted or granted a deferred acceptance of guilty or nolo contendere plea or a conditional discharge. It also requires the Hawaii Criminal Justice Data Center, in addition to collecting, to record and compile information relating to crime.

Your Committee received testimony from the Attorney General who stated that the fingerprinting provides positive identification of those persons included in the information system. In addition, those persons who are not arrested, but, subsequent to the issuance of a penal summons, are convicted of a criminal offense or granted a deferred acceptance of guilty or nolo contendere plea or a conditional discharge, who were under current law unaccounted for in the records of the information system, are now to be part of the records and statistics of the Hawaii Criminal Justice Data Center.

Testimony was received by a member and spokesman of the Ad Hoc Committee on the Criminal Justice Information System with strong support for the passage of this bill.

Your Committee amended the bill on page 2 to provide for the sum of \$8,000 necessary to implement the purpose of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 460, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 460, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cobb, Kuroda and Aki.

SCRep. 40                      Judiciary on S.B. No. 103

The purpose of this bill is to allow the Department of Social Services and Housing (DSSH), the state child support enforcement agency, to retain state tax refunds from persons who are one month or more delinquent on child support payments for children who are not recipients of welfare assistance.

Prior federal law mandated DSSH to hold state tax refunds from persons who are in arrears in child support payments only when the children are receiving welfare assistance. In August, 1984, Congress enacted P.L. 98-378, which requires the state child support enforcement agency to extend child support enforcement assistance to all children, whether they are recipients of welfare assistance or not, effective October, 1985. The intent of Congress was to assure that all children will be provided the same child support enforcement services, including one of the most effective methods of collection of child support, the interception of state tax refunds.

Your Committee has assigned a high priority to strengthening child support enforcement laws, recognizing the serious impact it has on the welfare of our children. Not only will such laws afford a guarantee that some children will not have to resort to welfare assistance to maintain a minimum standard of living, it will also produce additional support for other children who will not need to suffer a lengthy delay in receipt of the support because of a protracted court battle over the issue.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 103 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                      Judiciary on S.B. No. 245

The purpose of this bill is to authorize and appropriate \$636,900 for the revisor of statutes to publish the 1985 Replacement Volumes to the Hawaii Revised Statutes.

Testimony submitted by the Director of the Legislative Reference Bureau indicates that only 122 sets of the current edition of the Hawaii Revised Statutes are available and the sets should be totally distributed within a year. Pending publication of the replacement volumes, suspension of the publication of the 1985 Supplement is necessary so that the efforts of the revision staff can be directed toward updating the Hawaii Revised Statutes through 1985, and to produce replacement volumes as soon as possible.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 245 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                      Judiciary on S.B. No. 707

The purpose of this bill is to codify by statute the victim-witness assistance programs currently in operation in each of the county Prosecuting Attorney offices.

Your Committee finds that victim-witness assistance programs have existed in Hawaii for over five years and have assisted thousands of victims and witnesses of crime by providing their specialized support services. Federal guidance and support for such programs are evidenced by the Report of the President's Task Force on Victims of Crime, the passage of the Victim-Witness Protection Act which mandated a victim-witness assistance program in U.S. Attorneys' Offices, and limited federal assistance to enhance existing programs.

Testimony received from the counties' offices of Prosecuting Attorneys and their respective victim-witness programs overwhelmingly favored the bill. Because of the success and stability of the victim-witness programs in the four counties, Hawaii has been selected to host the annual National Organization of Victim Assistance 1985 Conference which is scheduled for September on Kauai.

Your Committee amended the bill to correct grammatical errors and to make non-substantive corrections for clarity.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 707, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 707, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cobb, Kawasaki, Kuroda and Aki.

SCRep. 43                      Judiciary on S.B. No. 252

The purpose of this bill is to 1) specify the procedures for appealing a land court decision, and 2) require that the same amount be paid for an appeal from land court as an appeal from circuit court.

Amendments made in Act 102, Session Laws of Hawaii 1984, in general, expedited the processing of land court cases. One of the provisions empowered the land court to hold jury trials, which were previously only heard in circuit court. Given the new powers of the land court, it should be permitted to collect from an aggrieved party the same amount of filing fees for an appeal of its decision as an appeal from a circuit court decision. The bill increases the land court fees for filing an appeal from \$1 to \$30, the amount required to be paid in circuit court pursuant to H.R.S. 607-5(32). This amount is to be paid in addition to the amount already required to be deposited as supreme court costs.

The bill also makes explicit that the land court registrar shall collect the fees and then deposit them to the clerk of the Supreme Court.

Your Committee made technical, nonsubstantive amendments to the bill for clarity and conformance with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 252, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 252, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cobb, Kawasaki, Kuroda and Aki.

SCRep. 44                      Government Operations on S.B. No. 637

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$200,000 or so much thereof as may be necessary for fiscal year 1985-1986 for the renovation and improvement of the National Guard Rifle Range at Hilo, Hawaii.

Testimony submitted by the Department of Defense (DOD) indicated that there are no satisfactory ranges available to the general public on the island of Hawaii. The National Guard 200 Yard Carbine Range at Hilo was previously open to the general public under a "use permit" issued to the County of Hawaii. Under that arrangement, the County of Hawaii, through its Parks and Recreation Department, administered the public's use of the Carbine Range. The range is presently closed to the general public due to numerous safety deficiencies found during a safety inspection in 1982.

Your Committee received assurance by the DOD that upon improvement of the safety of the Hilo firing range, it would welcome the opportunity to reopen the range to the general public.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 637 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                      Government Operations on S.B. No. 901

The purpose of this bill is to amend Act 287, Session Laws of Hawaii 1984, by amending Section 2, Item I.F.1. by appropriating the sum of \$200,000 to National Guard improvements at KMR to include rifle ranges and a hunter safety area.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 901 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 46                      Government Operations on S.B. No. 920

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$18,500, or so much thereof as may be necessary for fiscal year 1985-1986 for repairs to the Hawaii National Guard Armory at Kapaa, Kauai.

Testimony submitted by the Department of Defense (DOD) stated that during fiscal year 1984-1985 DOD's Special Repair and Maintenance Projects were limited to projects supported by Federal matching dollars. Because of this, special repair and maintenance armory projects requiring full State funding support were deferred until sufficient State funds were available.

Testimony by the DOD went on to indicate that the proposed appropriation will allow the completion of the required repair to the roof on a timely basis.

Your Committee finds that repair plans include applying a urethane roof insulation with a elastomeric waterproof coating into the existing corrugated aluminum roof. These treatments would stop water leaks, insulate and cool the assembly hall area.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 920 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. 47                      Government Operations on S.B. No. 1275

The purpose of this bill is to establish a state medical examiner system and to have autopsies performed by an anatomic or forensic pathologist and have the Department of Health pay consultative expenses of counties for assistance provided to other counties.

Testimony submitted by the Director of Health for the State Department of Health and the Commissioner on Legislation for the Hawaii Medical Association indicated that since 1960 the medico-legal investigative system has improved in all the counties except Maui where the coroner's physician who is a family practitioner has continued to do most of the autopsies.

Your Committee finds that this bill will allow neighbor island pathologists to call on the forensic pathologists located in the City and County of Honolulu to handle complex or important cases.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1275 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. 48                      Government Operations on S.B. No. 1311

The purpose of this bill is to appropriate out of general revenues of the State of Hawaii the sum of \$250,000, or so much thereof as may be necessary for the planning and engineering of Nimitz Relief Sewer.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1311 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

Health on S.B. No. 69

The purpose of this bill is to reinstitute the Department of Health's authority to regulate the testing of newborns for congenital metabolic diseases and to appropriate \$22,829 to carry out a monitoring and follow-up program.

Currently, section 233-1, Hawaii Revised Statutes, mandates the testing of newborns for two hereditary diseases - phenylketonuria and hypothyroidism - because they can lead to mental retardation if untreated. This bill proposes to move section 333-1 into Chapter 321, the authorizing chapter for the Crippled Children Services Branch program, since not all metabolic diseases lead to mental retardation. It also proposes to give the Department the authority to test all infants born in the State for other hereditary diseases that can lead to lifelong disability if not detected and treated. The appropriation would be used to support one full-time position to carry out promotion, education, coordination, consultation, monitoring, and follow-up activities.

Your Committee heard testimony from the Department of Health, the Commission on the Handicapped, the University of Hawaii, the State Planning Council on Developmental Disabilities, and an interested citizen, and finds that when a child is afforded the kinds of services proposed in this bill, that development can be close to normal and in all likelihood severe mental retardation will be prevented. However, your Committee further finds that limiting screening services to hereditary diseases is insufficient to address the problem. Your Committee has therefore amended the bill to authorize the Department of Health to determine which diseases should be screened and to adopt rules relating to, among other things, the administration of screening tests, the quality and control thereof, record keeping, reporting of positive test results, guidelines for care, treatment, and follow-up, dissemination of information, and confidentiality.

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. 69, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 69, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 50

Health on S.B. No. 702

The purpose of this bill is to extend Act 275, Session Laws of Hawaii 1984, for two years.

Act 275 designates the Office of Environmental Quality Control (OEQC) as lead agency in the areas of pesticide control and environmental quality in the State until June 30, 1985. This bill would extend this authority until June 30, 1987 and appropriate an unspecified amount to carry out the purposes of this Act. The bill also requires the OEQC to submit a report of its activities to the Regular Session of 1986.

Your Committee heard testimony by the Office of Environmental Control, the Environmental Council, Dole Hawaii Division, and the Department of Agriculture, and finds that there is continued need for the OEQC to provide statewide leadership in the areas of pesticide use and control and environmental quality. Your Committee, therefore, favors continuation of Act 275 for two years. However, upon further consideration of the testimony and facts at issue, your Committee has amended the bill in several substantive ways. They are as follows:

1) The paragraph on page 2, lines 2 to 10 of the bill, which references the specific duties of the OEQC, is deleted. Provision is made for the duties and responsibilities later in the bill in terms more suited to the job to be done.

2) Relating to the OEQC's duties in general, located on pages 3 to 5 of the bill, your Committee has specified that the OEQC is authorized to review, evaluate, make recommendations to, and coordinate all affected agencies involved in preventing, monitoring, and mitigating pesticide contamination, and indicates that the authorization is to be liberally interpreted to extend to suspected or actual contamination connected with pesticides or other chemicals. Specifically, paragraph (1) on page 3 is deleted and subsequent paragraphs are renumbered as follows:

New paragraph (1) authorizes the OEQC to develop a systematic approach to monitoring potable drinking water resources.

New paragraph (4) authorizes the OEQC to assess the feasibility and usefulness of establishing a mandatory reporting system for all pesticides.

New paragraph (5) authorizes the OEQC to assess the usefulness as well as the feasibility of a record keeping requirement for use of restricted pesticides.

New paragraph (6) authorizes the OEQC to coordinate preparation by other agencies of a contingency plan dealing with emergency contamination or crises involving pesticides.

New paragraph (7) authorizes the OEQC to assess the feasibility of developing criteria for risk assessment related to water contamination, food products, and pesticides, and to recommend remedial courses of action.

Old paragraph (9) is deleted and a new paragraph (8) is added authorizing the OEQC to take action to prevent, monitor, and mitigate pesticide contamination, if necessary.

3) Relating to the appropriation for fiscal biennium 1985-1987, your Committee has recommended \$390,000.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 702, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 702, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 51 (Majority) Health on S.B. No. 724

The purpose of this bill is to appropriate funds for the development of an Office of United Self-Help in Mental Health within the Office of Community Support.

In 1984, the legislature passed Act 218, providing for the planning, delivery and coordination of a comprehensive spectrum of mental health and substance abuse service for the people of Hawaii. This bill supplements Act 218 by creating an entity within the Department of Health to assure the input of consumers in the planning and development of mental health services.

Your Committee received numerous testimony supporting this bill and the concept of self-help organizations working together to cohesively and effectively participate in the providing of mental health services.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 724 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. 52 Health on S.B. No. 61

The purpose of this bill is to establish that patients are liable for expenses incurred in mental health clinics and psychiatric facilities which derive more than fifty per cent of their revenues from the state general fund.

Currently, the Director of Health establishes reasonable charges for outpatient and personal services and has the authority to waive collection. In addition, only those able to pay for hospitalization are expected to do so, and no consideration is given to the presence of third party payers.

Your Committee heard supporting testimony from the Department of Health and finds that under the provisions of this bill, all patients or their third party payers would be liable for fees to pay for mental health services provided by a clinic or facility which is primarily funded by the State. Collection of the fees would be adjusted by the Director after third party collections to avoid undue hardships on the patient or family. Your Committee believes that these changes are in the public interest because they will facilitate collection efforts without endangering delivery of needed services to those who lack the ability to pay.

Your Committee has amended the bill by deleting gender references.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 61, as amended herein, and recommends that it pass Second Reading in the form attached hereto as



S.B. No. 61, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 53                      Health on S.B. No. 73

The purpose of this bill is to enable the courts to order involuntary hospitalization of gravely disabled individuals.

Under current law, individuals must be found to be imminently dangerous to themselves or to others in order to be involuntarily hospitalized. This bill adds another factor, that of being gravely disabled, to the involuntarily hospitalization criteria. Gravely disabled persons are those who, as a result of a mental disorder, are unable to care for themselves, are unable to communicate rational or responsible decisions regarding personal welfare, and fail to recognize this inability.

Your Committee heard favorable testimony from the Department of Health, the Family Court, the Hawaii Nurses Association, and the Hawaii Chapter of the National Association of Social Workers, and finds that this bill is in the public interest in that it would enable the courts to order appropriate care and protection for gravely disabled individuals to whom such care and protection might otherwise be unavailable.

Your Committee has amended the bill by numbering the three elements of "gravely disabled" in Section 1 and by underscoring the word "self" on page 2, line 2 to indicate that the word is being added to the present statute.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 73, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 73, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 54                      Health on S.B. No. 74

The purpose of this bill is to bring statutory references in section 334-76, Hawaii Revised Statutes, into conformance with Act 188, Session Laws of Hawaii 1984.

On the basis of testimony presented by the Department of Health, your Committee finds that Act 188 deleted section 334-60, Hawaii Revised Statutes, and replaced it with newly numbered sections. Therefore, this measure is necessary to bring the reference to sections 334-60(b)(6) and 334-60(b)(1) in section 334-76 into conformance with their new designations as section 334-60.7 and section 334-60.2, respectively, as provided by Act 188.

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

Your Committee on Health is in accord with the intent and purpose of S.B. No. 74, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 74, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 55                      Health on S.B. No. 1185

The purpose of this bill is to exempt from the general excise tax, gross proceeds received from the retail sale of prescription drugs.

Currently, proceeds received from the sale of prescription drugs are subject to the four per cent general excise tax that is generally levied against all persons engaging in business within the State. This bill would exclude from the tax, proceeds realized from the retail sales of drugs which are prescribed by a practitioner licensed by law to administer the drug and which are dispensed and sold by a licensed pharmacist.

Your Committee heard testimony from the Department of Taxation in favor of this bill and finds that this measure will most benefit persons with low incomes and those who are chronically ill.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1185 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. 56

Agriculture on S.B. No. 86

The purpose of this bill is to provide recognition to aquaculture, together with the agricultural industry, as preferred economic development activities under the guidelines of the State Environmental Policy.

Section 344-4(5)(B), Hawaii Revised Statutes, specifically encourages industries in Hawaii which would be in harmony with our environment. The "agricultural industry" is defined as one that shall be promoted and fostered. The same section also states that agricultural lands shall be preserved and conserved. This bill proposes to amend this section to similarly recognize the aquacultural industry as one to be promoted and fostered and productive aquacultural lands to be preserved and conserved.

Your Committee received supportive testimony from the Department of Land and Natural Resources and finds that aquaculture, a new and environmentally-sound economic activity should be recognized as a significant and desirable industry, compatible with the long-term environmental goals of the State.

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

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

Signed by all members of the Committee.

SCRep. 57

Agriculture on S.B. No. 87

The purpose of this bill is to establish an aquaculture advisory council to advise the Board of Land and Natural Resources on statewide aquaculture development.

The council would carry out various functions, including coordinating State activities, periodically reviewing the progress and status of State programs, and providing a forum for discussion of development problems and issues. The council would be composed of representatives from both the public and private sectors of Hawaii's aquaculture community to provide broad and diverse input into State decision-making.

Your Committee finds that for the State's fast-developing aquaculture industry, coordination and communication are areas in need of constant attention. An aquaculture advisory council would offer a much-needed formal mechanism to bring together key government, university and private-sector groups who are active and interested in aquaculture development for Hawaii.

Your Committee received favorable testimony from the Board of Land and Natural Resources, the Department of Planning and Economic Development, and the Sea Grant Program of the University of Hawaii at Manoa. Your Committee finds that the development and promotion of aquaculture is important to the diversification and expansion of the State's economy. The potential growth of this emerging industry requires the continued careful coordination of its development in order to maximize resources and take advantage of opportunities.

Your Committee has amended the bill on page 2 by changing "the director of agriculture" to the "chairperson of the board of agriculture," and the "director of Hawaiian home lands" to the "chairperson of the Hawaiian homes commission," which are the proper titles for each.

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

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 87, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 87, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 58

Agriculture on S.B. No. 537

The purpose of this bill is to appropriate funds for construction of an agricultural products cooling and cold storage facility on Molokai.

Molokai is almost entirely dependent on two weekly barge sailings to move agricultural products to market. The cooling and cold storage facility would treat fresh agricultural

produce after harvest so that the produce could reach the Honolulu market in prime condition and be competitive with produce from Maui, the Big Island, and the U.S. Mainland. Fresh produce that is not rapidly cooled after harvest can deteriorate in quality in a relatively short time.

Your Committee received supporting testimony from the College of Tropical Agriculture and Human Resources of the University of Hawaii at Manoa. A report entitled "A Study of Agricultural Education and Training Programs on Molokai and the Scope for University of Hawaii Involvement" found that the lack of postharvest cooling facilities was a marketing constraint to the development of Molokai's agricultural potential.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 537 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                      Agriculture on S.B. No. 565

The purpose of this bill is to provide for the establishment of a county committee when the governor has declared that a state disaster has occurred because of a drought in any portion of a county. The bill further provides that the committee shall have the sole authority to expend funds allocated under the major disaster fund program for the alleviation of the conditions caused by the drought, development or improvement of water sources which are immediately necessary because of the drought, assistance to farmers who have suffered loss of income, crop, or livestock because of the drought, and prevention of potential loss of income, crop, or livestock of farmers because of the drought.

After having heard testimony on the bill, your Committee finds that a more urgent need for disaster relief exists and requires legislative action. The Kauai papaya industry is in serious economic distress. This situation is the culmination of a series of unfortunate and unpreventable incidents occurring since 1981 beginning with the California embargo of papayas treated with ethylene dibromide. Whenever the industry appeared to be strengthening, a major setback would occur.

Currently, the Kauai papaya growers and processors are burdened with debts and the only way the industry can survive is through new crop production. The problem, however, is that in order to plant and process new papaya crops, funds are required. Although the department of agriculture imposed a moratorium for fiscal year 1985-1986 on loan payments owed by the Kauai papaya industry and required only the payment of interest, the industry still needs financial assistance to fund the new planting and processing operations in order to generate income to pay off their debts.

Your Committee, therefore, has amended the bill by replacing the provisions for disaster relief because of drought with a provision for a disaster relief grant-in-aid of \$1,000,000 for the Moloaa Farmers Cooperative in the County of Kauai.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 565, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 565, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 60                      Agriculture on S.B. No. 1394

The purpose of this bill is to encourage private sector participation in the development of agricultural parks through a tax exemption for 50% of the development costs of agricultural parks.

Your Committee finds that agricultural use of lands should be encouraged as a means to attain productive and long-term viability of agriculture in Hawaii. In past years, urban encroachment has made it difficult for agricultural enterprises to survive, thus the acquisition of private property for agricultural purposes was a major concern of the legislature to facilitate sound agricultural land-use planning.

Your Committee has continually supported the development of agricultural land for the maintenance and growth of agriculture as a primary base of the State's economy. However, your Committee also recognizes its limited financial resources and finds that incentives should be provided to encourage private sector participation in the development of agricultural parks.

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

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1394, as

amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1394, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 61                    Agriculture on Gov. Msg. No. 94

Recommending that the Senate advise and consent to the nomination of DAVID K. OSHIRO to the Board of Agriculture, for a term ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 62                    Agriculture on Gov. Msg. No. 95

Recommending that the Senate advise and consent to the nomination of HERBERT M. RICHARDS, JR., to the Governor's Agriculture Coordinating Committee, for a term ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 63                    Agriculture on Gov. Msg. No. 96

Recommending that the Senate advise and consent to the nominations of MAMORU SHIMIZU and STANLEY T. TOMONO to the Advisory Committee on Agricultural Products, for terms ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 64                    Agriculture on Gov. Msg. No. 97

Recommending that the Senate advise and consent to the nomination of KENNETH W. LEONHARDT to the Advisory Committee on Flowers and Foliage, for a term ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 65                    Housing and Community Development on S.B. No. 793

The purpose of this bill is to amend section 356-213, Hawaii Revised Statutes, to enable the Hawaii Housing Authority (HHA) to issue capital appreciation bonds under the Hula Mae Program.

A capital appreciation bond, which is similar in concept to a savings bond, is purchased at a discounted price and redeemed for its full face value at maturity. During the period between the bond's purchase and redemption, a capital appreciation bond accretes in value.

The principal of accretion is important since capital appreciation bonds (1) are considered to bear no interest (they increase in principal value), and (2) have no regular payments of interest. These two technical deviations from the typical characteristics of bonds are addressed by the proposed amendments in the bill.

The value of capital appreciation bonds to the HHA results from the fact that the bonds would enable the debt structure of a bond issue to be weighted more heavily to lower interest serial bonds rather than term bonds. This is due to the fact that capital appreciation bonds enable the bond issues' cash flow to support additional shorter term serial bonds. Since it costs less to sell serial bonds, the cost of the bond issuance is lower.

The benefit to the eligible borrower is a savings in the mortgage rate of 0.20 per cent to 0.25 per cent. This improvement in yield over a conventional serial or term bond structure is achieved by issuing capital appreciation bonds in a discounted amount equal to seven per cent to ten per cent of the total amount of bonds issued.

An HHA financial advisor testified that the issuance of capital appreciation bonds reduces the amount to debt outstanding over the life of the bonds since serial bonds are paid off more quickly.

Further, Hawaii residents currently investing in these bonds must purchase capital appreciation bonds issued by other state housing finance agencies. This means Hawaii is experiencing a loss of investment capital. Also the HHA is the only housing finance agency, to the authority's knowledge, that is precluded by state statutes from utilizing capital appreciation bonds for purposes such as the Hula Mae Loan Program.

Your Committee adopted the recommendation of the Hawaii Housing Authority by adding a new section to Part IV of chapter 39, Hawaii Revised Statutes, to read:

"For purposes of the statement of total outstanding indebtedness of the State prepaid pursuant to section 39-93, the principal amount of revenue bonds issued as deeply discounted bonds subject to redemption or retirement at the accreted value thereof which shall be deemed outstanding shall be the accreted value of such bonds."

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 793, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 793, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 66                      Housing and Community Development on S.B. No. 936

The purpose of this bill is to reappropriate \$33,260,000 in revenue bond funds for the public participation portion of the redevelopment of the Aloha Tower Complex.

Act 17, Special Session Laws of Hawaii 1981, originally authorized the Aloha Tower Development Corporation (ATDC) to issue revenue bonds of \$33,260,000, or so much thereof as necessary, for fiscal years 1981-82, 1982-83, and 1983-84. Act 285, Section 5F, Session Laws of Hawaii 1984, extended this appropriation for fiscal year 1984-85.

In November, 1983, Southern Pacific Development Corporation was granted an exclusive right to negotiate with ATDC. Subsequently, Southern Pacific Railroad merged with Santa Fe Railroad, and the new corporation's land development policy changed (the new corporation is now concentrating on developing railroad properties, which they own, rather than planning and developing new sites).

ATDC is currently meeting with four development concerns interested in the Aloha Tower Project. The delay caused by the need to secure a new developer will prevent ATDC from issuing revenue bonds prior to June, 1985.

The financial plan for the proposed Aloha Tower Complex includes private sector and public participation. The major elements for the private sector include hotel, commercial, and retail facilities. Public financing is necessary for the required demolition and site improvements, auxiliary maritime infrastructure facilities, and to foster private sector participation. The use of revenue bonds would eliminate the need for cash participation by the State.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 936 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 67                      Judiciary on S.B. No. 1408

The purpose of this bill, as received by the committee, is to amend the spouse abuse criminal statute to extend its protection to family and household members, to mandate the police to issue a warning citation to the alleged abuser, to require the abuser to vacate the home for forty-eight (48) hours, to require the arrest of the abuser who refuses to comply with an order from the police, to require a person convicted under this section to serve a minimum jail sentence of forty-eight (48) hours and to undergo domestic violence counseling and treatment, and to make an appropriation for such counseling and treatment services.

Your Committee is vitally concerned with effectively addressing and combatting family violence. The Police Department, City and County of Honolulu, reports that approximately 800 "domestic" incidents are received every month. Violence within the family can no longer be ignored as "no one else's business". The effects of family violence spread far beyond the confines of the family. Children, for instance, who are the victims of or are witness to violence learn to view it as accepted and normal behavior and may perpetuate the violence as adults. This bill takes an important step in discrediting that notion and in mitigating family violence and its effect on the community.

The bill broadens the applicability of the spouse abuse criminal statute to family and household members, defined in H.R.S. 586-1 as "spouses, former spouses, parents, children, persons related by consanguinity, and persons jointly residing or formerly residing in the same dwelling unit." This expansion would allow protection for the elderly parent being abused by his or her grown children, the ex-wife being chronically abused by her ex-husband when he comes to

visit the children, as well as the child being abused by another household member.

Your Committee amended the bill to delete the requirement that the police officer issue warning citations to the alleged abuser. The Police Department testified that they currently have no available warning citation forms to use so the procedure would be expensive to implement. The warning citation provision in the bill was intended to provide the alleged abuser clear, written notification when he or she could return to the home; this documentation could then be proffered in court as evidence against the abuser who returns earlier than ordered. The intent may be better accomplished by allowing the police to develop internal procedures which may be less costly.

Moreover, your Committee shortened the cooling off period during which an alleged abuser should be ordered to vacate the home from forty-eight (48) to twelve (12) hours. It finds that the forty-eight (48) hour period may create an unjustifiable financial hardship if the alleged abuser is forced to resort to renting a room to stay overnight; it may also create an unjustifiable practical hardship if the alleged abuser is prevented from picking up a change of clothes for that long period of time. The twelve (12) hour period should still allow an adequate time for the alleged abuser to "cool off" and control his or her behavior.

Your Committee also revised the bill to require that the police need only prepare a written report, rather than a full police report of the abuse. Considering the administrative burden the requirement of a full police report may impose, and the large number of domestic incidents called in to the police, your Committee finds that a briefer written report will suffice to document each incident. Additionally, the report of each incident to the police dispatcher is a duplicative effort since the police dispatcher is the person who originally sent the police officer to the incident. This provision was stricken from the bill.

Furthermore, your Committee amended the bill to insert an appropriation of \$12,000 to fund domestic violence treatment and counseling services. Finally, it made technical, nonsubstantive amendments to the bill for clarity and conformance to recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1408, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1408, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cayetano, Aki, Cobb and Kuroda.

SCRep. 68

(Majority) Judiciary on S.B. No. 496

The purpose of this bill is to permit nonprofit organizations to operate bingo games to raise funds for the promotion of their causes and activities and to appropriate an unspecified amount for the licensing of the games.

Under the bill, nonprofit organizations may operate bingo games if they are organized for religious, charitable, scientific or educational purposes, or for the social welfare or benefit of the community, are exempt from income taxation, and have been in continuous existence for at least five years prior to an application for a license to operate a bingo game. The licenses are to be issued by the Department of Commerce and Consumer Affairs. People who play in or operate a licensed bingo game are specifically deemed to be exempt from prosecution under the criminal statutes governing gambling.

The bill also provides for procedures for the revocation of a license and penalties for violations of its provisions. Finally, the bill allows income from the bingo game to be subject to income and general excise taxation.

Your Committee heard testimony from the Department of the Prosecuting Attorney and the Police Department, both of the City and County of Honolulu, and concerned citizens against the bill. It also heard testimony from the Commission on the Handicapped in support of the bill. Attempting to balance these competing interests, your Committee amended the bill to specify the dollar amount for prizes awarded in bingo games. It limited the prize award for a single game to \$100, for a jackpot game to \$500, and for the total game to \$2,000. It also restricted the operation of a bingo game to only one day of a calendar year, rather than two days. Your Committee intends by these amendments to make the operation of bingo games so unattractive and nonlucrative to criminal elements that they will not attempt to infiltrate the games.

Due to continuing 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. Conducting bingo games may be an appropriate enterprise for such nonprofit organizations to enable them to pursue their community interests. In reporting out this bill, your Committee is not endorsing bingo as a

sanctioned gambling activity. However, the bill proposes an interesting suggestion for a new avenue for nonprofit organizations to raise funds. At the hearing on this bill, the public did not have time to obtain sufficient information to support their positions. By moving this bill to the Committee on Ways and Means, the public will have more time to review it and formulate more substantiated views, thereby creating a fuller and more in-depth discussion of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 496, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 496, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cobb and Aki.  
Senators George and A. Kobayashi did not concur.

SCRep. 69                      (Majority) Tourism and Recreation on S.B. No. 534

The purpose of this bill is to authorize the Director of Finance to issue an unspecified amount of general obligation bonds and making an appropriation for the same sum or so much thereof as may be necessary for fiscal years 1985-1986, 1986-1987, and 1987-1988, for the acquisition of Fort DeRussy land mauka of Kalia Road.

Testimony submitted by the Hawaii Hotel Association, the Chamber of Commerce of Hawaii, the Waikiki Improvement Association, the Executive Assistant to the Mayor for Economic Development, and the President of the Outrigger Hotels Hawaii stated that the acquisition of Fort DeRussy lands mauka of Kalia Road would be beneficial to the State of Hawaii.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 534 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 McMurdo did not concur.

SCRep. 70                      Tourism and Recreation on S.B. No. 805

The purpose of this bill is to appropriate an amount, to be determined by the Committee on Ways and Means, upon evaluation of their budget for fiscal year 1985-1986, for general improvements to the natatorium memorial park.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 805 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. 71                      Tourism and Recreation on S.B. No. 902

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$200,000, or so much thereof as may be necessary for fiscal year 1985-1986, for plans and construction of a county rifle range to be located on State lands at Puuwaawaa and Puuanahulu makai of the Mamaaloa Highway.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 902 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 72                      Tourism and Recreation on S.B. No. 915

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$150,000, or so much thereof as may be necessary for fiscal year 1985-1986, for the purpose of constructing a paved road to Nawiliwili small boat harbor launching ramp.

Your Committee heard testimony from the Department of Transportation and finds that it is necessary to design and construct a paved roadway from Waapa Road to Nawiliwili Boat Harbor since the present temporary access to the small boat harbor along the Niumalu shoreline is unimproved.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 915 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 73            Tourism and Recreation on S.B. No. 1255

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$66,000, or so much thereof as may be necessary for fiscal year 1985-1986 for the Big Island Ocean Recreation and Tourism project (BIORT).

Testimony submitted by the Royal Life Saving Society Canada, Big Island Ocean Recreation and Tourism project, County of Hawaii's Department of Parks and Recreation and the Chairman of the Hawaii County Council have expressed support for this bill that provides needed funds for implementing a system of interpretive and informative signs at coastal parks and beaches, for developing a "Summer Youth Fishery Program" for Big Island children, and for developing "Every Swimmer a Lifesaver", a water safety training program.

Your Committee finds that an appropriation is needed for BIORT in the amounts of \$25,000 for an island-wide system of beach orientation signs and displays, \$21,000 for the "Summer Youth Fishery Program," and \$20,000 for the "Every Swimmer a Lifesaver" program.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1255 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. 74            Tourism and Recreation on S.B. No. 1258

The purpose of this bill is to appropriate out of the general funds of the State of Hawaii the sum of \$192,000, or so much thereof as may be necessary for fiscal year 1985-1986 for East Hawaii ocean recreation facilities and programs.

Your Committee finds that an appropriation is needed for the East Hawaii area of the Big Island in the following amounts.

1. \$37,000 for educational and interpretive programs at the Richardson Ocean Center, Hilo, Hawaii, provided that up to \$15,000 of this sum be used for an on-site facility manager;
2. \$80,000 for a grant-in-aid to the County of Hawaii for plans, design, and improvements to the Richardson Ocean Center; and
3. \$75,000 for a grant-in-aid to the County of Hawaii for the improvement of Reed's Bay Beach in Hilo, Hawaii.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1258 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. 75            Tourism and Recreation on S.B. No. 1260

The purpose of this bill is to appropriate funds for the study, dredging, and plans and construction of a jetty at the Wailoa River, Hilo, Hawaii.

Testimony submitted by the Department of Transportation stated that they are currently in the process of designing a jetty with associated dredging at the mouth of the Wailoa River, and a total of \$250,000 is available for this project from previous appropriations.

However, your Committee finds that a build up of sand deposits continues at the mouth of the Wailoa River and based on a preliminary estimate an additional sum of \$525,000 is necessary to complete the construction of a jetty and dredging of the river.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1260 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            Tourism and Recreation on S.B. No. 1307

The purpose of this bill is to establish a land acquisition fund for the acquisition of beachfront lands for public park, recreation and conservation purposes.



The Department of Land and Natural Resources submitted testimony indicating the desirability of acquiring beachfront lands for park and recreational use by the public. Your Committee finds that the acquisition of beachfront lands is important to ensure public access and use of our beaches.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1307 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. 77                      Higher Education on S.B. No. 135

The purpose of this bill is to allow the University of Hawaii at Manoa to provide professional liability insurance for the institution, its faculty, and students engaged in the delivery of professional services through a self-insurance reserve fund. The bill would also authorize the University to charge fees, as appropriate, to individuals covered by this fund.

The University provides professional services in connection with instructional and research programs conducted by certain professional schools, including, the schools of medicine, law, nursing, social work, dental hygiene, and public health. It is often difficult to determine whether a claim for malpractice arises out of the actions of the institution or of the faculty member acting as an individual practitioner.

Your Committee has received testimony from the University that a viable solution to this problem would be to designate the institution and the faculty member as co-insureds under a single insurance program, thereby eliminating the necessity of determining fault. Your Committee concurs in this view and finds that establishment of a malpractice self-insurance fund at the University of Hawaii at Manoa is appropriate in light of the professional services presently offered at that campus and further finds that enactment of this bill would ensure conformance with generally accepted accounting principles and the recommendations issued pursuant to a recent review of the non-general fund structure of the University of Hawaii conducted by Peat, Marwick, Mitchell and Company.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 135 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. 78                      Higher Education on S.B. No. 136

The purpose of this bill is to statutorily authorize the establishment of existing special funds.

Your Committee finds that the University of Hawaii at Manoa, the University of Hawaii at Hilo, and West Oahu College provide a variety of programs which are funded through the collection of fees paid by the individuals or organizations receiving the benefits of such programs. These programs include summer session instruction; credit and non-credit continuing education courses; study abroad and exchange programs; theatre groups and the University Theatre; library services; and other consultative and cultural enrichment services.

Further, your Committee finds that legislative intent to permit establishment of the special funds proposed by this bill is already evinced by section 36-30, Hawaii Revised Statutes, which exempts school cafeteria special funds of the community colleges and the special funds of the student housing, summer session, division of continuing education and community service, campus center, and the bookstores of the University of Hawaii from the general requirement that special funds make reimbursements for departmental administrative expenses.

Your Committee supports the view that the establishment of these special funds would allow the University to continue to respond to the needs of its students and the community in a timely and efficient manner. Your Committee finds that establishment of these special funds is appropriate in light of the type and nature of the services presently provided at the Manoa and Hilo campuses and West Oahu College and further finds that enactment of this bill would ensure conformance with generally accepted accounting principles and the recommendations issued pursuant to a recent review of the non-general fund structure of the University of Hawaii conducted by Peat, Marwick, Mitchell and Company.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 136 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 79                      Higher Education on S.B. No. 137

The purpose of this bill is to establish a revolving fund to account for the intercollegiate athletic programs at the University of Hawaii at Manoa and University of Hawaii at Hilo.

The University of Hawaii at Manoa and University of Hawaii at Hilo operate and maintain intercollegiate athletic programs at the varsity level with both male and female student participants. These programs generate revenue from a number of sources which include, but are not limited to, contributions from campus student associations; gate receipts; television and radio income; athletic program meal plans; clinics sponsored or participated in by the athletic department of the University; interest accruing to investments of athletic program funds; guarantees from opponents for games played away from home; income from the sale of programs, press books, advertising and concession items; and contributions from public and private agencies.

Such revenue is used to offset the cost of the intercollegiate athletic program of the University. Expenditures include, but are not limited to, maintenance and support of a pep squad and band; fees for annual audits; ticket, brochure, schedule card and program printing costs; computer services; dues, fees and subscriptions; meals and entertainment; field maintenance; truck and equipment rentals; office furniture, supplies and equipment; travel costs; salaries; goodwill gifts; uniform and equipment costs; scholarships; public relations and advertising; and stadium and sports arena rentals and fees.

Your Committee finds that this bill would allow the University to properly account for intercollegiate athletic program revenues and expenditures and that establishment of the revolving fund proposed by the bill would be appropriate in light of the revenue sources and expenditures characteristic of an intercollegiate athletic program. Your Committee further finds that enactment of this bill would ensure conformance with generally accepted accounting principles and the recommendations issued pursuant to a recent review of the non-general fund structure of the University of Hawaii conducted by Peat, Marwick, Mitchell and Company.

Your Committee has amended this bill by deleting the first sentence of the second paragraph to omit material unnecessary to effectuate the purposes of this bill.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 137, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 137, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 80                      Higher Education on S.B. No. 138

The purpose of this bill is to establish a revolving fund for the operation of the University of Hawaii at Manoa and the University of Hawaii at Hilo's internal support services programs. The bill would enable the University to allocate the costs of such services to its programs through user fees, credit revenues to the revolving fund, and utilize the fund to pay for the cost of providing support services.

The University of Hawaii at Manoa and University of Hawaii at Hilo administer several support-type operations which provide services to each campus on a centralized, as needed basis. These services include transportation services, duplicating services, audiovisual services, graphic services, data processing services, machine shop services, and other technical and specialized services.

Your Committee has received testimony that establishment of the revolving fund proposed by this bill would simplify the University's complex fund structure by providing one support service fund for each campus which would account only for those functions and activities which provide internal support services to basic programs. These funds would also be used to account for the financing of services provided by a unit to other units on a cost reimbursable basis.

Your Committee finds that establishment of revolving funds for internal support services at the University of Hawaii at Manoa and the University of Hawaii at Hilo is appropriate in light of the type and nature of the services offered by each campus. Your Committee also finds that enactment of this bill would ensure conformance with generally accepted accounting principles and the recommendations issued pursuant to a recent review of the non-general fund structure of the University of Hawaii conducted by Peat, Marwick, Mitchell and Company.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 138 and recommends that it pass Second Reading and be referred to the Committee on Ways and

Means.

Signed by all members of the Committee.

SCRep. 81            Higher Education on S.B. No. 139

The purpose of this bill is to establish a revolving fund for the operation of the University of Hawaii's computer services programs. The revolving fund would allow the University to allocate the costs of such services to each campus through user fees, to credit revenues to the revolving fund, and to utilize the fund to pay for the cost of providing computer services.

The University of Hawaii provides centralized administrative and academic computer services to the various campuses in support of instruction, research, public service, and institutional management. Your Committee finds that establishment of the revolving fund proposed by this bill would assist the University in responding to the needs of University programs and the University community in a timely and efficient fashion.

This fund will be used to account for revenues collected on a cost reimbursable basis and expenditures made by the Computing Center and the systemwide Computer Consortium in providing computer services to all of the campuses within the University of Hawaii. Expenditures from this fund include personal service costs, purchase and leasing of computer hardware, maintenance, software acquisition, materials and supplies, and equipment.

Your Committee finds that establishment of a computer services revolving fund at the University is appropriate in light of the type and nature of services provided by the University. Your Committee also finds that enactment of this bill would ensure conformance with generally accepted accounting principles and the recommendation issued pursuant to a recent review of the non-general fund structure of the University of Hawaii conducted by Peat, Marwick, Mitchell and Company.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 139 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 82            Higher Education on S.B. No. 140

The purpose of this bill is to amend Section 304-8.3, Hawaii Revised Statutes, by adding language necessary to include financial aid transcripts under the provisions of this section.

Your Committee has received testimony from the University of Hawaii that the federal government now requires all applicants for federally funded financial aid to submit a transcript listing all prior federal aid received by the applicant from any school, with a notation as to whether or not the applicant is delinquent on any federal student loan obligation. Financial aid offices on all campuses of the University must now create, duplicate and mail such transcripts for all present and past University of Hawaii students who apply for financial aid at any other college or university.

Your Committee finds that it is appropriate and proper for the University to process the recovery of fees and the disbursement of expenditures for financial aids transcripts through the existing revolving fund. However, under existing law, revenues generated by such a fee cannot be retained by the University nor directly applied to the costs of creating and processing the transcripts.

Your Committee has heard testimony from the University that the Department of the Attorney General has advised that neither the wording nor the legislative history of Section 304-8.3, Hawaii Revised Statutes, as presently constituted, would enable the University to deposit financial aid transcript fees into the existing transcript and diploma revolving fund.

Your Committee finds that the amendment to Section 304-8.3, Hawaii Revised Statutes, to authorize the inclusion of financial aids transcript fees is consistent with the spirit and intent of the original enabling legislation for the transcript and diploma revolving fund.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 140 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. 83            Higher Education on S.B. No. 141

The purpose of this bill is to amend Section 304-8.4, Hawaii Revised Statutes, by adding language necessary to include equipment user fees and equipment purchase costs under the provisions of this section.

Your Committee has received testimony from the University of Hawaii that, through the vocational and technical training projects revolving fund, vocational students are provided actual production opportunities. However, heavy student use of production equipment combined with rapid and frequent equipment innovation, rapidly shortens the useful life of production equipment.

Your Committee finds that this bill would assist the University in optimizing the learning experience it presently furnishes vocational students at the community colleges by providing a revenue source, in addition to general fund support, to be disbursed for equipment replacement costs. Your Committee further finds that the amendment of Section 304-8.4, Hawaii Revised Statutes, in the manner proposed by this section is appropriate in light of the desirability of providing vocational students with state-of-the-art learning experiences.

Your Committee has 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. 141, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 141, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 84                      Higher Education on S.B. No. 374

The purpose of this bill is to amend Chapter 304, Hawaii Revised Statutes, by adding a new section which would link adjustments in stipends for graduate assistants to adjustments in salary for employees of the University of Hawaii in collective bargaining unit 7.

Your Committee notes that graduate assistants are full-time enrolled graduate students pursuing advanced degrees at the Manoa campus of the University. Their duties range from assisting in the teaching of classes to assisting in the conducting of research projects.

Testimony from the University indicates that graduate assistant stipend adjustments have, in recent years, been substantially lower than faculty salary increases over the same period. Between 1977 and 1985, the percentage of increased compensation for graduate assistants was less than half of what it was for faculty members.

Your Committee finds that it is appropriate for the University to seek to eliminate this disparity in light of the significant contributions made by graduate assistants to various University programs.

Your Committee has adopted the recommendation of the University by amending section 1 of the bill by adding the words "at least" after the word "By" in line 11.

The purpose of the amendment to the bill is to permit the University flexibility in eliminating the inequity between graduate assistant stipends and faculty salaries by allowing the University to exceed the average percentage of salary adjustments accorded faculty members pursuant to collective bargaining.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 374, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 374, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 85                      Higher Education on S.B. No. 518

The purpose of this bill is to appropriate funds for an additional county extension agent under the county extension service of Maui.

Testimony from the University of Hawaii indicates that the demand for extension services on the County of Maui is more than sufficient to warrant an additional extension agent with particular emphasis on urban horticulture.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 518 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. 86                      Higher Education on S.B. No. 524

The purpose of this bill is to appropriate funds for the establishment of three positions in the strength program of the Athletic Department of the University of Hawaii at Manoa.

Testimony submitted by the University indicates that the demand for weight training from the general student body cannot be met within the limits of the current staff. The testimony also indicated however, that one additional position for an Assistant Strength Coach would be sufficient to adequately meet this need.

Your Committee has adopted the recommendation of the University by amending section 1 of the bill to include \$20,000 for an additional Assistant Strength Coach. In addition, your Committee has also adopted other recommendations from the University regarding the Athletic department by amending section 1 of the bill to include the following items and making the necessary language changes:

\$63,600	Strength equipment
\$53,400	Renovations to increase weight room area
\$13,614	Student help to maintain and supervise locker and weight room facilities
\$25,000	Learning assistance program for student athletes

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 524, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 524, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 87                      Higher Education on S.B. No. 752

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 the Pesticide Hazard Assessment project at the University of Hawaii has the proven capability to collect and compile data on pesticide usage, determine pesticide residue levels in human tissue, water, soils, and other substances in its certified pesticide residue laboratory and assess possible exposure risks. Further, your Committee notes that the project provides an important service to the community through its work with the Hawaii Poison Control Center and the medical community in the area of pesticide-related matters. In addition, University testimony indicates that the project will be eligible for federal funds through the Environmental Protection Agency if the state provides matching support.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 752 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 88                      Higher Education on S.B. No. 768

The purpose of this bill is to appropriate funds for the employment of two agriculture technicians and one clerk-steno and for the purchase of operating equipment and supplies for the Molokai Agricultural Program at Maui Community College.

Your Committee notes that this program is presently operating through a special appropriation. However, testimony from the University indicates that these funds will not be available beyond the current fiscal year.

Your Committee finds that appropriation of the funds requested by this bill will enable the program to continue serving the needs and interests of Molokai's farming community and its general population by providing the island's residents with the skills necessary to assist in the realization of Molokai's potential for diversified agriculture.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 768 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. 89                      Higher Education on S.B. No. 890

The purpose of this bill is to appropriate funds for an Agricultural Research/Demonstration Experiment Station on Molokai to develop and adapt existing technology for Molokai's climate and other unique conditions and to provide a non-formal educational setting for training in agricultural practices and management.

Your Committee finds that the future economic and social well-being of Molokai is dependent, in large part, upon development of its agricultural industry. In order to be competitive, those engaged in agricultural pursuits on Molokai must have access to technology and training specifically adapted to the island's environment and its conditions of production and marketing. Your Committee notes that while such technology is available in other State and mainland locales, none of the existing research stations duplicate the particular conditions of Molokai's major production area.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 890 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 90                      Higher Education on S.B. No. 1254

The purpose of this bill is to appropriate funds for the Youth Development and Research Center at the University of Hawaii at Manoa for research, training, consultation, evaluation, and for assessing the school based delinquency prevention program.

Testimony from the University indicates that the funding level as reflected in the bill is sufficient for the Youth Development and Research Center to carry out the requested projects.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1254 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 91                      Higher Education on S.B. No. 1277

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) increasing stipends for students participating in the college of Continuing Education and Community Services Government Internship Program; 3) increasing funding for the Maui Community College Molokai Agricultural Program; 4) establishing a native Hawaiian speaker instructional position for the Department of Indo-Pacific Languages at the University of Hawaii at Manoa; 5) developing a visitor industry research and training institute at the School of Travel Industry Management of the University of Hawaii at Manoa; 6) supporting the library automation program at various campuses of the University of Hawaii; 7) supporting phase II of the on-line student registration and records system at the University of Hawaii at Manoa; 8) allowing for the systematic replacement of obsolete or inoperable instructional equipment at the University of Hawaii at Manoa; 9) allowing for the systematic replacement of obsolete or inoperable research equipment used by the various organized research units of the University of Hawaii at Manoa; 10) allowing for the systematic replacement of obsolete or inoperable instructional equipment at the various community colleges; 11) providing funds for various reroofing projects at the University of Hawaii at Manoa; 12) providing funds for reroofing and other repair and maintenance projects at various community colleges; 13) hiring a consultant to evaluate security needs at the community colleges; 14) providing for the expansion of the PLATO computer-assisted instruction program; and 15) acquiring a second time sharing computer system in accordance with Phase III of the University's academic computing plan.

Your Committee heard favorable testimony for the appropriations made in Parts I - IV and Parts VI - XV of the bill from the acting chancellor of the University of Hawaii at Manoa, the chancellor for the community colleges and others.

While the testimony received from the University regarding Part V of the bill indicates that funding for a visitor industry research and training institute is not among the University's priority items, it does reflect agreement with the intent underlying establishment of the institute. Your Committee also notes that testimony providing by the School of Travel Industry Management is supportive of the appropriation.

Your Committee has amended the bill by deleting Part III.

The purpose of this amendment is to eliminate duplication of the substance and intent of S.B. 768, presently under consideration by your Committee.

Your Committee has further amended the bill by deleting the "\$10,000" figure in Part XIII, section 25, line 3 and substituting the sum of "\$30,000".

The purpose of this amendment is to reflect revised amounts based on additional information provided in the University's testimony regarding average fees charged by consultants hired to evaluate security needs.

Your Committee has also amended the bill by deleting Part XIV.

The purpose of this amendment is to conform the bill to testimony of the University which suggests that there exist other computer-related items in the University's requested budget which are of more immediate priority.

Your Committee has amended the bill by renumbering its parts and sections to compensate for the deletion of Parts III and XIV.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1277, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1277, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 92                    Higher Education on S.B. No. 1278

The purpose of this bill is to appropriate funds for the women's athletic program at the University to subsidize program costs.

Supportive testimony presented by the University indicates that partial state general fund support and the limited ability of the women's sports to generate revenues has forced the program to use revenues from the men's sports to sustain the women's program. Your committee notes that this practice has resulted in a strain on the financial solvency of the total athletic program by limiting the development of needed reserve funds.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1278, 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. 93                    Higher Education on S.B. No. 1280

The purpose of this bill is to authorize the director of finance to issue general obligation bonds in the amount of \$3,200,000 and to appropriate the same sum for planning and construction of a School of Architecture complex at the University of Hawaii.

The School of Architecture at the University of Hawaii at Manoa is the only professional architecture program in the State. As such, it is uniquely positioned to impart to its graduates an understanding of how the special qualities of life in Hawaii may best be responded to architecturally.

Your Committee has heard ample testimony from the University, architecture students and professionals citing the deplorable condition of the School's physical facilities. Design and graphic studio space is limited. Lecture room and assemble space is non-existent. Although students are allowed access to the School on a twenty-four-hour basis, it has no toilet facilities.

Your Committee has also received testimony from the University that while the School's curriculum and courses are presently accredited by the National Architectural Accrediting Board, future accreditation may be withheld due to the inadequacy of the physical facilities of the School.

Your Committee finds that the appropriation proposed by this bill will assist in the provision of proper accommodations for the School of Architecture.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1280 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                    Higher Education on S.B. No. 1281

The purpose of this bill is to appropriate funds for additional faculty positions for the Pacific and Asian Legal Studies Program at the William S. Richardson School of Law.

Your Committee has received testimony from the University indicating the importance, for Hawaii, of providing our students, practicing bar and business leaders with expertise in the Pacific and Asian world, its finances, and its business and legal problems. Your Committee notes that the distinct ethnic makeup of our local population and the geographical location of this State impel us toward the goal of becoming a center for Pacific and Asian oriented learning and a resource for the dissemination of such knowledge.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 281 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 95                      Higher Education on S.B. No. 1284

The purpose of this bill is to appropriate funds for the University of Hawaii Sea Grant College Program in support of marine research, education, and extension activities throughout the State.

During the past eighteen years, the University's Sea Grant College Program, in cooperation with private industry and agencies of the county, state, and federal governments, has responded to the marine and aquatic related needs and interests of the people of Hawaii by supporting research and education projects and by providing extension services directly to the local community.

The University of Hawaii is one of only thirty Sea Grant Colleges in the nation. Your Committee has received testimony from the University that a competitive position among Sea Grant Colleges and recertification is dependent upon a showing of state acceptance of and commitment to the program as evidenced by state provision of direct matching support.

Since 1981, the Ocean Resources Branch of the Department of Planning and Economic Development's Business and Industry Development Division has provided matching funds for projects considered to be of high priority for that Department. Cuts in appropriations and increases in the requirements of those supporting programs for which the Ocean Resources Branch is responsible have made it difficult for the Branch to continue providing Sea Grant matching support at levels available in earlier years. Your Committee finds that a direct appropriation to the University to provide Sea Grant matching dollars will allow the University's program to continue to build upon its record of accomplishments and will enhance its position in the competition among Sea Grant Colleges for federal funds.

Your Committee of Higher Education is in accord with the intent and purpose of S.B. No. 1284 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                      Higher Education on S.B. No. 1285

The purpose of this bill is to appropriate funds for a food service and hotel operations training program in the South Kohala area of the island of Hawaii.

Your Committee finds that this bill will enable the people of the South Kohala area to receive the training and education necessary to take advantage of the employment opportunities made possible by the rapid growth of the hotel and restaurant industry in West Hawaii.

Your Committee is in accord with the intent and purpose of S.B. No. 1285 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                      Higher Education on S.B. No. 1286

The purpose of this bill is to amend sections 304-4 and 304-17, Hawaii Revised Statutes, and to repeal sections 304-15 and 304-16, Hawaii Revised Statutes, in order to effect changes in State sponsored tuition assistance programs at the University of Hawaii.

Testimony from the University indicates that, at present, there is no appreciable difference



between tuition waivers and scholarships. Your Committee finds that existing statutory treatment of each as a distinct type of financial aid is unnecessary.

Further, your Committee finds that the bill's authorization of Pacific Asian tuition waiver units is appropriate in view of the University's leadership role in the Pacific Asian area.

Your Committee has adopted the recommendation of the University by amending the bill to reinstate the sentence previously deleted from lines 6 and 7 on page 3.

The purpose of this amendment is to continue to allow the board of regents to waive entirely or reduce the tuition fee or any of the other fees of graduate teaching and research assistants.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1286, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1286, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 98                      Higher Education on S.B. No. 1287

The purpose of this bill is to amend Chapter 304, Hawaii Revised Statutes, by adding a new section establishing a Pacific area tourist industry research institute at the University of Hawaii.

Testimony received from the School of Travel Industry Management of the University and the Hawaii Hotel Association is strongly supportive of the establishment of a formal tourism research institute.

Your Committee finds that it is appropriate, in light of Hawaii's historical prominence in the tourism industry, that the University assume a major role in the development and dissemination of industry related information and training. While tourism research is a relatively new science, your Committee recognizes the growing appreciation of the need for additional theoretical and applied research in order to maintain the State's competitive position in the world tourism marketplace.

Your Committee has adopted the recommendation of School of Travel Industry Management by amending section 1, lines 4 and 5 of the bill by adding the words "and training" after the word "research" contained in each line.

Your Committee has also amended section 1, line 17 of the bill by adding the words "and training" after the word "research".

The purpose of these amendments is to clarify the institute's functions.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1287, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1287, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 99                      Higher Education on S.B. No. 1288

The purpose of this bill is to amend subsection (c), Chapter 304-4, Hawaii Revised Statutes, by adding language which would qualify the tax dependency criteria used to determine residency status for tuition purposes within the University of Hawaii system as it applies to students whose parents are divorced or separated.

The University's current practices in this area are guided by Act 106, Session Laws of Hawaii, Regular Session of 1982, which created the existing tax dependency criteria and by subsequent advice from the Department of the Attorney General respecting application of these criteria to students whose parents are divorced or separated.

Testimony from the University indicates that application of these criteria as presently constituted results in the classification for tuition purposes solely because the student is claimed as a dependent by a parent who is no longer a resident of the State.

Your Committee finds it appropriate that legislative action be taken to rectify this inequitable situation.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1288 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. 100      Higher Education on S.B. No. 1289

The purpose of this bill is to amend section 304-8.1, Hawaii Revised Statutes, by adding language requiring the University of Hawaii to prepare and submit an annual report on the status of the research and training revolving fund which shall include: 1) allocations and actual expenditures for the preceding fiscal year and projected allocations for the current fiscal year; 2) a display of allocation and expenditure distribution in conformance with guidelines approved by the Governor and 3) a narrative report of research and training accomplishments, issues and problems.

Your Committee finds that with the enactment of Act 283 in 1984, The University's Research and Training programs have enjoyed a significant increase in resources through the Research and Training revolving fund. Despite this increase however, the Legislature has not seen a corresponding improvement in the University's annual report on the status of the revolving fund. This bill, therefore, provides clarifying language to the reporting requirements contained in Section 304 8.1 (b) which will enable the Legislature to better understand the financial status, accomplishments, issues and problems of the University's Research and Training program.

Your Committee has been made aware that guidelines for expenditures from the revolving fund are subject to approval by the governor and concurs with this practice. In keeping with this concept, the proposed reporting requirements require fiscal data to be reflected in manner consistent with the expenditure guidelines approved by the governor. In addition, the proposed reporting requirements also include provisions for specific narrative reports since none are provided currently.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1289, 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. 101      Higher Education on S.B. No. 1467

The purpose of this bill is to appropriate funds for the publication of a monograph in honor of Leon Edel.

Your Committee finds that the publication of a monograph in honor of Leon Edel would be of great value to the prestige of the University of Hawaii in the literary world. Dr. Edel currently holds the Citizens Chair in the English Department of the University of Hawaii at Manoa and is the recipient of the Pulitzer Prize in biography and the National Book Award for nonfiction.

Testimony presented by the President of the University and the Chancellor of the University of Hawaii at Manoa on this bill also acknowledged a less than desirable level and number of journal publications for scholarly works.

Your Committee has taken this deficiency into consideration and amended the bill to include additional funds and the language changes necessary for the publication of more journals.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1467, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1467, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 102      Health on S.B. No. 638

The purpose of this bill is to appropriate funds for the Hawaii Island Teen Services Program.

The Hawaii Island Teen Services Program provides direct case management services for pregnant and parenting adolescents in the Hilo and Kona areas. These services are an important component in the networking and coordinating of adolescent services in the communities.

Your Committee received testimony from the Department of Health and Child & Family Services in support of this bill. The appropriation of these funds will assist the program in maximizing the use of existing community and personal support resources, to assure the health and well-being of the target population to reduce the negative effects of teen pregnancy and

parenting and increase self-sufficiency.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 638 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 103 (Majority) Health on S.B. No. 1186

The purpose of this bill is to allow hospital administrators and assistant administrators to regain civil service status after their appointment is terminated and to allow the Director of Health to contract with private individuals or corporations for administration of the county/state hospitals, either individually or collectively.

The Department of Health in their testimony opposed the return of civil service status to exempt administrative personnel on the basis that such action would undermine the Department's flexibility in selecting candidates. Furthermore, the administrators do not need civil service protection as they unlike political appointees, may only be terminated for cause.

On the other hand, the Department favors the legislation authorizing the Director to contract privately for public hospital administration. They also favor expanding the Director's prerogative further by adding the authority to lease or sell the hospital facilities.

After considering the testimony and the facts, your Committee finds that the original decision exempting hospital administrators and assistant administrators from civil service was made for sound reasons which should not be disturbed at this time. Therefore, your Committee has deleted the amendment to Section 27-22.5(a), Hawaii Revised Statutes, on page 1, lines 9-14 of the bill as received. Your Committee has also amended the bill by adding a new subsection (b) which grants to the Director of Health the authority to lease or sell a hospital or hospitals to a private individual or corporation as well as to contract for administrative services.

Your Committee has further amended the bill by deleting the existing Section 27-22.5(b), which authorized the Director to privately contract for the management of Hilo Hospital until July 1, 1985, on the basis that the provision would be rendered obsolete by the above amendment.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1186, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1186, S.D 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.  
Senators Machida and Kawasaki did not concur.

SCRep. 104 (Majority) Transportation on S.B. No. 476

The purpose of this bill is to impose on air carriers conducting business in Hawaii a franchise privilege tax on their franchises and privileges exercised in this state. This tax is measured by the capital and surplus used by air carriers in the conduct of their air transportation business within the State. For the purposes of this bill, capital and surplus means the net worth of the air carrier as shown on its certified balance sheet for the calendar year without the deduction of any contingent liabilities, or any liabilities incurred or otherwise connected with acquisition or use of any aircraft used in connection with the air carrier's air transportation business, plus the capitalized value of leases and the fair market value of property used but not owned.

This is a tax proposal submitted by the State Administration.

**POLICY RATIONALE.** The Department of Taxation, in its support of this bill, states that the major thrust of this bill is to tax the airlines so they pay their fair share of the tax burden. Since the airlines engage in business in this State and avail themselves of the protections, benefits, and privileges of the State of Hawaii, they should be subjected to a share of the tax burden imposed on all businesses.

The Department notes that almost all businesses are subjected to two taxes: (1) net income tax, and (2) a general business tax. In the case of the airlines, a public service tax was paid until the U.S. Supreme Court declared it invalid.

As a result, the airline industry does not pay any type of general business tax while every other business, including motor carriers, pay some kind of business tax.

S.B. No. 476 is an effort to address what the Department of Taxation believes is a problem of discriminatory taxation that may jeopardize the State's imposition of a general business tax on

other businesses, especially competing transportation industries.

**The Privilege Tax.** This tax is being imposed for the privilege of doing business in Hawaii. The tax will be imposed on the carriers capital, surplus and liabilities, which is their net worth as shown on its certified balance sheet plus the liabilities and debt, the capitalized value of its leases, and the fair market value of property used but not owned. This would be the cost or fair market value of the air transportation property used by the air carrier without regard to financing or operations arrangements.

The bill would apportion the tax when such taxation cannot occur by separate accounting methods. This would ascertain what portion of the income, usually an interstate carrier, should be taxed in Hawaii. The formula provided in the bill would measure what income is generated in this State.

The Department has submitted various estimates on the kinds of revenues that may be available through this tax. It is estimated that the State of Hawaii could realize a substantial amount based on the rate that is charged. The Department has recommended a rate of 3% tax on their capital and surplus and liabilities. According to their figures, the State could realize about \$10 million on a 3% tax on all domestic and interstate carriers.

**Constitutional Validity.** Your Committee is concerned that any new tax should meet standards imposed by the U.S. Supreme Court on state taxation of interstate commerce. In this regard, the Department relies on the holdings of one case where the Court upheld state taxation of activities involved in interstate commerce. In Complete Auto Transit Co., Inc., v. Grady the court stated that such state taxation can occur when there is (1) a substantial nexus; (2) the tax is non-discriminatory; (3) is fairly apportioned; and (4) fairly related to the services provided by the state. In this regard, the Department views this bill as applying to every carrier, and only their activities in Hawaii will be taxed, with the tax being apportioned to only their business in Hawaii. As a result, the Department believes that the concerns of the court will be met.

While your Committee agrees with the policy of providing a business tax on all those who do business in Hawaii, your Committee still has many concerns about the bill. We believe that this bill deserves further review and is recommending that the Ways and Means Committee give due consideration to the concept of taxation offered by this Administration bill.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 476 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Cobb.  
Senator George did not concur.

SCRep. 105                      Transportation on S.B. No. 350

The purpose of this bill is to require mandatory use of seat belts and provided penalties for non-compliance.

Your Committee continues to be concerned with improving Hawaii's road and highway safety. For the past ten years, there have been an average of 16,000 to 17,000 traffic accidents each year in Hawaii, involving about 24,000 drivers and 5,000 passengers.

In view of this concern, your Committee believes that a mandatory seat belt policy would be an effective way of reducing the probability of injury to occupants involved in accidents. A National Highway Traffic Safety Administration study has concluded that safety belt use is the single most cost-effective highway safety measure currently available.

Its usefulness is especially evident for protection against the second, or the human collision of a car crash, which occurs a split second after the vehicle comes to a quick halt. As a result, seat belts extend the time in which the body stops and distributes the crash force over a larger portion of the body.

Your Committee heard favorable testimony from the Department of Transportation, the Department of Health, the Children Transportation Safety Coalition and from other community groups and individuals.

In its deliberations, your Committee has made several amendments to this bill.

First, the Department of Transportation has requested that under section (b) on line 16 of page 1 of the bill, the phrase "The passengers of" be inserted at the beginning of the sentence. This change is necessary to make this section consistent with the Federal Motor Carrier Safety Regulations and State General Order Number 2 (396.16) which requires the drivers of motor

carriers to use available seat belts.

Second, your Committee has amended the bill so that the mandatory provision applies only to those in the front seats of a vehicle. Your Committee heard testimony that most injuries are to front seat passengers. Because they are in a situation of greater risk, your Committee believes that such a requirement should be applicable to the driver and his front seat passenger.

Finally, your Committee reduced the fine from \$50 to \$25.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 350 and recommends that it pass Second Reading in the form hereto attached as S.B. No. 350, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Cobb.

SCRep. 106            Transportation on S.B. No. 397

The purpose of this bill is to exempt from the state vehicle registration fee and the vehicle weight tax specially constructed motor vehicles designed for the handicapped.

Your Committee heard favorable testimony from the Department of Transportation, the Hawaii Commission on the Handicapped, the Hawaii Center for Independent Living, and the Honolulu Mayor's Committee on the Handicapped.

Your Committee believes that such specially constructed vehicles are essential to the ability of the handicapped to be active participants in our society. Often, these vehicles need special modifications that increase its weight substantially, thereby requiring the handicapped to pay more for registering their car.

While there are no estimates of the exact number of vehicles that will be eligible for this exemption, the Department of Transportation has testified that offering such exemptions would have no significant impact on the state highway fund.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 397 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. 107            Transportation on S.B. No. 134

The purpose of this bill is to provide a hazard pay schedule for airport employees of the Department of Transportation.

Your Committee heard testimony from the Department of Transportation that state airport employees and airline workers are used at neighbor island airports to supplement professional full-time airport fire fighters.

Airline employees under contract with the Department of Transportation are paid on the basis of each drill attended and/or actual response to an emergency. However, section 261-18, Hawaii Revised Statutes, limits payment to state employees to \$25 a month.

Your Committee believes that state employees and airline workers should receive the same compensation. The pay schedule included in the bill will accomplish this purpose.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 134 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. 108            Transportation on S.B. No. 1244

The purpose of this bill is to add a new section to the Hawaii Revised Statutes which would make it a class C felony to operate a vehicle while under the influence of intoxicating liquor and causing a traffic accident which results in serious bodily injury to any person.

Your Committee heard favorable testimony from the Department of Transportation, the Honolulu Prosecutor's Office, Mothers Against Drunk Driving (M.A.D.D.), and the Honolulu Police Department.

Your Committee, however, believes that making this a class C felony would treat an offender in the same manner as someone guilty of the offense of negligent homicide. Your Committee believes that this penalty is too severe and has amended the bill to make the offense a misdemeanor.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1244, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1244, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Toguchi, Chang and Cobb.

SCRep. 109            Transportation on S.B. No. 1332

The purpose of this bill is to prohibit the use of blue lights or reflectors on all motor vehicles, motorcycles, motor scooters, bicycles, or mopeds.

Your Committee heard favorable testimony from the Honolulu Police Department. Under this bill, the use of blue lights would be restricted to law enforcement vehicles. Your Committee believes that would aid the public in making certain that vehicles with blue lights are duly authorized by their respective counties.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1332 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Toguchi, Chang and Cobb.

SCRep. 110            Transportation on S.B. No. 897

The purpose of this bill is to strengthen penalties against those convicted of driving while intoxicated by changing the way in which a first-time conviction is determined.

Your Committee heard favorable testimony from the Department of the Prosecuting Attorney, City and County of Honolulu. The Department testified that under present law, the date of arrest is used to determine whether an individual is a first-time offender.

The Department noted that this method can lead to a paradox. As an example, an individual could be arrested for drunken driving in April. Due to court delays, his conviction could be postponed until November. Thus from April to November, he would be free to operate a motor vehicle, and thus could receive a second arrest for drunken driving in the meantime. If this second arrest was processed more speedily than the first one, the individual would be convicted on the second arrest even before receiving a conviction on his earlier arrest. Thus, the second arrest would result in the individual's first conviction; the first arrest would result in the individual's second conviction. Yet because the date of arrest determines how a conviction will be handled, the second conviction would still be treated as if it were a first-time offense, since it is a result of the individual's earliest arrest.

The Department testified that the bill would correct his situation by making the date of conviction, rather than the date of arrest, the basis for determining whether a conviction is first-time.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 897 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Toguchi, Chang and Cobb.

SCRep. 111            Transportation on S.B. No. 746

The purpose of this bill is to provide indemnity to health care professions who draw blood for determining a person's blood alcohol level.

Your Committee heard favorable testimony from the Department of the Prosecuting Attorney, City and County of Honolulu, and the Hawaii Chapter of the American College of Emergency Physicians.

According to the Prosecutor's Office, health care professionals are reluctant to withdraw blood for the purposes of determining its alcoholic content as a result of Rossell v. City of Honolulu, 59 Haw. 173 (1978), wherein the court held that a doctor was liable for civil damages when a blood sample was taken against his will and consent.

The Hawaii Chapter of American College of Emergency Physicians stated that they were willing to assist police in drawing specimens, however, its membership were concerned by the

issues raised in the Rossell case.

Your Committee also heard testimony from the Hawaii Department of Transportation, which, while favoring indemnity, also recommended striking the term "phlebotomist," as phlebotomists are not certified by the Department of Health.

As a result, your Committee has amended the bill by deleting the term and including "mobile intensive care technicians" in its place. The definition of phlebotomist in section C has also been deleted.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 746, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 746, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Toguchi, Chang and Cobb.

SCRep. 112            Transportation on S.B. No. 766

The purpose of this bill is to provide funds for Honoapiilani Highway improvements.

Your Committee held a hearing on this bill and heard favorable testimony from the Department of Transportation.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 766 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 Toguchi, Cobb, Hagino and Soares.

SCRep. 113            Transportation on S.B. No. 767

The purpose of this bill is to provide funds for Kaumalapau Highway resurfacing.

Your Committee held a hearing on this bill and heard favorable testimony from the Department of Transportation.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 767 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 Toguchi, Cobb, Hagino and Soares.

SCRep. 114            Transportation on S.B. No. 770

The purpose of this bill is to provide funds for drainage improvements on Kahului Beach Road.

Your Committee held a hearing on this bill and heard favorable testimony from the Department of Transportation.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 770 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 Toguchi, Cobb, Hagino and Soares.

SCRep. 115            Higher Education on S.B. No. 313

The purposes of this bill are to establish a Western Interstate Commission for Higher Education revolving fund and require the repayment of support fees paid by the State on behalf of students certified to attend graduate or professional schools in accordance with the Western Regional Education Compact.

Expenditures for the Western Interstate Commission for Higher Education (WICHE) program, particularly for the professional student exchange program (PSEP), have been of concern to the legislature. Concern has centered on the policy of state subsidization of the education of students who enter lucrative professions upon graduation and are not required to make any return to the State. The Legislative Auditor conducted a study of the WICHE program in response to a legislative request. The Auditor did not recommend a requirement that students

repay support fees made by the State, citing as the primary reason the heavy debt incurred by the students even with the support fees.

This bill, as received, requires repayment of all support fees made by the State. Your Committee continues to be concerned about the cost of the PSEP program, but favors a less drastic approach at this time.

Your Committee has amended the bill to authorize the Hawaii commissioners to WICHE to require students who participate in PSEP to repay the State for support fees after completion of the education program, to practice the profession for which educated for a certain period within the State, or to comply with both requirements. Your Committee has also established a revolving fund into which any repaid support fees and other moneys for support or participation in WICHE programs are to be deposited. Expenditures from the revolving fund are authorized for payment of support fees to western higher education institutions as well as payment for participation in other WICHE programs. The main intent of your Committee is to provide the Hawaii commissioners with the opportunity to increase revenues for WICHE programs if deemed necessary and to establish a fund for the deposit of the proceeds. A secondary intent of your Committee is to allow the Hawaii commissioners to require students on whose behalf support fees have been paid to make some form of return to the State. In establishing the revolving fund and requiring deposit of funds related to and authorizing expenditures for WICHE programs, your Committee intends that the Hawaii commissioners have some latitude in participation in the programs.

Your Committee emphasizes that there is no intention to make the WICHE program self-supporting. Your Committee intends that the legislature continue to make appropriations of general funds for the operation of the WICHE program and support fees under PSEP. Your Committee reiterates, however, that should the Hawaii commissioners find the appropriations insufficient, revenues may be raised by the imposition of a repayment requirement.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 313, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 313, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 116            Higher Education on S.B. No. 369

The purpose of this bill is to repeal the \$95,000 ceiling on the salary of the president of the University of Hawaii.

In response to the request by the board of regents of the University of Hawaii and others, Act 282 of the Regular Session of 1984 was enacted. Act 282 repealed the \$53,460 statutory salary of the president and authorized the board to set the salary in an amount up to \$95,000 a year. During consideration of the proposal, the board indicated that the \$53,460 salary was not sufficient to attract a president of the highest quality. The legislature found the board's argument persuasive and increased the maximum salary.

The board has now entered into an agreement with the incoming president providing compensation which includes an \$80,000 salary and, among other things, an annuity and personal and family insurance coverage. Payment for the compensation package, other than the salary, is to be made from private funds donated by the University of Hawaii Foundation, a private nonprofit organization which raises funds for the support of the university. The annual cost of the package other than the salary exceeds \$30,000.

An opinion of the attorney general, however, has questioned the legality of the compensation package for the incoming president. The attorney general in the opinion gives no definite statement on whether the package is legal or not. Rather, the attorney general has suggested that the legislature clear the matter.

Laying aside the controversy over the legality of the compensation, your Committee finds that the compensation package for the incoming president of the University of Hawaii complies with the letter of Act 282, but not the spirit. Although opposition to Act 282 was significant, the legislature acted in response to the appeal of the board and for the betterment of public higher education in the State. By increasing the salary ceiling of the president to \$95,000, the legislature acted against a basic principle, strongly held currently and in the past, that the salary of the governor should be the highest in the state and county governments.

Now the board has presented the legislature with a compensation package for the president which was not contemplated or suggested during the fight for passage of Act 282. While maintaining that the package is appropriate, the board has proposed Senate Bill No. 1279 to make the package explicitly legal. The legislature is asked by acting affirmatively on that bill



to approve a compensation package the annual cost of which exceeds the \$95,000 established just last year and which is funded in large part from a private source.

Rather than approving the type of compensation package provided by the board, your Committee reaffirms the original intent and commitment on the matter of the salary of the president of the University of Hawaii by approving the removal of the statutory ceiling on the president's salary. The purpose of this action is threefold. One, your Committee finds merit in the board's consistent proposition that a statutory ceiling on the salary of the president is unnecessarily restrictive. Second, the amendment will allow the board to be competitive in recruiting and paying a superior presidential candidate. Third, it is the intent of your Committee that the president of the university receive a known, straightforward salary, instead of a complex compensation package, and without dependence on third party contributions.

Your Committee finds that a salary established in compliance with this bill is sufficient compensation for the president of the university. It is the intent of your Committee therefore, that with enactment of this bill into law, the board of regents will renegotiate an employment contract with the new president which will restrict all cost items to that which can lawfully be paid from state general funds.

Your Committee also finds that this bill is of statewide concern, although it relates only to the salary of the president of the University of Hawaii. Your Committee feels that the salaries of all public officers and employees are of statewide concern and thus, subject to the legislature's powers. Treatment of the salary of the president in a manner different from the salaries of those in comparable public offices does not signify, implicitly or explicitly, a concession that the president's salary is not of statewide concern. Instead, the different treatment in current law and as proposed by this bill emphasizes an issue of statewide concern: the ability of the State of Hawaii to attract and retain a president of the highest quality for its only statewide system of higher education.

Your Committee has amended this bill by rewording the authorization of the board of regents to establish the salary of the president.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 369, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 369, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 117            Economic Development on S.B. No. 522

The purpose of this bill is to support the concept of developing Hawaii as a regional fisheries center by authorizing the issuance of general obligation bonds for improvements needed to develop Hawaii into such a center. Your Committee supports the intent of this measure and although no funding amount has been specified, believes that this measure should receive serious consideration.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 522 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 118            (Majority) Economic Development on S.B. No. 165

The purpose of this bill is to support the development of private parking structures in the Kakaako Community Development District by specifically including parking facilities in the definition of projects which qualify for special purpose revenue bond financing.

Your Committee supports this measure as providing a necessary means of financing the community and economic development activities of the Hawaii Community Development Authority.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 165 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. 119      Economic Development on S.B. No. 164

The purpose of this bill is to support Hawaii's fishing industry by granting the Department of Planning and Economic Development (DPED) flexibility in the use of interest and fees collected from loans under the Hawaii Large Fishing Vessel Purchase, Construction, Renovation, Maintenance and Repair Loan Revolving Fund and the Hawaii Small Fishing Vessel Purchase, Construction, Renovation, Maintenance, and Repair Loan Revolving Fund. This bill provides that all payments of principal received shall be credited to the loan revolving funds and all payments of interest and fees shall be credited to the respective loan reserve funds created by the bill to carry out the loan programs operations.

Currently payments of principal and interest are deposited into a loan revolving fund.

Your Committee supports this measure as providing DPED with the same flexibility as the Department of Agriculture's successful Farm Loan Program.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 164 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. 120      Economic Development on S.B. No. 1234

The purpose of this bill is to provide to our residents the information necessary to conform the boundaries of land commission awards with the present system of tax map key designation of land parcels by appropriating funds for the duplication, certification of accuracy, and distribution of a single set of records in the possession of the County of Honolulu, Department of Finance which cross reference land commission awards with tax map references.

Although your Committee supports this measure, it has not provided a funding amount and strongly recommends serious consideration of this matter by the Committee on Ways and Means.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1234 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 121      Economic Development on S.B. No. 968

The purpose of this short form bill is to amend the laws of Hawaii with respect to water.

Your Committee amended the bill by providing a cost allocation percentage to be paid for by the State and respective county for assessing available water supplies and developing new sources of water.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 968, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 968, S.D. 1, and be recommitted to the Committee on Economic Development for further consideration.

Signed by all members of the Committee.

SCRep. 122      Judiciary on S.B. No. 881

The purpose of this bill is to raise the fees provided to witnesses for their attendance and their mileage to and from civil and criminal cases. As the bill came to the Committee, the fees for local witnesses, including material witnesses, would be \$10 an hour per day if the witness were an hourly paid worker, and \$20 per day if the witness were not. Neighbor island witnesses in civil and criminal cases would be allowed \$10 per day in addition to those amounts. Finally, the bill would increase from 20¢ to 30¢ a mile the compensation to witnesses for their travel expenses in civil cases and allow neighbor island witnesses compensation for their travel by ship in criminal cases.

Your Committee received favorable testimony on the bill on behalf of the average worker. Your Committee finds that the rate of witness fees has not changed in civil cases since 1972, and in criminal cases since 1980. A raise in fees is now timely to better reflect the cost of living increase in the past few years.

Your Committee also heard testimony from the Judiciary citing the administrative burden

imposed upon them if they were forced to determine the rate of pay for each one of the multitude of witnesses subpoenaed by the Attorney General and Public Defender's Offices. This investigative inquiry into the pay of each witness would only delay the payment of fees to witnesses.

Moreover, your Committee considered the effect a sharp rise in fees would have on potential litigants with meritorious cases. Some people may be deterred from pursuing or defending their cases because the costs of litigation, including witness fees, would be too prohibitive for their limited finances. Your Committee does not wish to deny full access to the courts and judicial resolution of disputes to those unable to afford the ever increasing expenses of trial.

With these considerations, your Committee amended the bill to retain the flat fee system of compensation to witnesses and instead increased the current flat fee. It raised the witness fee in civil cases from \$4 to \$10 per day, and in criminal cases from \$10 to \$20 per day. It also raised the fee for neighbor island witnesses in civil cases from \$6 to \$15 per day and in criminal cases from \$12 to \$25 per day. Finally, it increased from \$20 to \$30 per day the fees for material witnesses in criminal cases.

Additionally, your Committee made technical, nonsubstantive amendments to the bill to conform with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 881, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 881, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cobb and Kuroda.

SCRep. 123

Judiciary on S.B. No. 747

The purpose of this bill is to provide a statutory codification of the rights afforded to victims and witnesses of crime. To become eligible for these rights, the bill requires a victim to report the crime to police within three months of its occurrence or discovery unless there exists reasonable justification to do otherwise, thus encouraging victims to report crimes.

In addition to the purposes stated above, this bill creates a special indemnity fund, the proceeds of which will be paid to the criminal injuries compensation commission. This bill also provides for civil and criminal immunity to those government officials who, in good faith, fail to conform to the requirements of this bill.

Testimony in favor of the bill was received by three of the four counties' victim-witness programs and support was given from the Honolulu Police Department, which also recommended some amendments to the bill.

Your Committee amended the bill as follows:

- (1) A definition of "Major developments" (of the case) was added to section -2;
- (2) Section -4 was amended to provide for the rights of victims and "surviving immediate family members" instead of witnesses;
- (3) The prosecuting attorney was designated as the agency to notify those victims or surviving immediate family members if subpoenaed when court proceedings will not proceed as scheduled;
- (4) Protection from threats or harm was designated to be afforded in accordance with the Hawaii Witness Protection Act program guidelines;
- (5) The Courts were designated to provide, whenever possible, secure waiting areas for victims and surviving immediate family members during court proceedings;
- (6) Section -4 (7), employer intercession services, and section -4 (8), the rights of surviving immediate family members of homicide victims, were deleted.

Your Committee also amended the bill to require that victims must request in writing before they are afforded some of the rights of the bill. Without this requirement, your Committee feels that the costs to provide these rights would become prohibitive based on the testimony of the Honolulu Police Department.

Finally, your Committee made technical, nonsubstantive amendments to the bill to conform with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 747, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 747, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cobb and Kuroda.

SCRep. 124            Judiciary on S.B. No. 1089

The purpose of this bill is to appropriate \$2,750,000 to pay for the settlement agreement reached in State of Hawaii vs. Goodfellow Bros., Inc., Civil No. 6635, Second Circuit Court of Hawaii.

The suit involves a contract awarded by the Department of Transportation to Goodfellow Bros., Inc. for the federally-aided highway construction of the Piilani Highway on Maui. The original claim by Goodfellow Bros. Inc. totaled about \$12,000,000. Considering the estimated cost of defending the case and the potential cost of liability if the case proceeded to trial, your Committee finds that the payment of the settlement amount will be in the best interest of the State.

Your Committee made technical, nonsubstantive amendments to the bill to conform it with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1089, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1089, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 125            Judiciary on S.B. No. 463

The purpose of this bill is to appropriate an unspecified amount to satisfy claims for legislative relief, judgments against the State, settlements, and miscellaneous claims.

Your Committee amended the bill to list twenty (20) claims for payment and to appropriate \$5,412,124.58 to satisfy them. It also 1) revised the payment section of the bill to require payment by warrants issued by the comptroller upon vouchers approved by the director of taxation for tax claims and by the attorney general for all other claims; 2) it limited the period for accrual of interest on the claims and added a lapsing clause; and 3) it included a severability clause.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 463, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 463, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 126            (Majority) Judiciary on S.B. No. 495

The purpose of this bill is to provide for the establishment of a state lottery that will provide a new source of substantial revenues for the State. Profits generated from the operation of a lottery would be appropriated by the Legislature for the benefit of senior citizens.

Your Committee heard testimony both in support of, and in opposition to, the bill. However, it is evident from the testimony that the community has not had adequate time to develop supporting evidence to justify their respective positions.

Your Committee is reporting out this bill in order to provide persons interested in the bill, and the public generally, more time to consider the bill, and to do research to develop evidence in support of their respective positions.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 495 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

Senators Toguchi, Young, George and A. Kobayashi did not concur.

SCRep. 127            Judiciary on S.B. No. 459

The purpose of this bill is to replace the existing advisory committee of the Hawaii Criminal Justice Data Center with a criminal justice data interagency board to consist of eleven members, appointed by the Governor. This board shall be responsible for promoting interagency

cooperation and coordination in the development and management of a fully integrated statewide criminal justice information reporting and retrieval system.

The Ad Hoc Committee on Criminal Justice Information Systems, convened in 1983 by the Governor, identified twenty objectives. The first objective is to establish a formal representative organization. It is anticipated that it will be better able to promote and achieve implementation and maintenance of an integrated statewide computerized criminal justice information system than the advisory committee currently existing under present law.

Your Committee amended this bill to provide that the criminal justice data interagency board shall sunset on June 30, 1989, to allow an examination of the board's progress after four years by the Legislature.

Your Committee also amended this bill for the purpose of appropriating the funds necessary to carryout the purposes of this bill by including "\$7,000" on page 2, line 13 of the bill.

It also made technical, nonsubstantive amendments to conform with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 459, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 459, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 128            Health on S.B. No. 1188

The purpose of this bill is to designate the Department of Health as the state agency responsible for administering a maternal and child health program to reduce infant and maternal mortality and otherwise promote the health of mothers and children in Hawaii.

At present, the Department's maternal and child health program is limited to preventive services. This bill will enable the Department to engage in a broader range of activities and to enter into contractual agreements with other agencies for the provision of comprehensive services. No additional funding will be required to implement this program.

Your Committee heard testimony by the Department of Health, the University of Hawaii School of Public Health, and the Hawaii Public Health Association and finds that this measure will strengthen the Department's role in providing leadership in this area and assure that all mothers and children in the State will have access to appropriate health care services.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1188 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. 129            Economic Development on S.B. No. 161

The purpose of this bill is to grant the Department of Planning and Economic Development (DPED) greater flexibility in administering and using the interest and fees paid on loans made under the Hawaii Capital Loan Program.

Your Committee concurs with testimony indicating that authorizing DPED to use interest payments and fees in the manner proposed will strengthen DPED's ability to better use the loan program to serve residents of the State in much the same way that the proposed flexibility has assisted the Department of Agriculture Farm Loan Program in better serving Hawaii's farmers.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 161 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. 130            (Majority) Economic Development on S.B. No. 282

The purpose of this bill is to provide the same general excise tax exemption currently provided for shipbuilding and ship repairs rendered to surface vessels federally owned or engaged in interstate or international trade to surface vessels operated for a commercial purpose out of any harbor in the State.

Your Committee recognized the concern of the Department of Taxation that no further tax

exemptions or credits be granted. However, the current condition of Hawaii's shipbuilding and ship repair industry requires timely action to prevent further loss of jobs and the deterioration of shipbuilding and ship repair capabilities.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 282 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.  
Senator Kawasaki did not concur.

SCRep. 131 (Majority) Economic Development on S.B. No. 1237

The purpose of this bill is to stimulate national and international interest in underutilized fresh seafood produced or fished in Hawaii by appropriating \$25,000 to develop a promotional and marketing structure in Hawaii to support the promotion of fresh seafood in the continental United States.

Your Committee concurs with testimony supporting this measure.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1237 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Mizuguchi.  
Senator Kawasaki did not concur.

SCRep. 132 (Majority) Economic Development on S.B. No. 436

The purpose of this bill is to support the activities of the Office of Hawaiian Affairs by appropriating funds for these activities. Your Committee concurs with testimony presented by the Office of Hawaiian Affairs that the \$1,129,863 requested represents no increase in the number of authorized positions and no increase in the general fund matching requirement from the current appropriation level.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 436 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.  
Senator Kawasaki did not concur.

SCRep. 133 Economic Development on S.B. No. 472

The purpose of this bill is to generate additional quality economic activity in the State by promoting Hawaii as a site for film-making. This bill establishes a Hawaii Film Authority under the Department of Planning and Economic Development (DPED) to develop professional film production facilities, studios, parks and related projects, to provide services which promote film-making, and, to facilitate the permit process. DPED's Film Industry Branch would be transferred to the new Authority and the Hawaii Film Industry Fund would be established to carry out the Authority's programs.

Your Committee fully supports this measure as a means of consolidating in one agency the responsibility and authority for promoting Hawaii as a center for film-making. The Authority will be able to issue bonds and charge fees to provide funds to carry out its programs. Your Committee also believes that this bill provides a sound basis for the future development of film-making into a significant economic activity in this State.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 472 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. 134 (Majority) Economic Development on S.B. No. 607

The purpose of this bill is to appropriate funds for placement of an experienced business promoter having foreign language proficiency in Tokyo and thereby extend the promotional programs of the International Services Branch.

Your Committee supports the intent of this measure and suggests the Committee on Ways

and Means take under consideration the estimated \$100,000 appropriation amount suggested by the Department of Planning and Economic Development.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 607 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.  
Senator Kawasaki did not concur.

SCRep. 135            Economic Development on S.B. No. 929

The purpose of this bill is to create employment opportunities and strengthen Molokai's economy in view of the reduction in pineapple production on Molokai.

Your Committee supports programs and actions that will stimulate agricultural, fishing, and visitor industry activities on Molokai. Although your Committee has not included a funding amount in this measure, it believes that serious consideration should be given to provide state matching funds required for any grants made by the Federal Economic Development Administration for Molokai projects.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 929 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. 136            (Majority) Economic Development on S.B. No. 931

The purpose of this bill is to specifically authorize the issuance of up to \$25 million in special purpose revenue bonds to assist the financing of water-related projects in the Ewa plain as a public purpose.

Your Committee recognizes that the industrial and residential projects presently developed or planned for the Ewa plain contribute to the economic and social welfare of state residents and will require the construction and installation of new water wells and a major expansion of existing storage and conveyance facilities. Further, your Committee believes the benefits to the present and future residents of the Ewa plain of constructing these water-related projects clearly qualify these facilities for State-assisted financing through the issuance of special purpose revenue bonds pursuant to Part V, Chapter 39A, Hawaii Revised Statutes.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 931 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Mizuguchi.  
Senator Kawasaki did not concur.

SCRep. 137            Economic Development on S.B. No. 1117

The purpose of this bill is to support statewide economic development by integrating the economic development plans and programs of each county in a coordinated and complimentary manner. The bill proposes to add a new statutory section requiring the Director of Planning and Economic Development to develop and update every six years an economic development plan for each county to assist the counties in the development of their own economic development plans.

Your Committee concurs with testimony that the integrated approach to economic development planning can benefit the residents of our State.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1117 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. 138            (Majority) Economic Development on S.B. No. 1230

The purpose of this bill is to support the creation of new businesses and the expansion of existing businesses in Hawaii by allowing the Director of Planning and Economic Development to defer the commencement date for repayment of interest on loans made under the capital

loan program for a period not in excess of two years.

Your Committee strongly believes that deferral of interest payments can provide significant, visible means of support for new or expanding businesses by reducing demands on cash flow during the critical first two years of a new business or the expansion of an existing business.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1230 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.  
Senator Kawasaki did not concur

SCRep. 139                      (Majority) Economic Development on S.B. No. 1261

The purpose of this bill is to support commercial aquaculture activities and marine research by appropriating \$3 million for the planning, design, and construction of the Hawaii Ocean Science and Technology Park. The Park would provide a site for the commercial application of research and pilot projects at such facilities as the Natural Energy Laboratory of Hawaii and could generate as many as 4,400 direct and indirect jobs and \$60 million in annual salaries when in full operation.

Your Committee has amended section 2 of the bill to change the expending agency from the Department of Land and Natural Resources to the High Technology Development Corporation, the agency which has done preliminary work on the concept of such a park.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1261, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1261, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Mizuguchi.  
Senator Kawasaki did not concur.

SCRep. 140                      Transportation on S.B. No. 125

The purpose of this bill is to mandate a 90-day driver license suspension for the offense of driving under the influence of intoxicating liquor.

Your Committee heard favorable testimony from the Hawaii Department of Transportation, the Honolulu Police Department, the Department of the Prosecuting Attorney of the City and County of Honolulu, and Mothers Against Drunk Driving (M.A.D.D.).

The Department of Transportation testified that an amendment in 1984 to section 291-4, HRS, mandated a 90-day suspension for first time offenders, but included the use of a restricted license during the last 60 days of the suspension. In practice, however, the law has been understood to mandate only a 30-day suspension or a 60-day conditional license, or both.

Your Committee believes that suspension of driving privileges is a strong deterrent to those intending to drive under the influence. Your Committee believes that the current practice weakens the deterrent value of the law.

In reviewing this bill, your Committee has heard several concerns relating to restricted use of license during the last 60 days of a suspension. Your Committee believes that the restricted use of a vehicle should be limited to non-recreational purposes, such as operating a vehicle at work, driving to and from school or place of employment. The bill has been amended accordingly.

Your Committee also has deleted provisions relating to published guidelines for such restrictions. From the testimony on this bill, it was unclear what kind of guidelines are contemplated.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 125, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as S.B. No. 125, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Cobb, B. Kobayashi and George.

SCRep. 141                      Transportation on S.B. No. 399

The purpose of this bill is to charge the costs of an alcohol rehabilitation program to the people seeking counseling under that program.



Your Committee heard favorable testimony from the Department of Transportation, the Hawaii State Judiciary and the Department of the Prosecuting Attorney.

Your Committee believes that those needing an alcohol rehabilitation program should bear the full cost of that program.

Your Committee has made several style and non-substantive amendments.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 399, as amended herein, and recommends that it pass Second Reading, in the form hereto attached as S.B. No. 399, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Cobb, B. Kobayashi and George.

SCRep. 142                      Transportation on S.B. No. 1360

The purpose of this bill is to provide an appropriation for a reliever airport at Dillingham Field.

Your Committee believes that reducing the traffic congestion at Honolulu International Airport between commercial airline carriers and small general aviation aircraft remains an important safety concern in Hawaii's air transportation program. As a solution to this problem, both federal and state agencies have agreed to the need for a separate reliever airport for general aviation activities. Designating a site for this airport, however, has remained a problem for nearly a decade.

During this time, several possible sites have been reviewed and studied by federal and state agencies. Currently, as a result of a congressional mandate, a study is being conducted on joint federal-state use of Barber's Point. According to the testimony of the Director of the Department of Transportation, preliminary findings are not encouraging toward designating Barber's Point as the reliever airport site.

Two other sites have often been mentioned as possible alternatives: Poamoho and Dillingham Field. In considering Poamoho, your Committee is concerned about the prohibitive cost of building a new facility. The Department of Transportation estimates that it would require approximately \$20 million for land acquisition, design and construction. Because the land is in agricultural use, there would be substantial costs for site and utility improvements.

Additionally, your Committee believes that while there may be a transportation interest for the site, there is another competing and equally important state concern, agriculture. The Poamoho site is situated in an area long recognized as being prime agricultural lands on Oahu. Your Committee believes that the commitment to protecting important agricultural lands remains a strong one in our state. As recognition of this commitment, the Legislature established in 1983 the Hawaii Land Evaluation and Site Assessment (LESA) Commission to identify such lands for protection. Until such times as a final report is issued by the Commission, your Committee believes that all alternatives must be exhausted before a particular parcel of land is designated to urban use.

Your Committee believes that Dillingham Field is an acceptable existing site for the reliever airport. Facilities and site improvements were made in recent years to improve safety and to upgrade the site for general aviation activity. The Department acknowledges that the site is suitable for a reliever airport and would be less costly than Poamoho.

In the past, a major obstacle to the designation of the site has been a Federal Aviation Agency (FAA) guideline that the reliever airport be within 30 minutes driving time to Honolulu International Airport. Your Committee notes that this requirement is not mandated by federal rule or law but is a "rule of thumb" of the Federal Aviation Agency. Your Committee believes that safety considerations and other inherent advantages of Dillingham Field make a substantial case for designation of the Field, even though it may fall just beyond the 30-minute guideline.

Your Committee has made amendments which would reduce the appropriation for the Dillingham site. Because the Department must still make an assessment of what will be needed to upgrade the site for the needs of the general aviation community, your Committee believes that \$5 million for design and construction will be sufficient for the time being. Should additional funds be necessary, the Department may make a request after completing their assessments and plans.

Your Committee has also made other technical non-substantive amendments.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1360, as amended herein, and recommends that it pass Second Reading, in the form hereto attached

as S.B. No. 1360, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 143                      Transportation on S.B. No. 843

The purpose of this bill is to provide stronger penalties for those who have repeatedly refused to submit to a breath or blood test for intoxication.

According to testimony received by your Committee from the Hawaii Department of Transportation, the Department of the Prosecuting Attorney for the City and County of Honolulu, and Mothers Against Drunk Driving (M.A.D.D.), there is an inconsistency in our laws relating to driving under the influence of intoxicating liquor.

A person who consents to a breath or blood test and is found to be intoxicated will be charged under section 294-4, HRS, for driving under the influence (DUI). Under this section, repeat offenders face increasingly severe penalties including license suspension for a year or longer.

Those who refuse to take a breath or blood test, however, have their licenses revoked under Section 286-155, HRS, for a period of one year. Repeat offenders are not subject to harsher penalties beyond another year's suspension.

According to the Department of the Prosecuting Attorney, City and County of Honolulu, some repeat offenders are refusing to take the breath or blood tests knowing that the penalty will be less severe under section 286-155, and that they will also allow them to maintain a clear DUI record. In these cases, the Prosecuting Attorney has attempted to at least have the second one-year revocation served consecutively. However, they have not always been successful in convincing the courts to accept this alternative.

Your Committee believes that this situation must be remedied. As a result, the bill provides for a subsequent revocation of two to five years. This bill also provides that those penalized under the revocation section be required to see a substance abuse counselor for an assessment of alcoholic dependence. This is similar to provisions for those charged under Section 294, HRS.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 843 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Toguchi, Cobb, Machida and George.

SCRep. 144                      Transportation on S.B. No. 445

The purpose of this bill is to amend Section 291-4, Hawaii Revised Statutes, to require a mandatory one-day imprisonment for drunken driving for first-time offenders.

Your Committee heard testimony from the Department of Transportation, the Department of Social Services and Housing, and from several other groups and organizations on measures relating to mandatory incarceration for first-time offenders.

In reviewing this matter, your Committee is deeply concerned with the increase of those driving under the influence of intoxicating liquor. In reports published by the Honolulu Police Department, more than 4,324 people were arrested in 1984, a 59% increase over 1983. Additionally, the Hawaii Judiciary reports an increasing caseload for offenses related to driving under the influence. For fiscal year 1983-84, there was a 5,456 total caseload. Recently, two additional district courts have been established to handle cases related to drunken driving.

Your Committee believes that a mandatory one-day requirement of incarceration for first-time offenders would be an effective deterrent to drunken driving. Your Committee is cognizant of at least ten states which have a mandatory jail term of at least one day.

While there were other bills which included longer mandatory imprisonment term for first-time offenders, your Committee believes that it is the certainty of receiving the punishment, and not its length, that will deter a person from operating a vehicle while intoxicated. Accordingly, your Committee believes that this bill will be effective in reducing the incidence of drunken driving.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 445 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Toguchi, Chang and Cobb.

SCRep. 145

Transportation on S.B. No. 871

The purpose of this bill, as amended, is to require that no results from a blood test shall be used without the actual consent of the person who is unconscious or in any other state which renders him incapable of consenting to such a test. The bill further provides that the test results cannot be released to the police until the person is informed of the sanctions of section 286-155 and provided the opportunity to consent. A refusal to consent shall result in revocation of a driver's license for one year.

Your Committee heard testimony for the Department of Transportation and the Department of the Prosecuting Attorney's Office.

Your Committee understands the problems law enforcement have in obtaining a blood test to ascertain intoxication levels when the person is injured and taken to the hospital.

Your Committee, however, believes that the person suspected of being intoxicated should have the same choice offered to anyone who refuses to submit to a breath or blood test under section 286-155, HRS. Here, a refusal to submit to a blood test would result in a one-year revocation of a license.

As a result, the bill has been amended to require that a person who is unconscious at the time the blood is drawn shall have the right to consent to the use of the blood test or to submit to the sanctions in section 286-155.

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

Signed by all members of the Committee except Senators Cobb, B. Kobayashi and George.

SCRep. 146

Transportation on S.B. No. 1315

The purpose of this bill is to exempt a government service company, which is defined as one which operates and maintains a transportation system for the benefit of the public, from paying the four percent state excise tax on its salaries, wages, and fringe benefits.

Your Committee heard favorable testimony from the Department of Transportation Services, City and County of Honolulu. The Department testified that while Oahu's bus system is owned by the City and County of Honolulu, the system is managed by Mass Transit Lines, Incorporated (MTL), a private non-profit management company. The Department noted that MTL is currently being charged the excise tax on payments it receives from the city for salaries, wages, and fringe benefits. Thus, MTL now pays \$1.6 million in taxes to the State. Since the City must reimburse MTL for this amount, the final incidence of the tax falls upon the City.

Your Committee believes that since the service is an essential one offered by the county government, such a tax should not be imposed on payments received by a non-profit management company for payments on salaries, wages and fringe benefits.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1315 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 Toguchi, Chang and Cobb.

SCRep. 147

Health on S.B. No. 523

The purpose of this bill is to appropriate funds for the Hawaii Patient Enrichment, Inc.

Your Committee received testimony in support of the appropriation for the sum of \$38,922 for fiscal year 1985-1986 and the sum of \$84,510 for fiscal year 1986-1987 to Hawaii Patient Enrichment, Inc. for the provision of hospice services.

In light of the current economic climate, your Committee believes that public assistance to private social service organizations is warranted to continue to provide the necessary services to meet the needs of the community.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 523 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 148 (Majority) Health on S.B. No. 762

The purpose of this bill is to appropriate funds in order to provide additional alcohol, drug abuse, and mental health services.

In 1984, the legislature passed the Mental Health and Substance Abuse Act, mandating the Department of Health to foster and coordinate a comprehensive system of services to reduce the incidence of substance abuse and mental health and to treat and rehabilitate victims of such disorders.

Your Committee received testimony from the Department of Health stating that based on the Department's 1984 epidemiological survey of alcohol, drug abuse, and mental health needs, it is estimated that 209,000 individuals are in need of services. Your Committee finds that the appropriation of these funds will assist in the further implementation of the Mental Health and Substance Abuse Act to provide necessary services to these individuals and thereby meet the needs of our community.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 762 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. 149 Health on S.B. No. 810

The purpose of this bill is to statutorily provide for a statewide poison information service.

Since 1968, funds have been appropriated to the Poison Information Center operated by Kapiolani Women's and Children's Medical Center, for the provision of poison information services on a statewide basis.

Your Committee heard testimony by the Department of Health and the Hawaii Poison Center and finds that the continuation of poison information services is essential to the public health and safety. One of the major causes of emergency pediatric medical incidents is poisoning, and a centralized source of comprehensive first aid information for the general, professional, and paraprofessional public is needed to provide current and pertinent information on substance identification, diagnosis, and treatment.

However, upon further consideration, your Committee finds that a statutory mandate for a statewide poison information service may require the Department of Health to impose the higher standards of a Regional Poison Center which would increase costs and possibly impose greater liability. In addition, other acute care facilities may also wish to be providers of poison information services, which would entail contracting through public bid on an annual basis. Therefore, your Committee has amended the bill by deleting the Statewide Poison Information Service and adding to the Department of Health's Statewide Comprehensive Emergency Medical Services System the authority to implement public information and education programs relating to poison information services. Your Committee believes that this will serve the public purpose of the bill without placing unnecessary additional burdens on the present health service delivery system.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 810, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 810, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 150 Health on S.B. No. 1283

The purpose of this bill is to appropriate \$65,000 to the Kalihi-Palama Health Clinic for fiscal year 1985-1986, and an equal amount for fiscal year 1986-1987, to provide primary care services to immigrants, refugees, and others unable to afford medical care. The funds are to be expended by the Department of Health.

Your Committee received supporting testimony from the Department of Health and the Health Clinic and finds that the target group for the clinic's services have higher health risks than other local groups and that the clinic's multi-lingual capability and excellent ten year track record warrant the legislative support provided through this measure.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1283 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. 151

Health on S.B. No. 1189

The purpose of this bill is to appropriate funds to screen pregnant mothers and babies of carrier mothers for hepatitis B.

Vertical transmission of hepatitis B is a problem unique to several of the ethnic groups which make up Hawaii's population. Your Committee received supporting testimony from the Department of Health, the University of Hawaii School of Public Health, the Pacific Chapter of the March of Dimes, and the University of Hawaii Department of Tropical Medicine and Medical Microbiology, and finds that screening will not only provide the opportunity to detect hepatitis B and prevent its transmission but will also serve to educate families and promote individual health awareness.

Upon further consideration and at the recommendation of the Department of Health, your Committee has amended the bill to allow the Department of Health to adopt rules to provide screening, including reporting and follow-up procedures; and to administer medications for treatment of newborns of indigent and medically indigent hepatitis B carrier mothers. Your Committee has further amended the bill by inserting appropriations of \$187,285 and \$190,085 for fiscal years 1985-1986 and 1986-1987 respectively to carry out the purposes of this Act, and by providing for a repeal date of June 30, 1987.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1189, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1189, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 152

Health on S.B. No. 892

The purpose of this bill is to appropriate \$100,000 for fiscal year 1985-1986 to the Cancer Research Center of Hawaii for the purpose of studying cancer in the native Hawaiian population. The funds are to be expended by the Office of Hawaiian Affairs.

Your Committee received testimony from the Department of Health, the Cancer Research Center, Au Like, Inc., the American Cancer Society, the Hawaii Medical Association, and the Hawaiian Society of Naturopathic Physicians and finds that native Hawaiians have the highest incidence of cancer in the State. Therefore, any research which would illuminate the problem and indicate solutions or directions for future research is in the public interest.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 892 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. 153

Labor and Employment on S.B. No. 44

The purpose of this bill is to provide funding authorizations and appropriations for collective bargaining unit 8 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the Fiscal Biennium 1985-1987.

In accordance with section 89-10(b), Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing collective bargaining agreements representing state public officers and employees. Your Committee heard supporting testimony by the Chief Negotiator of the Office of Collective Bargaining and finds that this bill conforms to the legislative requirements of the law.

Your Committee has amended the bill by inserting the amount of one dollar to the funding authorizations and appropriations to indicate your Committee's approval of this measure.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 44, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 44, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 154

Labor and Employment on S.B. No. 426

The purpose of this bill is to expand the Public Employees Health Fund Board of Trustees' authority to contract for prescription drugs, vision treatment and care, and adult dental insurance through either a statewide indemnity plan, a statewide service benefit plan, health maintenance organization plans, or a combination thereof.

According to testimony presented by the Administrator of the Fund, each year the Public Employees Health Fund office receives numerous requests from employee-beneficiaries to add these kinds of benefits to the existing health benefit plans. However, the Board has been unable to consider these requests because the present law limits its authority.

Your Committee also heard supporting testimony from the Hawaii Government Employees Association and the Hawaii State Teachers Association, and finds that this bill will enable the Board to study benefit plan improvements, issue public bid specifications, and enter into benefit plan contracts subject to legislative approval. Such additional coverages will reach many public workers and their families and are therefore in the public interest.

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

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 426, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 426, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 155            Labor and Employment on S.B. No. 50

The purpose of this bill is to provide funding authorizations and appropriations for adjustments to the monthly contributions paid to the Hawaii Public Employees Health fund by the State and the counties on behalf of public officers and employees for the fiscal biennium 1985-1987.

In accordance with Chapter 89, Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing monthly contribution adjustments. Your Committee heard supporting testimony by the Chief Negotiator of the Office of Collective Bargaining and finds that this bill conforms to the legislative requirement of the law.

Your Committee has amended the bill by inserting the amount of one dollar to the funding authorizations and appropriations to indicate your Committee's approval of this measure.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 50, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 50, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 156            Labor and Employment on S.B. No. 431

The purpose of this bill is to allow beneficiaries of Employees' Retirement System members who had selected Option Two or Three to receive the stated percentage of the total benefit being received by the retirant at the time of death.

Under current law, when a retiree dies the beneficiary is entitled to the full retirement allowance as originally awarded under Option Two, or to one-half of the retirement allowance under Option Three, but the beneficiary is not entitled to cumulative post retirement allowance and bonus payments authorized during the retiree's lifetime.

Your Committee heard testimony by the Secretary of the Employees' Retirement System, the Coalition of Hawaii State-Counties Retirees' Association, and the Hawaii State Teachers' Association and finds that this measure is intended to remedy an apparent inequity in the law which denies beneficiaries of deceased retirees the benefit of post retirement and bonus payments which were originally intended to help retirees and their families keep up with rising consumer costs and inflation.

Your Committee acknowledges the reservations expressed by the Employees' Retirement System regarding the additional cost imposed by this measure but believes that it merits a closer examination in light of the potential benefits to many of Hawaii's people.

Your Committee has amended the bill by adding the word "and" between the words "retirement" and "bonus" on page 2, line 18 in order to indicate that post retirement and bonus payments are different benefits and to bring the language of the amendment into conformance with the proposed amendment to Option 3. Your Committee has further amended the bill by making technical changes which have no substantive effect.

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

No. 431, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 431, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 157      Labor and Employment on S.B. No. 108

The purpose of this bill is to make it unlawful for an employer to discharge or discipline an employee solely because of an order of assignment of the employee's wages to fulfill child support obligations.

Your Committee received supporting testimony from the Department of Social Services and Housing, the Department of the Corporation Counsel, City and County of Honolulu, and the Family Court, and finds that this bill would bring Hawaii's statutes into consonance with Public Law No. 98-378, thus satisfying federal requirements while at the same time providing legal recourse should an employee be so aggrieved.

Your Committee has amended the bill on page 1, line 10 by deleting the words "be subject to penalties" and substituting therefor the words "have committed the offense". The amendment is for the purpose of clarity and has no substantive effect.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 108, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 108, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 158      (Majority) Labor and Employment on S.B. No. 51

The purpose of this bill is to limit a public employee's state or county retirement credit while serving in the military service to two years and to exclude from state or county retirement credit members who enter military service voluntarily.

Currently, under Section 88-132, Hawaii Revised Statutes, a member of the Employees' Retirement System who leaves State or county employment to enter military service is given retirement credits for the period of military service. During this period the State or county employer is required to pay all contributions payable to the retirement system by the employer and member.

For members who enter the military service for set periods, the entitlement under Section 88-132 terminates ninety days after the period for which the member entered the military forces. However, if a member enters the military service for an indefinite period, the member would accumulate retirement credits for the entire period of service and the State or county employer would be responsible for all payments to the retirement system. Conceivably, a member, after brief service with the State or county, could enter the military service for the rest of his or her working career and upon termination of military service collect a retirement allowance from the retirement system calculated on the full period of time in the military service without having contributed to the retirement system except for the period spent as a State or county employee. This bill would prevent such an occurrence by limiting the entitlement under Section 88-132 to two years of military service and excluding members who voluntarily enter the military service.

Your Committee finds that this measure serves the public interest by extending benefits to members called upon to serve in the armed forces while preventing windfall benefits from accruing to members who voluntarily pursue a military career.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 51 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 Cobb did not concur.

SCRep. 159      Labor and Employment on S.B. No. 432

The purpose of this bill is to provide financial relief for state and county retirees to counter the continuing and steady erosion of the purchasing power of their pensions due to inflation and the present post-retirement benefit laws.

Your Committee received testimony from the Coalition of Hawaii State-Counties Retirees Association and the Secretary of the Employees' Retirement System and finds that section

88-11, Hawaii Revised Statutes, does not adequately provide for increases in post-retirement benefits.

This bill provides that effective July 1, 1985 and every subsequent July 1, thereafter, the pension payable on the preceding June 30th for each pensioner or retirant with ten or more years of credited service and who on July 1 had been retired a minimum of five years shall be increased by a special cost of living bonus which is equal to a percentage of the average dollar amount increase received by employees in active service for the immediate preceding fiscal year. The bill further states that the average dollar amount increase received by employees in active service shall be determined by taking the difference retrospectively between the average annual salary of employees in active service for the immediate preceding fiscal year versus the average annual salary for such employees for the next preceding fiscal year.

Your Committee has amended Section 1 of the bill by deleting the thirty per cent provision and leaving it blank. Your Committee believes that the concept of basing the increases in post-retirement benefits with actual increases in salaries of employees should be utilized and that the actual percentage should be reviewed and determined by the Committee on Ways and Means.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 432, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 432, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 160            Labor and Employment on S.B. No. 257

The purpose of this bill is to provide workers' compensation to volunteer deputy sheriffs who may be injured in the line of duty.

Currently, under workers' compensation law, a public board member, reserve police officer, volunteer firefighter, or volunteer deputy fish and game warden who is injured while performing services is entitled to medical rehabilitation, income, and indemnity benefits under workers' compensation law, and is deemed to have earned wages for benefit computation purposes.

Your Committee heard testimony in support of this bill from the Administrative Director of the Courts and the Department of Labor and Industrial Relations, and finds that volunteer deputy sheriffs are subject to injury in connection with their duties and should not have to secure their own insurance when they are providing valuable free services to the Judiciary. This bill would give them workers' compensation status comparable to the other volunteers as stated above, which your Committee finds to be equitable under the law and in the public interest.

Your Committee has amended the bill by deleting gender references and by making other technical changes which have no substantive effect.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 257, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 257, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 161            Labor and Employment on S.B. No. 37

The purpose of this bill is to provide funding authorizations and appropriations for collective bargaining unit 1 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the Fiscal Biennium 1985-1987.

In accordance with Section 89-10(b), Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing collective bargaining agreements representing state public officers and employees. Your Committee heard supporting testimony by the Chief Negotiator of the Office of Collective Bargaining and finds that this bill conforms to the legislative requirements of the law.

Your Committee has amended the bill by inserting the amount of one dollar to the funding authorizations and appropriations to indicate your Committee's approval of this measure.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 37, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 37, S.D. 1, and be referred to the Committee on Ways and Means.



Signed by all members of the Committee.

SCRep. 162      Labor and Employment on S.B. No. 77

The purpose of this bill is to abolish the Hawaii Employment Relations Board and transfer its functions to the Hawaii Public Employment Relations Board effective January 1, 1986. The latter would be renamed the Hawaii Labor Relations Board.

Your Committee heard testimony from the Department of Labor and Industrial Relations and finds that the Hawaii Employment Relations Board, at its regular meeting on August 24, 1984, recommended the transfer of its functions to the Hawaii Public Employment Relations Board because its low caseload did not warrant the continuation of a separate board. This measure, however, would not result in the lessening of the rights of workers to organize and bargain collectively. All of the present provisions of Chapter 377, Hawaii Revised Statutes, are being retained and the current administrative rules will remain in effect under the new board.

Your Committee finds that abolishing the Hawaii Employment Relations Board and merging its functions into the Hawaii Public Employment Relations Board is a logical progression that will provide effective services to those in private employment at less cost to government.

Your Committee has amended the bill by deleting gender references and by making other technical changes which have no substantive effect.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 77, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 77, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 163      Labor and Employment on S.B. No. 38

The purpose of this bill is to provide funding authorizations and appropriations for collective bargaining unit 2 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the Fiscal Biennium 1985-1987.

In accordance with Section 89-10(b), Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing collective bargaining agreements representing state public officers and employees. Your Committee heard supporting testimony by the Chief Negotiator of the Office of Collective Bargaining and finds that this bill conforms to the legislative requirements of the law.

Your Committee has amended the bill by inserting the amount of one dollar to the funding authorizations and appropriations to indicate your Committee's approval of this measure.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 38, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 38, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 164      Labor and Employment on S.B. No. 39

The purpose of this bill is to provide funding authorizations and appropriations for collective bargaining unit 3 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the Fiscal Biennium 1985-1987.

In accordance with Section 89-10(b), Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing collective bargaining agreements representing state public officers and employees. Your Committee heard supporting testimony by the Chief Negotiator of the Office of Collective Bargaining and finds that this bill conforms to the legislative requirements of the law.

Your Committee has amended the bill by inserting the amount of one dollar to the funding authorizations and appropriations to indicate your Committee's approval of this measure.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 39, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 39, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 165      Labor and Employment on S.B. No. 40

The purpose of this bill is to provide funding authorizations and appropriations for collective bargaining unit 4 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the Fiscal Biennium 1985-1987.

In accordance with Section 89-10(b), Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing collective bargaining agreements representing state public officers and employees. Your Committee heard supporting testimony by the Chief Negotiator of the Office of Collective Bargaining and finds that this bill conforms to the legislative requirements of the law.

Your Committee has amended the bill by inserting the amount of one dollar to the funding authorizations and appropriations to indicate your Committee's approval of this measure.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 40, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 40, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 166      Labor and Employment on S.B. No. 893

The purpose of this bill is to amend the definition of "firefighter" to include employees of the Department of Transportation who were assigned duties at State airports prior to June 3, 1978.

According to testimony presented by the Employees' Retirement System, before the Department of Transportation established state firefighters at the airports in the mid-1970s, certain employees of the Department were assigned firefighter's duties in addition to their regular assignments and were paid \$25 per month differential for this responsibility. This bill would grant those employees benefits similar to that currently enjoyed by police officers and firefighters and would allow them to use their years of firefighting service prior to June 3, 1978 as years of employment as firefighters for retirement purposes.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 893 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. 167      Labor and Employment on S.B. No. 41

The purpose of this bill is to provide funding authorizations and appropriations for collective bargaining unit 5 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the Fiscal Biennium 1985-1987.

In accordance with Section 89-10(b), Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing collective bargaining agreements representing state public officers and employees. Your Committee heard supporting testimony by the Chief Negotiator of the Office of Collective Bargaining and finds that this bill conforms to the legislative requirements of the law.

Your Committee has amended the bill by inserting the amount of one dollar to the funding authorizations and appropriations to indicate your Committee's approval of this measure.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 41, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 41, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 168      Labor and Employment on S.B. No. 42

The purpose of this bill is to provide funding authorizations and appropriations for collective bargaining unit 6 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the Fiscal Biennium 1985-1987.

In accordance with Section 89-10(b), Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing collective bargaining agreements representing state public officers and employees. Your Committee heard supporting testimony by the Chief Negotiator of the Office of Collective

Bargaining and finds that this bill conforms to the legislative requirements of the law.

Your Committee has amended the bill by inserting the amount of one dollar to the funding authorizations and appropriations to indicate your Committee's approval of this measure.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 42, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 42, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 169            Labor and Employment on S.B. No. 1170

The purpose of this bill is to give the Board of Trustees of the Employees' Retirement System the authority to establish the investment yield rate and other factors for actuarial valuations of the System beginning with the year ending June 30, 1985 and thereafter.

At the present time, the Board is constrained by the language of Section 88-122, Hawaii Revised Statutes, which specifies the basic funding objectives of long-term contribution rates by the employer as a level percentage of payroll.

Your Committee heard testimony by the Secretary of the Employees' Retirement System and the Hawaii State Teachers Association and finds that in all other states the assumptions to be used in determining valuation for employer's contributions are fixed by the Boards of Trustees. This bill would give Hawaii's Board the discretion to take into account the direct relationship between the interest rate and future salary increases which are influenced by general economic conditions and the Consumer Price Index.

Your Committee further finds that this bill would allow the Board in adopting the actuarial assumptions to take into account the actual experiences of the System. This will preclude the adoption of unrealistic assumptions. In addition, your Committee finds that this bill will assist the Board in its fiduciary responsibility to maintain an adequate funding level not only for its present members, but for future generations.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 1170 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. 170            Labor and Employment on S.B. No. 43

The purpose of this bill is to provide funding authorizations and appropriations for collective bargaining unit 7 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the Fiscal Biennium 1985-1987.

In accordance with section 89-10(b), Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing collective bargaining agreements representing state public officers and employees. Your Committee heard supporting testimony by the Chief Negotiator of the Office of Collective Bargaining and finds that this bill conforms to the legislative requirements of the law.

Your Committee has amended the bill by inserting the amount of one dollar to the funding authorizations and appropriations to indicate your Committee's approval of this measure.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 43, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 43, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 171            Labor and Employment on S.B. No. 47

The purpose of this bill is to provide funding authorizations and appropriations for collective bargaining unit 11 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the Fiscal Biennium 1985-1987.

In accordance with Section 89-10(b), Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing collective bargaining agreements representing state public officers and employees. Your Committee heard supporting testimony by the Chief Negotiator of the Office of Collective

Bargaining and finds that this bill conforms to the legislative requirements of the law.

Your Committee has amended the bill by inserting the amount of one dollar to the funding authorizations and appropriations to indicate your Committee's approval of this measure.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 47, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 47, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 172            Labor and Employment on S.B. No. 45

The purpose of this bill is to provide funding authorizations and appropriations for collective bargaining unit 9 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the Fiscal Biennium 1985-1987.

In accordance with section 89-10(b), Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing collective bargaining agreements representing state public officers and employees. Your Committee heard supporting testimony by the Chief Negotiator of the Office of Collective Bargaining and finds that this bill conforms to the legislative requirements of the law.

Your Committee has amended the bill by inserting the amount of one dollar to the funding authorizations and appropriations to indicate your Committee's approval of this measure.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 45, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 45, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 173            Labor and Employment on S.B. No. 48

The purpose of this bill is to provide funding authorizations and appropriations for collective bargaining unit 13 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the Fiscal Biennium 1985-1987.

In accordance with Section 89-10(b), Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing collective bargaining agreements representing state public officers and employees. Your Committee heard supporting testimony by the Chief Negotiator of the Office of Collective Bargaining and finds that this bill conforms to the legislative requirements of the law.

Your Committee has amended the bill by inserting the amount of one dollar to the funding authorizations and appropriations to indicate your Committee's approval of this measure.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 48, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 48, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 174            Labor and Employment on S.B. No. 49

The purpose of this bill is to provide funding authorizations and appropriations for state officers and employees excluded from collective bargaining, including the cost of salary adjustments for the fiscal biennium 1985-1987.

In accordance with Chapter 89C, Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing salary increases and other cost adjustments for state public officers and employees excluded from collective bargaining. Your Committee heard supporting testimony by the Chief Negotiator of the Office of Collective Bargaining and finds that this bill conforms to the legislative requirements of the law.

Your Committee has amended the bill by inserting the amount of one dollar to the funding authorizations and appropriations to indicate your Committee's approval of this measure.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 49, as amended herein, and recommends that it pass Second Reading in the form attached

hereto as S.B. No. 49, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 175            Labor and Employment on S.B. No. 680

The purpose of this bill is to convert temporary and permanent employees of the Maui Intake Service Center to permanent civil service status.

Your Committee received testimony from the Department of Social Services and Housing and, after reviewing the program's activities and needs, finds that the added job security protection afforded to permanent civil service workers is necessary to insure that the high quality level of services currently provided by the Maui Intake Service Center to various justice agencies will continue.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 680 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 176            Labor and Employment on S.B. No. 52

The purpose of this bill is to allow the Board of Trustees of the Employees' Retirement System to expand its investment capability.

Specifically, the bill (1) authorizes the Board to invest in real property with non-insurance companies; (2) incorporates into the statutes the definition of "securities" to permit the Board to invest in securities as defined in section 485-1, Hawaii Revised Statutes; and (3) authorizes the Board to invest in futures and options.

Your Committee heard supporting testimony from the Employees' Retirement System which stated that if the measures proposed in this bill had been in effect in 1984, the Board could have realized an additional return of approximately \$7,000,000 on its fixed-income portfolio. Such an increase in investment yield is clearly to the benefit of the system and its beneficiaries and is therefore in the public interest.

Your Committee has amended the bill by changing the amount that may be invested in real property from twenty per cent of the total book value of all investments in the system to ten per cent so as to minimize risk, and by making technical changes which have no substantive effect.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 52, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 52, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 177            Labor and Employment on S.B. No. 685

The purpose of this bill is to allow part-time employees who work less than 20 hours a week, but whose hours are equal to one-half of a full-time equivalent position to be served by an exclusive collective bargaining representative.

Your Committee heard testimony from the Hawaii State Teachers Association (HSTA) in support of the bill. The HSTA pointed out an anomaly in the present law that allows a Department of Education employee whose hours are equal to one-half of a full-time equivalent position to be excluded from representation by an exclusive bargaining representative, while other half-time equivalents in other departments have such representation.

Your Committee believes such inequities that exist in the law should be corrected.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 685 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. 178            Labor and Employment on S.B. No. 1374

The purpose of this bill is to allow the Employees' Retirement System to utilize a portion of

its investment earnings to cover administrative expenses.

Under current law, the system's administrative expenses are funded by general fund appropriations. In fiscal year 1984-1985, the administration's request amounted to \$1,362,733. The counties prorata shares will amount to \$366,906 resulting in a net general fund requirement of \$995,829.

Your Committee heard testimony by the Secretary of the Employees' Retirement System to the effect that the System's investment earnings amounted to \$206 million for fiscal year 1984-1985 and will continue to increase as its assets increase. At least twenty-six other states currently have statutory authority to use their investment earnings for administrative expenses, and at least one other state is considering a similar amendment.

Based on the testimony and information presented, your Committee finds that the amount by which the excess earnings credited to the employer's contributions will be reduced should this measure pass is outweighed by the savings to the general fund and that, therefore, this measure is in the public interest.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 1374 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. 179            Labor and Employment on S.B. No. 46

The purpose of this bill is to provide funding authorizations and appropriations for collective bargaining unit 10 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the Fiscal Biennium 1985-1987.

In accordance with section 89-10(b), Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing collective bargaining agreements representing state public officers and employees. Your Committee heard supporting testimony by the Chief Negotiator of the Office of Collective Bargaining and finds that this bill conforms to the legislative requirements of the law.

Your Committee has amended the bill by inserting the amount of one dollar to the funding authorizations and appropriations to indicate your Committee's approval of this measure.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 46, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 46, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 180            Labor and Employment on S.B. No. 381

The purpose of this bill is to set the salaries of the chairpersons of the Hawaii Public Employment Relations Board, the Labor and Industrial Relations Appeals Board, and the Public Utilities Commission at the current salary level of state department heads, effective July 1, 1985. It likewise proposes to set the salary level of the other members of those boards and commission at the current salary level of a first deputy to the head of a state department. Lastly, the bill proposes to set the salary of the State Librarian at the current level of state department heads, effective July 1, 1985.

Prior to 1982, the chairperson of those boards and commission were compensated at parity with circuit court judges by virtue of their judicial roles in administering various state statutes. Parity with circuit court judges also resulted in parity with state department heads because these chairpersons also served as administrative heads of their respective organizations and programs.

On the other hand, the salary level of the State Librarian is at the equivalent level of an assistant superintendent of education or a second deputy to the head of a state department. Organizational and functional relationships and responsibilities of the State Librarian have, however, changed significantly with the establishment of the office of the State Librarian under the direct control of the Board of Education. Previously, the Office of Library Services was subject to the direction and control of the superintendent of education and the deputy, and was accountable to the superintendent. In that previous organization, the State Librarian functioned at the same level as an assistant superintendent of education or second deputy.

Your Committee heard testimony by the Director of Personnel Services and the Public

Employees Management Association of Hawaii and finds that the responsibilities and complexities of the work of the chairpersons of the Hawaii Public Employment Relations Board, the Labor and Industrial Relations Appeals Board, and the Public Utilities Commission, warrants the compensation of these positions at the equivalent level of a state department head. Your Committee further finds that the adjustment of the salary level of other members of those boards and commission to the current salary level of the first deputy to the head of a State department is necessary to maintain proper internal alignment of salaries. Lastly, your Committee supports the proposed salary adjustment for the State Librarian by virtue of the significant changes in duties and responsibilities of the position.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 381 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. 181            Labor and Employment on S.B. No. 485

The purpose of this bill is to amend certain sections of chapters 76 and 77, Hawaii Revised Statutes, for housekeeping purposes.

Specifically, the bill does the following:

1) Amends section 77-4(a) by deleting an obsolete prohibition on "pricing" reviews of blue collar positions to reflect the current practice that permits all blue collar positions to be reviewed by the Public Employees Compensation Appeals Board.

2) Amends section 77-5 by clarifying that the blue collar supervisory and nonsupervisory wage board schedules are actually one, and deletes redundant material.

3) Amends section 76-35 by authorizing the director of personnel services to adopt rules governing transfers.

4) Amends section 77-10 to correspond to the change in section 76-35.

Your Committee heard testimony in favor of this bill from the director of the Conference of Civil Service Commissioners and Personnel Directors, and finds that the proposals reflected in this measure are housekeeping in nature and necessary to strengthen chapters 76 and 77.

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

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 485, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 485, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 182            Labor and Employment on S.B. No. 433

The purpose of this bill is to eliminate the requirement that the Employees' Retirement System return investment earnings in excess of seven per cent to the State and the counties.

Section 88-107, Hawaii Revised Statutes, provides that investment earnings in excess of the investment yield rate (set at seven per cent by Section 88-122(b)) shall be deductible from the amounts to be contributed by the State and counties to the Pension Accumulation Fund.

Your Committee heard testimony by the Secretary of the Employees' Retirement System and the Hawaii Teachers Association and finds that during the past six fiscal years, the investment earnings above the yield rate have amounted to approximately \$266.7 million. Reducing actuarially-determined employer contribution requirements by investment earnings above the investment yield rate results in greater instability in future employer contributions because the amount of investment earnings over seven per cent fluctuates from year to year. Consequently, this necessitates higher future contributions both in dollar amounts and as percentages of total payrolls. This measure would provide a measure of stability to the system and its investment capability and is, therefore, in the public interest.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 433 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. 183      Labor and Employment on S.B. No. 6

The purpose of this bill is to grant civil service status to the Researcher in the Office of Collective Bargaining.

Act 191, Sessions Laws of Hawaii 1977, gave civil service coverage to all employees of the Office of Collective Bargaining except the Chief Negotiator, the Chief's Deputy, and a researcher. The Researcher gathers and analyzes data to help decision-makers reach timely and appropriate decisions. This work supports not only the Chief Negotiator but also all other employer representatives including county governments.

Your Committee heard testimony strongly supporting this bill by the Chief Negotiator of the Office of Collective Bargaining, the personnel directors of the County of Hawaii, the County of Maui, the County of Kauai, the Director of Civil service of the City and County of Honolulu, and the Chairman of the Conference of Personnel Directors and the Administrative Director of the Courts, and finds that a permanent staff in the Office of Collective Bargaining is necessary to assure continuity in labor relations regardless of the political changes which may occur among the policy-making ranks. Providing civil service status to the Researcher through this measure will assure the continuity of staff support to an office whose program is statewide and essential to public employers in the field of labor relations.

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

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 6, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 6, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 184      Government Operations on S.B. No. 212

The purpose of this bill is to put various state boards, commissions, councils and committees under sunset review by the Legislative Auditor by adding a new chapter to the Hawaii Revised Statutes.

Testimony submitted by the Department of Commerce and Consumer Affairs indicated that all of the Department's professional and vocational licensing boards currently undergo a review process under Chapter 26H of the Hawaii Revised Statutes. The Department finds that it has had substantial experience with the review process, and although the process is not always desirable it has always been found useful.

Your Committee finds that the review process is a necessary one. Under this bill, boards, commissions, councils, and committees are subject to review by the Legislative Auditor and are given termination dates unless a bill is submitted to extend their terms.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 212 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Hee and George.

SCRep. 185      Government Operations on S.B. No. 1303

The purpose of this bill is to appropriate the sum of \$190,000 for the satellite city halls on Oahu to furnish appropriate State Government Services.

Testimony submitted by the City and County of Honolulu indicated that currently the satellite program provides for only a few State services which include:

1. child labor permit applications;
2. income tax forms;
3. income tax preparation under the Volunteer Income Tax Assistance (VITA) Program;
4. applications for Hawaii birth, death, marriage and divorce certificates;
5. public health and voter information;
6. voter registration;
7. State job applications and announcements;
8. collection of State fees for motor vehicle renewals which numbered 90,000 in fiscal year



- 1984 at the satellite offices; and  
9. the distribution of various State brochures.

Your Committee finds that the satellite city halls serve as an essential liaison between the City and County of Honolulu and the community. A successful and effective network has been established; however it is currently underutilized. Your Committee finds that there is great potential for increasing State services offered at the satellite city halls. Such an expansion of services would significantly add to the concept of the satellite city halls as one-stop information and service centers.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1303 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 Hee and George.

SCRep. 186                      Government Operations on S.B. No. 27

The purpose of this bill is to place the State Fire Council within the Department of Labor and Industrial Relations for administrative purposes and to appropriate an unspecified amount for the operation of the Council.

Testimony submitted by the Attorney General indicated that presently the State Fire Council is not allocated or assigned administratively to any of the State's principal executive departments.

Your Committee finds that there is some question as to whether the State Fire Council has been validly established in accordance with section 6 of article V of the Hawaii State Constitution, which requires that "[a]ll executive and administrative offices, departments and instrumentalities of the state government and their respective powers and duties shall be allocated by law among and within not more than twenty principal departments in such a manner as to group the same according to common purposes and related functions."

Your Committee concurs with the recommendation of the Attorney General's Office to amend section 132-16 of the Hawaii Revised Statutes to place the State Fire Council within an executive department thereby satisfying the requirements of section 6, article V of the Hawaii State Constitution.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 27 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 Hee and George.

SCRep. 187                      Energy on S.B. No. 150

The purpose of this bill is to extend the expiration date of the state tax credit for solar, wind energy devices, and heat pumps and to increase the credit should federal energy tax credits not be extended.

The current state tax credit is scheduled to lapse as of December 31, 1985, as are the federal credits. This bill proposes to extend the state tax credit to December 31, 1992 and to increase the state credit to fifteen per cent of the total cost of the device from the date the federal credit expires until December 31, 1992.

Hawaii presently depends upon imported oil for more than ninety per cent of its energy requirements, at a cost of over \$1 billion per year. Tax credits for alternate energy devices stimulate local industries and individual savings and provide other important public benefits such as increased economic development, income, and employment. Lack of support for the tax credit could seriously dampen a growing local industry and indicate to the public and the business community that the State lacks a true commitment to resolving our energy problems.

Your Committee received testimony from the Department of Planning and Economic Development, the Department of Taxation, the Estate of James Campbell, Natural Resources, Inc., Hawaiian Electric Co., GSI Solar Contracting, Inc., Inter-Island Solar Supply, the Hawaii Solar Energy Association, City Mill Company, and the Construction Industry Legislative Organization, and finds that the tax credits are essential to our economy and the energy independence of our State. The total amount of credits for solar and heat pump installation granted in 1983 amounted to \$8.7 million for installations totalling \$96.9 million. This has resulted in homeowner's saving money, in utilities using less fuel, and in local economic development. In addition, the present federal credit provides forty per cent for residential and

fifteen per cent for business installation. Their deletion would impact very negatively on the local economy and retard our progress towards energy self-sufficiency. Therefore, your Committee finds that this measure is in the public interest and strongly recommends its approval.

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

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 150, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 150, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 188            Government Operations on S.B. No. 442

The purpose of this bill is to add a new chapter to the Hawaii Revised Statutes to require the State and its political subdivisions to contract to the private sector for goods or temporary or intermittent activity services whenever it is cost-effective and does not concern public safety.

Your Committee finds that this measure will stimulate the growth of private enterprise and improve government efficiency.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 442 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 Hee and George.

SCRep. 189            Government Operations on S.B. No. 1300

The purpose of this bill is to appropriate from the general fund of the State of Hawaii the sum of \$2,026,728.74 to reimburse the City and County of Honolulu for advances made by it for the State's share of the cost of improvements assessed against public and exempt lands in the various improvement districts.

Testimony submitted by Council member Marilyn Bornhorst and the Department of Finance indicated that in section 70-111 of the Hawaii Revised Statutes the State shall reimburse the City for the property owner's share of improvement district costs for properties exempt from these charges by law.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1300 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 Hee and George.

SCRep. 190            Energy on S.B. No. 159

The purpose of this bill is to permit state agencies to enter into agreements with private parties for the installation of energy conserving or renewable energy production systems whereby the agency and the private party would share the energy cost savings.

Currently, state statutes do not provide for third-party financing. This bill would clearly authorize and encourage such energy and money saving arrangements under the leadership of the Department of Accounting and General Services as the approving agency.

Your Committee heard testimony by the Department of Planning and Economic Development, the Department of Accounting and General Services, and Pacific Resources Energy Systems, Inc. and finds that lack of capital has been a serious barrier for most state governments to accomplish economically beneficial energy projects. However, several other states such as California, Washington, and New Jersey have successfully demonstrated the effectiveness of third-party or shared-saving arrangements. Your Committee finds that under such a system, the State would bear no out-of-pocket costs for the implementation of energy and cost saving systems in its facilities and would thereby reduce operating costs.

Upon further consideration of the testimony, your Committee has amended the bill by:

- (1) Substituting the word "may" for the word "will" on page 1, line 12. The amendment has the effect of allowing, rather than mandating that the State assume title to the energy system at some point in time. This flexibility is desirable because (a) third-party leases

do not contain a buy-out option except at market value and the State may not wish to obligate itself to such a formula; and (b) the purchase of the energy system by the State may prevent implementation of more efficient technology that may be available at the conclusion of the financing agreement.

- (2) Substituting the word "review" for the word "monitor" on page 1, line 14, in order to clarify that the agency implementing the conservation measure, rather than the Department of Accounting and General Services, should be responsible for the day to day operation of the system.
- (3) Substituting the word "amount" for the word "percentage" on page 2, line 7. The amendment is intended to give state agencies greater flexibility in negotiating shared-savings plans.

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 159, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 159, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 191                      Energy on S.B. No. 319

The purpose of this bill is to make permanent the one-half per cent general excise tax rate on sales of generated electricity to public utility companies for resale to the public.

Act 103, Session Laws Hawaii 1981, provides that the gross proceeds from the sale of electric power to a public utility company shall be taxed at the rate assessed producers - one half of one percent - until December 31, 1985. Since the Act was passed, the sale of electricity by small energy producers to the utilities has risen from \$14 million per year to an estimated \$20 million in 1984. More than ninety per cent of this electricity was produced from indigenous renewable resources, including bagasse, geothermal, wind, solar, and hydro. A small amount of petroleum is needed to supplement these renewable sources depending on weather and supply factors.

Your Committee heard testimony from the Department of Planning and Economic Development, the Department of Taxation, Puna Geothermal Venture, Pacific Resources, Inc., and the Hawaii Sugar Planters' Association, and finds that it is essential for the State to continue reducing its dependence upon imported petroleum by developing indigenous energy resources. Favorable tax treatment is one way of encouraging new industries and is especially crucial to the energy industry because the federal energy tax credit is scheduled to terminate at the end of 1985, and plentiful oil supplies and lower oil prices, even though temporary, act as disincentives to alternate energy development.

Your Committee further finds that geothermal groups already enjoy in perpetuity the tax incentives proposed in this bill. Therefore, since there is ample precedent and need, your Committee believes that the perpetual incentive proposed in this bill should be authorized in order to help the fledgling alternate energy industry reach full development for the long-range benefit of Hawaii's economic security.

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 319 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. 192                      Energy on S.B. No. 723

The purpose of this bill is to authorize the issuance of general obligation bonds to complete the construction of the Puna Geothermal Research Facility and appropriate funds for operational support to the facility.

Presently the design of the facility has been completed and a contractor has been selected to build the facility.

This bill provides the sums of \$200,000 to finish construction and \$120,000 for general support of the facility.

Your Committee received testimonies from the Department of Planning and Economic Development, Hawaiian Electric Company, and the University of Hawaii in support of this bill.

Your Committee amended Section 3 of the bill to provide that the funding for general support would be for the fiscal biennium 1985-1987 rather than just the fiscal year 1985-1986.

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 723, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 723, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 193            Energy on S.B. No. 722

The purpose of this bill is to authorize the issuance of general obligation bonds and appropriate funds for a gasifier pilot plant.

Presently the State is completely dependent upon others for liquid fuel. This bill would provide funds for the production of liquid fuel to decrease Hawaii's dependence on suppliers of liquid fuel.

Your Committee received testimonies from the Department of Planning and Economic Development and the University of Hawaii in support of this bill.

Your Committee amended section 2 of the bill to increase the sum of obligation bonds from \$1 million to \$2 million; to provide that the funds may be used for a gasifier or biofuel plant; and to provide that no funds shall be made available unless matching funds are provided by the private sector or a government entity.

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 722, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 722, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 194            Tourism and Recreation on S.B. No. 535

The purpose of this bill is to appropriate general obligation bond funds for the acquisition of land for a park at Queen's Beach, East Oahu.

Your Committee heard testimony from the Department of Land and Natural Resources, City Councilmember Welcome Fawcett and the Sierra Club, Hawaii Chapter and finds that Queen's Beach offers a variety of recreational uses. This area adjoins the City's Sandy Beach and could be developed, managed, and maintained for similar recreational purposes. Your Committee finds that this area is the last relatively undisturbed portion of Oahu's eastern coast and preservation of this area is to the benefit of the people of the State.

Your Committee has left the amount to be appropriated for determination by the Committee on Ways and Means upon evaluation of the State's financial condition.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 535 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 McMurdo, Aki, Mizuguchi and Soares.

SCRep. 195            Tourism and Recreation on S.B. No. 1146

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$1,000,000, so much thereof as may be necessary for fiscal year 1985-1986, as a grant-in-aid to the county of Maui for plans and construction of a community swimming pool in Lahainaluna, Maui.

Your Committee notes that Lahainaluna, Maui refers to the entire Lahaina community.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1146 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. 196            Tourism and Recreation on S.B. No. 1191

The purpose of this bill is to appropriate funds out of the general revenues of the State of Hawaii to establish a full-time park ranger service within the Department of Land and Natural Resources (DLNR).

Testimony submitted by the DLNR pointed out that the 1978 Legislature, through enactment of Act 171 (now Chapter 199, Hawaii Revised Statutes), created and approved a centralized enforcement program for DLNR. DLNR testified that enforcement requirements would be better served by utilizing the existing Enforcement Division instead of establishing a separate park ranger program specifically for state parks.

DLNR further testified that by utilizing the centralized enforcement division, frequencies and intensities of security patrols and surveillance of heavily used park areas would be increased, and also other enforcement concerns of the Department, such as in the area of commercial and sport fisheries, wildlife forestry and conservation districts and other state lands would be enhanced to benefit the general public.

Your Committee believes that despite testimony by the DLNR, there is a need to establish a full-time park ranger service program.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1191 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 McMurdo, Aki, Mizuguchi and Soares.

SCRep. 197            Tourism and Recreation on S.B. No. 1259

The purpose of this bill is to promote fishing on the east coast of the island of Hawaii by providing a small boat harbor and off-site improvements to facilitate boat access to east coast fishing grounds.

Your Committee finds that there has been considerable growth in the commercial fishing industry on the island of Hawaii, and that the growth is expected to continue well into the foreseeable future.

Your Committee further finds that access to the ocean for boaters in east Hawaii is especially difficult due to trade wind exposure and the rugged coastline.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1259 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. 198            Labor and Employment on S.B. No. 589

The purpose of this bill is to provide exclusive representatives of certain bargaining units an extension to negotiate a model conversion plan for reduction of salary range steps and to repeal the existing prohibition of resort to any impasse procedure during such negotiations.

Your Committee heard testimony from the Hawaii Government Employees Association and United Public Workers, Local 646, AFSCME, AFL-CIO in favor of the extended authority to negotiate salary range step reductions proposed by the bill.

Since July 1, 1976, the collective bargaining law has prohibited the granting of step increases during any fiscal year when a negotiated pay increase takes effect. Currently, for bargaining units which have not negotiated a model conversion plan for reduction of salary range steps, there is a wide disparity in pay between the beginning rate and the maximum rate of pay within a salary range with many in-between steps. Certain employees who are performing the same work as other employees with substantially equivalent proficiency are being paid significantly less. Extending the time by which the exclusive bargaining representative may negotiate for reduction of salary range steps will make it possible to eliminate such inequitable treatment.

Your Committee has amended the bill by adding section "297-32 or 297-32.1" to page 1, line 16 and page 2, line 1, to include teachers and educational officers within the statute.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 589, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 589, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Yamasaki and A. Kobayashi.

SCRep. 199            Labor and Employment on S.B. No. 691

The purpose of this bill is to authorize the Board of Trustees of the Employees' Retirement System to invest in limited partnership interests in real estate which have been registered with the federal Securities and Exchange Commission.

Under current law, the System's capacity to invest in other securities under section 88-119(a), Hawaii Revised Statutes, is limited to ten per cent of the total book value of all the System's investments and does not include limited partnerships in real estate.

After reviewing testimony presented by the Employees' Retirement System and Lily Okamoto, your Committee finds that this bill would allow the System to substantially increase its investment income and, conversely, to reduce taxpayer funded appropriations to the System in the future. The provision regarding registration of the limited partnership with the Securities and Exchange Commission would assure that all information in the prospectus is complete and proper and that investment decisions would be made on the basis of complete disclosure of all pertinent information.

Your Committee further wishes to point out that S.B. No. 52, an administration bill, similarly expands the System's investment potential. However, this bill specifically designates real estate investments and for that reason your Committee deems it appropriate to pass on this measure for further consideration.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 691 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. 200      Labor and Employment on S.B. No. 873

The purpose of this bill is to eliminate the statutory requirement that department heads, first assistants and first deputies, and second assistants and second deputies in state or county service must be residents of the State for one year at the time of appointment, or that other appointive officers and employees must be residents at the time they are appointed.

Your Committee received testimony from the Director of Personnel Services and the Department of Civil Service, City and County of Honolulu, and finds that the Hawaii Supreme Court has ruled that county charter provisions relating to qualifications of department heads are superior to state statute, and that there is currently no residency requirement in the City Charter of Honolulu. Your Committee further finds that there is no one year residency requirements for other appointive officers in the law and that there are no current statutory prohibitions against employing a non-resident when a qualified resident cannot be found.

The fact that department heads and first and second assistants and deputies do not enjoy the above residency exemptions indicate that there is substantial inconsistency, both in the law and in practice, regarding the eligibility requirements of appointed personnel throughout the State and county service, and also indicates a possible unintentional limitation on the constitutional right to travel. Therefore, your Committee finds that this measure is necessary to correct jurisdictional discrepancies and practices and to make the qualifications of civil service and appointed employees consistent throughout the civil service.

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

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 873, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 873, S.D. 1, and be referred to the Committee on Government Operations.

Signed by all members of the Committee except Senators Cobb, Yamasaki and Henderson.

SCRep. 201      Health on S.B. No. 678

The purpose of this bill is to appropriate \$77,288 for the fiscal biennium 1985-1987 to the Case Management Coordination Project for the Elderly on Maui for the provision of intensive individualized services to elderly individuals living at home who are unable to perform the daily living activities necessary for independent living. The funds are to be expended by the Department of Health.

Your Committee received supporting testimony from the Department of Health and finds that the Project's clients for the most part represent the gap group of individuals unable to afford conventional care. Therefore, the Project's philosophy, to keep clients functioning independently within the community for as long as possible in order to prevent premature or

unnecessary institutionalization, is consistent with the declared legislative intent relating to health care and is in the public interest.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 678 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 Kawasaki and Matsuura.

SCRep. 202      Health on S.B. No. 862

The purpose of this bill is to appropriate funds for the improvement of community-based services for the prevention and treatment of sexual assault.

The Sex Abuse Treatment Center, located at the Kapiolani Women's and Children's Medical Center serves the needs of sexual assault victims as well as focusing on prevention. Your Committee finds that since its inception in 1976, the crisis intervention caseload has nearly doubled. The need to identify, refer and counsel victims and offenders are paramount to resolving and eliminating this ever increasing menace.

Your Committee received testimony from the Department of Health, Honolulu Police Department, Prosecuting Attorney's Office, mental health organizations, Kapiolani Children's Medical Center, Hawaii State Commission on the Status of Women, and numerous victims and family members who have utilized the services of the Sex Abuse Treatment Center in support of the additional funding for the center.

The appropriation of these funds will assist the center and other similar facilities in continuing to provide its clients the necessary treatment, counseling, advice, ideas and discussion, emotional support and medical as well as legal support to pull through their traumatic experience.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 862 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 Kawasaki and Matsuura.

SCRep. 203      Agriculture on S.B. No. 516

The purpose of this bill is to appropriate funds for fiscal year 1985-1986 for the promotion of beef and other agricultural commodities not presently covered under legislative funding, the sum appropriated to be expended by the Department of Agriculture.

Your Committee finds that the market supply of beef and veal in Hawaii increased from 92.8 million pounds in 1979 to 99.8 million pounds in 1983. Hawaii's share of the market supply over this period averages 29.5 million pounds; foreign imports average 20 million pounds; and Mainland imports average 50.5 million pounds. Although the market supply has steadily increased over this period, our production has remained fairly constant and the increased amount in the market has been supplied primarily by Mainland producers.

Your Committee received favorable testimony from the Board of Agriculture that any promotional effort for beef should be geared to capture a larger share of the market supply. Your Committee concurs with the intent of the bill and has made amendments to include another viable agricultural product.

Your Committee has amended the bill to be appropriating \$150,000 for fiscal year 1985-1986 and \$150,000 for fiscal year 1986-1987 for the promotion of beef and papaya.

Your Committee has further amended the bill to provide that of the \$150,000 appropriated for each fiscal year, the sum of \$100,000, or so much thereof as may be necessary and will be used for the promotion of papaya and the sum of \$50,000, or so much thereof as may be necessary will be used for the promotion of locally produced beef; provided that no funds shall be made available under this Act unless matched dollar-for-dollar by the respective industries.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 516, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 516, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Hee, Toguchi and Soares.

SCRep. 204      Agriculture on S.B. No. 1212

The purpose of this bill is to provide the Department of Agriculture the authority to plan,

develop, and manage agricultural parks on public lands set aside by the Governor for use as agricultural parks, including any private property acquired for an agricultural park.

This bill also provides for the Department of Land and Natural Resources to continue to handle the actual disposition of the agricultural park leases, with the Department of Agriculture subsequently administering the leases. Public lands in use on June 30, 1985 as agricultural parks are to be set aside to the Department of Agriculture by executive order and all revenues accruing after such date are to be deposited into an agricultural park revolving fund established by this bill.

Your Committee received testimony from the Department of Land and Natural Resources, who had some concerns with some of the provisions of the bill. The Department testified that the Division of Water and Land Development within the Department of Land and Natural Resources has the engineering capabilities to handle development projects for agricultural parks, while the Department of Agriculture is not presently staffed to do this.

In addition, the revolving fund which the bill sets up would receive the revenues from all agricultural park leases, regardless of whether these leases (or subleases, if the agricultural park is situated on private land leased to the State) cover State or private lands. This includes existing agricultural parks located on State lands which are located on ceded lands, with twenty percent of the revenues accruing to the Office of Hawaiian Affairs. Lastly, the bill does not specify which department is to handle the billing and collection of rents.

Although your Committee is aware of the concerns expressed by the Department of Land and Natural Resources concerning the engineering capabilities of the Department of Agriculture, the problems concerning the receipt of revenues from agricultural park leases, and billing and collection of rents, your Committee finds that placing the management of agricultural parks under the Department of Agriculture is more conducive to the role and function of the Department and thus serves to benefit the State.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No 1212 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 Hee, Toguchi and Soares.

SCRep. 205            Agriculture on S.B. No. 83

The purpose of this bill is to add a new section to Chapter 171, Hawaii Revised Statutes, providing for the establishment of an agricultural park revolving fund within the Department of Land and Natural Resources.

Your Committee received favorable testimony from the Department of Land and Natural Resources stating that section 171-112, Hawaii Revised Statutes, authorizes the Board of Land and Natural Resources to lease private property for disposition for agricultural purposes. Where privately owned lands are leased by the State for subsequent subleasing to farmers, the revolving fund would enable rentals received from the farmers to be deposited into the said account. The Department would in turn make payments to the private landowner out of its revolving fund account.

The Department further testified that in the absence of such a revolving fund, the Department must rely solely on the Legislative appropriations for required funds to pay the private landowner, while the receipts from subleases would be deposited in the State general fund.

Your Committee concurs with the intent and purpose of this bill, and is amending it to include language to clarify the purpose of this bill. Your Committee further amends this bill to appropriate funds to be paid into the agricultural parks revolving fund.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 83, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 83, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Hee, Toguchi and Soares.

SCRep. 206            Tourism and Recreation on S.B. No. 1192

The purpose of this bill is to establish a Hawaii Convention Center Authority which shall operate a publicly owned convention center.

Testimony submitted by the Hawaii Hotel Association, Waikiki Beach Operators Association, Hyatt Regency Waikiki, and the Department of Planning and Economic Development (DPED)



stated that a facility capable of housing large-scale functions will significantly enhance the attractiveness of Hawaii as a destination for large groups which the State is presently unable to accommodate.

Your Committee finds that the visitor industry is the most important industry in Hawaii, generating the greatest amount of revenue for the State's economy. Your Committee further finds that the establishment of a convention center which offers quality facilities for conventions near the major Waikiki hotels and an authority to operate and seek bookings for the convention center will bolster the visitor industry.

Your Committee has amended the bill by indicating the appropriated amount and by including the Director of DPED and the President of the Hawaii Visitors Bureau as ex-officio members of the board of directors of the convention center authority.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1192, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1192, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Chang.

SCRep. 207            Tourism and Recreation on S.B. No. 1107

The purpose of this bill is to appropriate funds out of the general revenues of the State of Hawaii the sum of \$150,000, or so much thereof as may necessary for each fiscal year of the 1985-1987 biennium, for a program to promote the Aloha Week Festival.

Your Committee has amended the bill by including a proviso and by making clarifying language changes which have no substantive effect.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1107, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1107, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 208            Education on S.B. No. 1104

The purpose of this bill is to enhance state laws which provide before- and after-school programs at public schools or park facilities.

Although current law provides for before- and after-school programs at public schools, your Committee finds that the growing need for programs to supervise children before and after school warrants a revision of appropriate laws.

It is a fact of life in modern Hawaii that working parents often are unable to provide attention and supervision for younger children just before and just after regular school hours. Your Committee finds that expanded authority and flexibility are needed in establishing morning and afternoon programs that may be supported by reasonable user fees.

This bill will aid in preventing problems that befall "latch-key children" by reducing chances for child neglect and abuse.

Your Committee has amended the bill by requiring before- and after-school programs to be licensed under section 346-21.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1104, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1104, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 209            Education on S.B. No. 32

The purpose of this bill is to allow the Governor to fill vacancies on the Board of Education in cases where the term of the vacant position expires at the next general election.

The present law provides that in the event the term of the vacant position does not expire at the next general election, the position shall be filled by election or appointment. However, there is no similar provision in the law to fill those vacancies the term of which expires at the next general election. Consequently, a vacancy occurring early in the third year of a member's term remains vacant for almost two years.

This bill will insure that all vacancies on the Board of Education shall be filled on a timely basis.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 32 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 210            Education on S.B. No. 467

The purpose of this bill is to require the Board of Education to adopt rules which would expand the types of criminal activities in public schools which must be reported by students, school officers, or school employees to the appropriate authorities. It also gives immunity rather than indemnity to school officials making these reports.

Currently under chapter 19 of the Department of Education's rules regarding student misconduct, discipline, and reporting offenses, indemnity is provided to persons who report incidences of terroristic threatening, assault, and extortion.

In addition to these offenses, this bill would expand the types of criminal activities which must be reported to include involvement with dangerous weapons, intoxicating compounds, marijuana or marijuana concentrate, criminal property damage, robbery, sexual offense, burglary, disorderly conduct, gambling, harassment, and theft.

Your Committee finds that this bill promotes the early detection and rehabilitation of juveniles involved in criminal activities. This reporting system not only insures a safe and secure learning environment for students but also protects our school officials from civil or criminal liability when making reports in good faith.

Your Committee has amended the bill by:

- (1) Changing the title of section 296-71 from "Reporting of violent and drug-related incidents" to "Reporting of violent and crime-related incidents", which better describes the contents of the section;
- (2) Changing references to persons making a report to "school officials" to provide consistency in sections 296-71 and 296-72;
- (3) Adding activities involving firearms and dangerous drugs to the list of reportable criminal activities; and
- (4) Deleting section references to the penal code for criminal activities enumerated on page 2. This deletion would insure that the criminal activities enumerated would not be affected by any subsequent changes to the penal code.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 467, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 467, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 211            Labor and Employment on S.B. No. 85

The purpose of this bill is to grant civil service status to the ten employees occupying positions in the Department of Land and Natural Resources' Aquaculture Development Program. The positions authorized, established and funded pursuant to Act 12, Special Session Laws of Hawaii 1977 are as follows: Manager, Secretary II, Clerk-Typist II, Disease Specialist, Aquaculture Specialist, Information Specialist IV, Information Specialist III, Economist/Analyst, Microbiologist III, and Laboratory Assistant II.

The Aquaculture Development Program staff have been exempt, temporary employees since 1977. The State has consistently awarded civil service status to exempt employees when a new division, through time, performs as an integral part of a department. Employees of the Aquaculture Development Program Office perform the following integral and on-going functions of the Department of Land and Natural Resources: formulation, implementation, and interpretation of aquaculture development plans; provision of industry development and support services; and formulation and funding of research, development, and demonstration projects. The Office also serves as a liaison with other public agencies, private organizations, and international organizations interested in commercial aquaculture activities in Hawaii.

Your Committee received testimony from the Department of Land and Natural Resources

and the Hawaii Government Employees Association and finds that civil service status would provide tenure, just opportunity for promotion, and reasonable job security for the employees in question. Civil service status would also ensure a more stable work force and add continuity to the program.

Your Committee, upon recommendation of the HGEA, has amended the bill to also grant civil service status to four employees occupying exempt positions in the Historic Preservation Program of the Department of Land and Natural Resources. This program was established by Act 104, Session Laws Hawaii 1976 and, like the Aquaculture Program, has proven its worth over the years. The four positions are Historical Sites Director, Historical Sites Specialist II, Historical Sites Specialist II, and Archeologist.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 85, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 85, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 212            Labor and Employment on S.B. No. 427

The purpose of this bill is to establish a pilot job-sharing program in the Department of Health.

Basically this bill establishes a three year pilot job-sharing project within the Department of Health which is similar to programs under the Department of Education. The bill provides for a voluntary equal division of a full-time permanent position between two employees and limits the program to 100 full-time positions. The bill specifies various requirements for the implementation, monitoring, and evaluation of the program.

Your Committee heard testimony from the Department of Personnel Services, the Commission on the Status of Women and the Department of Health and finds that such a pilot program will generate basic data on the viability of the concept among a work force subject to work conditions vastly different from the pilot programs in the Department of Education.

Your Committee believes that job-sharing programs increase productivity and the quality of work, improve morale, reduce absenteeism and turn-overs, and allow participants the flexibility to achieve other personal goals.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 427 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. 213            Labor and Employment on S.B. No. 428

The purpose of this bill is to provide that a state or county employee may retire after attaining thirty years of credited service.

Currently, the law provides that any state or county employee may retire after at least ten years of credited service if he attained age fifty-five or has at least twenty-five years of credited service. However, if the employee has not attained age fifty-five, his retirement allowance is computed as though he had attained age fifty-five and reduced in accordance with factors of actuarial equivalence.

Your Committee heard testimony from the Hawaii State Teacher's Association and the Hawaii Government Employees Association and finds that early retirement without penalty is advantageous to providing more employment opportunities for the young and would be in the public interest. Your Committee further finds that it would be advantageous to provide an employee with retirement after thirty years of service at any age without any reduction in retirement benefits.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 428 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. 214            Labor and Employment on S.B. No. 429

The purpose of this bill is to provide the surviving spouse of a state or county employee the option to choose to receive the same monthly retirement allowance the deceased employee would have received had he retired under Option 2 provided under Section 88-83.

Currently, the surviving spouse of a state or county employee eligible for service retirement at the time of death may elect for a pension for life under the provisions of Option 3 of Section 88-83 or a cash settlement consisting of the employee's contribution to the retirement system plus up to one year's salary. Testimony submitted by the Hawaii Government Employees Association, and the Secretary of the State Employers' Retirement System indicate that in the majority of cases the surviving spouse elects the cash settlement as opposed to receiving a monthly amount for a pension for life under Option 3. An Option 3 pension is a monthly payment for life which is equivalent to one-half of the monthly benefit which the deceased would have received had he retired.

Your Committee finds that providing Option 2 as an alternative to the surviving spouse would provide a more viable alternative to cash settlement.

Your Committee has amended the bill by making stylistic and technical changes which have no substantive effect and by adding language already in existing statute.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 429, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 429, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 215      Labor and Employment on S.B. No. 765

The purpose of this bill is to permit members of the Employees' Retirement System to recover their attorney's fees when the member prevails on appeal.

Currently the law is silent on the issue of attorney's fees for contested Employees Retirement System decisions. However, in Workers' Compensation law, if an employer appeals the decision of the Director of Labor and Industrial Relations or the Appellate board, the costs of the proceedings together with reasonable attorney's fees are assessed against the employer if the employer loses.

Your Committee received testimony from the Employees' Retirement System and the Hawaii Government Employees Association and finds that most employee-appellants require legal representation in appeal proceedings and that it is equitable that they be accorded reimbursement similar to workers' compensation appellants.

Your Committee has amended the bill by deleting all references to the Medical Review Board, which was abolished by Act 165, Session Laws of Hawaii 1982. Appeal cases are now heard by a hearings officer to comply with a Supreme Court Decision.

Your Committee has further amended the bill by adding an appropriation of \$50,000 to accomplish the purposes of the Act.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 765, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 765, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 216      Labor and Employment on S.B. No. 774

The purpose of this bill is to allow employees who are employed in shortage category positions to be compensated for over-time work, stand-by duty and temporary hazard duty at a pay rate based on the sum of the employee's basic rate of pay plus the shortage differential.

Your Committee heard testimony from the Department of Personnel Services, and the County of Honolulu's Department of Civil Service. It was suggested that an amendment to the bill was necessary to clarify and effectuate the purpose of the bill. It was stated that the phrase "rates under which they were recruited" on page 1, line 15 of the bill be replaced by the phrase "base pay of the employees". The present language would not take into account any pay adjustments the employees may have gained through promotions, negotiated pay increases, or other pay adjustments affecting their base pay.

Your Committee agrees with the suggested amendment and has changed the bill accordingly.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 774, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 774, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 217      Labor and Employment on S.B. No. 1172

The purpose of this bill is to appropriate \$13,000 for fiscal year 1985-1986 for the development of a comprehensive State employment plan. The funds are to be expended by the Department of Labor and Industrial Relations.

Your Committee heard supporting testimony by the Department of Labor and Industrial Relations, the Commission on Manpower and Full Employment, and the Hawaii State AFL-CIO, and finds that previous conferencing efforts in the area of employment should be encouraged and that this bill will facilitate communication among all aspects of the community trying to establish concrete objectives, policies, and priorities relating to a comprehensive State employment plan or even a State functional employment plan, if appropriate.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 1172 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. 218      Labor and Employment on S.B. No. 1173

The purpose of this bill is to restore any unused sick leave an employee of the State or counties had accumulated at the time of termination upon the employee's return to service within five years of termination.

Your Committee received favorable testimony from the Hawaii Government Employees Association and finds that the Department of Education has by administrative rule already adopted such a provision. Your Committee has also found that the present State personnel rules only allow an employee seven days to return to service and that this bill would correct this present inequity.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 1173 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 219      Labor and Employment on S.B. No. 1487

The purpose of this bill is to require Hawaii's public employers to pay one-half of the HMSA Self Only or Family regular plan premiums for employees who retired after June 30, 1984 with more than five but less than ten years of creditable service, excluding sick leave.

Act 254, Session Laws of Hawaii 1984, which becomes effective on July 1, 1985, eliminates Act 252's new contribution requirements. Act 252 effective July 1, 1984, established a new contribution requirement for "short-term retirees". Act 254 includes the public employer's contributions to the Health Fund's employee benefit plan as negotiable items under Chapter 89. Act 254 did not incorporate any public employer medical insurance contributions for short-term retirees because it was passed simultaneously with Act 252 last year.

Your Committee heard testimony by the Administrator of the Hawaii Public Employees Health Fund and finds that at least fifty public employees retire in the short-term category each year and that without this bill, thirty-eight current short-term retirees and all future short-timers will be required to pay one hundred percent of the monthly medical insurance premium cost.

Your Committee further finds that sufficient funds have been budgeted for State retirees in the BUF 101 program and that a special appropriation would not be required to fund short-term benefits should this measure be enacted. Therefore, your Committee has amended the bill by deleting the appropriation in Section 2. Your Committee has further amended the bill by making technical changes which have no substantive effect.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 1487, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1487, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 220 Consumer Protection and Commerce on S.B. No. 206

The purpose of this bill is to authorize the Director of Finance to issue general obligation bonds to provide a loan to the Thrift Guaranty Corporation of Hawaii to ensure thrift account depositors of industrial loan companies adjudicated a bankrupt or who were in receivership prior to July 1, 1984, a repayment of thrift account funds up to a maximum of \$10,000.

Your Committee heard a proposal by the existing industrial loan companies which would immediately provide depositors approximately 79.9 per cent of their funds up to a guaranteed \$10,000 limit. The proposal would require the existing industrial loan companies to loan \$22.0 million to the Corporation. The loan would be repaid by liquidating the assets of the two companies that have become insolvent. In addition, the existing industrial loan companies would be excused from paying further assessments to the Corporation. The State would subordinate its \$27.0 million in loans to Thrift Guaranty to the industrial loan companies that make the loan to Thrift Guaranty.

Your Committee believes that while the proposal presented by the industry is an alternative worthy of consideration, it falls short of providing the depositors their just entitlements of repayment of account funds up to a maximum of \$10,000. Your Committee believes that the State has a moral obligation to ensure payments up to \$10,000 because it allowed the Thrift Guaranty Corporation to lead people to believe their funds were safe and insured up to the \$10,000 amount. Accordingly, your Committee recommends that \$9.0 million be provided to supplement the industry's proposal which, together, will hopefully effectuate a 100% return to depositors of moneys up to a maximum of \$10,000, as guaranteed.

Your Committee has amended Section 2 of the bill by providing a sum of \$9.0 million of bond authorizations to be used by the Thrift Guaranty Corporation to make payments of up to \$10,000 to affected thrift account holders. Your Committee, however, believes that the amount, source, and financing mechanism for implementing this repayment plan for aggrieved depositors should be reviewed and considered by the Committee on Ways and Means.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 206, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 206, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki and Henderson.

SCRep. 221 Consumer Protection and Commerce on S.B. No. 553

The purpose of this bill was to allow defendants in a medical tort action to introduce evidence of collateral sources of compensation that may be paid to plaintiffs, provided that such evidence shall not be used for recovery against the plaintiff by third parties nor shall third parties be subrogated to the rights of the plaintiff against the defendant.

Your Committee heard testimony from the Hawaii Medical Association in favor of this bill. The Association noted that the bill effectively removes the "collateral source rule" from medical malpractice cases. The "collateral source rule" precludes introduction of evidence on benefit amounts received by plaintiff from sources such as health insurance plans, social security, workers compensation, sick leave benefits, and other such sources, which may apply to the medical tort damage of the plaintiff. As a result jury awards for damages may significantly overlap benefits received from collateral sources. The Association also noted that nineteen states have changed the "collateral source rule" in an effort to reduce this potential double recovery.

Your Committee also heard favorable testimony from the Hawaii Federation of Physicians and Dentists.

The Hawaii Medical Service Association (HMSA) testified against subsection (b) of the statute proposed under this bill. HMSA excludes coverage of an injury or illness caused by a "third party" or where the injured person is entitled to recovery. However, as a service to members, HMSA advances moneys for medical expenses until settlement is reached between the member and the third party involved. In a medical tort situation, the member must, by contract, reimburse payments advanced by HMSA. HMSA stated that subsection (b) would void this contractual recovery mechanism, and effect an increase in premiums charged by HMSA. Any premium increase is borne by employers and employees, and the party responsible, the tortfeasor, could possibly evade his financial obligation altogether.

Your Committee agrees with the concerns expressed by the Hawaii Medical Services

Association and has amended the bill by deleting subsection (b).

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 553, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 553, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 222      Consumer Protection and Commerce on S.B. No. 663

The purpose of this bill was to modify, update, and clarify the Design Professional Conciliation Panel statutes; to require a claimant to certify that a design professional acknowledges that a legitimate negligence claim exists; to adopt permissive language regarding admission into evidence in a court adjudication of any panel results or determinations; and to provide that landscape architects are subject to Chapter 672, Hawaii Revised Statutes.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs in support of the bill. The Department noted that the modifications and clarifications of the statutes were departmental recommendations contained in the annual report submitted to this Legislature. The Department pointed out that serious consideration should be given to the provision in the bill requiring an independent design professional's opinion as to the professional negligence of the defendant's acts which is the cause of action. The Department mentioned that California uses this requirement to preclude the filing of frivolous suits.

The Department noted that the provision in section 7 of the bill which permits panel results to be admitted into evidence is within the discretion of the presiding judge, but a statutory provision allowing use of such results would serve to make all parties treat the process more seriously.

Your Committee also heard testimony on S.B. No. 358 which requires that a bond be posted by a claimant to cover all costs, fees, and attorney fees of the defendant should the claimant lose the conciliation panel decision and instigate litigation in the judicial arena; provided that the court has discretion to reduce or eliminate any costs or fees for claims that have substantial merit.

Your Committee heard many favorable testimonies in support of S.B. No. 358 and S.B. No. 663 from design professional practitioners.

Your Committee has amended the bill by incorporating the provisions of S.B. No. 358 described above into section 7 of this bill which amends section 672-8, Hawaii Revised Statutes.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 663, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 663, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 223      Consumer Protection and Commerce on S.B. No. 726

The purpose of this bill is to establish a Board of Physical Therapy within the Department of Commerce and Consumer Affairs and to transfer the licensure function of physical therapists from the Department of Health to this Board of Physical Therapy.

This bill creates a new chapter which establishes a Board of Physical Therapy and provides for the following:

- (1) Definitions of pertinent terms required to effectuate the purpose of the chapter;
- (2) Qualifications for the practice of physical therapy;
- (3) Exemptions for specific categories of professions and persons;
- (4) Establishment, membership and appointments for the Board;
- (5) Provisions concerning regular meetings of the Board;
- (6) Licensure functions;

- (7) Reciprocity procedures with other states;
- (8) Grandfathering of existing licensed practitioners;
- (9) Requirements for a temporary license;
- (10) Fees, renewal of fees and effect of failure to renew licenses;
- (11) Revocation, suspension and probation provisions; and
- (12) Penalties for violation of the chapter.

The bill also deletes physical therapists from the provisions of section 321-13, Hawaii Revised Statutes, thus, eliminating the Department of Health licensure control over physical therapists.

Your Committee heard testimony from the American Physical Therapy Association, Hawaii Chapter and many individual registered physical therapists in support of this bill. The Association testified that physical therapists perform procedures on human bodies using various physical agents of heat, cold, light, sound and special equipment, as well as techniques of assistance and resistance which have the potential for abuse and physical harm when incorrectly or carelessly applied. For this reason, close monitoring and regulation of persons who indulge in physical therapy is required and a Board of Physical Therapy is a necessity.

Your Committee also received testimony from the Department of Commerce and Consumer Affairs stating that it had no objection to the establishment of a Board of Physical Therapy.

Your Committee notes that Section 26H-6, Hawaii Revised Statutes, which requires an analysis of the probable effects of a regulatory measure and an assessment as to whether it meets the policy requirements of Section 26H-2, Hawaii Revised Statutes, has been determined inapplicable to this measure. An Attorney General's review of this matter confirms the Legislative Auditor's opinion that since physical therapists are currently licensed by the Department of Health in order to practice their profession, the physical therapists are regulated. Thus, since Section 26H-6, Hawaii Revised Statutes, applies to "unregulated professions", a Legislative Auditor's analysis is not required in the present case.

Your Committee has amended section 1 of the bill on page 2, line 8, by adding after the word "purposes;" the following phrase:

"provided that should the care or treatment given by a physical therapist contravene treatment diagnosed or prescribed by a medical doctor, osteopath, or chiropractor, the physical therapist shall confer with the professional regarding the course of treatment in conflict and take appropriate action in the best interest of the patient;"

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 726, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 726, S. D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 224      Consumer Protection and Commerce on S.B. No. 1110

The purpose of this bill is to appropriate funds for a motor vehicle mechanic certification training program.

Your Committee heard testimony from the Department of Labor and Industrial Relations and from the Commission on Manpower and Full Employment in support of this bill because of a growing shortage of trained, certified mechanics. While a person may be employed in the repair of motor vehicles without being certified, he must work under the supervision of a certified or registered mechanic. Since 1978 there has been a drop from 4,848 to 3,472 certified or registered mechanics due to retirements, career changes, and other factors. The Commission believes moneys for the development and implementation of a training course to assist mechanics in attaining the level of proficiency needed to pass the certification examination would help alleviate the shortage of certified mechanics.

Your Committee agrees with the Commission of Manpower and Full Employment, but leaves the appropriation amount to the determination of the Committee on Ways and Means.



Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1110 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. 225 (Majority) Consumer Protection and Commerce on S.B. No. 1198

The purpose of this bill is to eliminate the requirement that a member industrial loan company pay assessments to the Thrift Guaranty Corporation of Hawaii.

This bill is designed to primarily aid depositors of Manoa Finance Company and Great Hawaiian Financial Corporation, two industrial loan companies which were put into receivership due to insolvency. The Thrift Guaranty Corporation of Hawaii which was created to bring stability and confidence back to industrial loan companies has ceased to function effectively and has no current funds to provide immediate redress to the aggrieved depositors.

Your Committee notes that this bill is the cornerstone of an industry proposal, the "Dods proposal", which requires the member industrial companies to loan approximately \$22 million to Thrift Guaranty Corporation at ten per cent interest for three years secured by the assets of Manoa Finance and Great Hawaiian Financial Corporation. The \$22 million would be used in conjunction with existing funds held by Thrift Guaranty Corporation to repay non-depositor creditors up to 70 per cent of their claims, and fully guaranteed depositors up to 79.9 per cent of their thrift account funds not to exceed \$10,000. In return, the industrial loan companies that make the loan would be allowed to discontinue assessment payments to the Thrift Guaranty Corporation and recoup their loan by the liquidation of the assets of the two insolvent industrial loan companies. The State would assume a subordinate position on the \$27 million in prior loans to Thrift Guaranty Corporation, thus, bearing the risk of not receiving any payments on the loans.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs in support of this bill and the industry proposal. The Department believes the proposal is a viable compromise solution for all parties involved and places a strong emphasis on redressing the plight of the aggrieved depositors. Your Committee has been informed that the Department is still researching various legal questions regarding this bill.

Your Committee notes that the proposed industry plan covers up to approximately 79.9 per cent of the fully guaranteed depositors claims not to exceed \$10,000; but the Committee believes the aggrieved persons should receive as soon as possible 100 per cent of their funds up to \$10,000. Accordingly, the Committee refers this bill and S.B. No. 206, S.D. 1, to the Committee on Ways and Means for consideration regarding the financial impact on the State's general fund resources of our recommendations. An amount of \$9.0 million or so much thereof as will maximize a return of up to \$10,000 to aggrieved depositors has been recommended in S.B. No. 206, S.D. 1.

Your Committee has amended the bill to make a technical change which has no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1198, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1198, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.  
Senator Kawasaki did not concur.

SCRep. 226 Economic Development on S.B. No. 372

The purpose of this bill is to diversify and stimulate the economy of the State, attract new jobs, retain existing jobs, and maintain in the State the financial resources necessary to support a growth economy by establishing a capital companies tax program. Your Committee supports the major tax incentive proposed for qualifying capital companies which allows an investment tax credit against state income tax liability of twenty per cent of a company's initial capitalization for companies capitalized between \$1 million and \$10 million, and thirty-five per cent for companies capitalized in excess of \$10 million.

Your Committee has amended section 1 of the bill, page 3, line 19 to page 4, line 2, to expand and clarify the investment tax credit schedule by providing that for companies capitalized at less than \$1 million, the tax credit shall be 15 percent; for companies capitalized at more than \$1 million but less than \$10 million, the tax credit shall be 20 percent; and for companies

capitalized in excess of \$10 million, the tax credit shall be 35 percent. A corresponding amendment has been made to proposed section -5 relating to certification of a capital company.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 372, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 372, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 227            Economic Development on S.B. No. 1193

The purpose of this bill is to promote the health, safety and welfare of the residents of depressed areas of the State which have not benefitted from economic growth by establishing a central authority to plan, develop and administer projects within an enterprise zone to stimulate economic growth and employment, and by providing for the designation of enterprise zones.

Your Committee firmly supports the concept of enterprise zones as areas in which local, state and federal incentives encourage economic activities which employ residents, strengthen our economy and indirectly contribute to the State's tax base. However, your Committee has amended the bill in its entirety in the following major respects. The Department of Planning and Economic Development (DPED) will be the State agency responsible for administering and developing enterprise zones and will have all of the powers necessary for these activities including the power to sell bonds, to own or lease real, personal or mixed property, to execute contracts and to recommend to the Governor areas for designation as enterprise zones. The governing body of any county may apply to DPED to have areas designated as enterprise zones, and must specify local government incentives to complement State and any federal incentives for enterprise zone activities. In summary, rather than creating a separate authority to oversee the development of enterprise zones, the powers and responsibilities which could have been conferred on the authority have been conferred on DPED by appropriately amending this bill in its entirety.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1193, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1193, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 228            (Majority) Economic Development on S.B. No. 564

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

Presently the State does not have a water code. Water, however, has been a very topical subject because of the recent shortages of water, decline in groundwater levels, pollution by toxic contaminants, and uncertainty of ownership rights.

Your Committee, upon consideration of testimony from the counties and other interested parties, has made major amendments to the bill by:

- (1) Deleting all references in the bill to a State water plan.
- (2) Providing that the board shall delegate to the counties the authority to issue permits for the use of water for municipal and domestic purposes subject to the limits of water supply allocated the counties. (Section 31(c))
- (3) Providing that permits shall only be required for designated water management areas and provides the procedure to designate an area as such. (Section 31)
- (4) Providing that a grandfathered user of water for agricultural irrigations with a reduced water usage shall be given priority to reobtain its permitted level of water usage over any other application provided that the use remains the same. (Section 33(j))
- (5) Providing that the water code shall be applied in a manner which conforms to the intentions and plans of the counties.
- (6) Providing definitions for "Instream use", "Municipal use", and "Water management area".
- (7) Deleting proposed sections 4(b) and (c) and 8(e) through 8(i), relating to necessity of obtaining board permission to enforce any statute, rule or order affecting water;

prohibition of condemnation where water resources of the State are affected; and control of water by the board.

Your Committee made the above amendments to recognize the counties request for "home rule" and to encourage water conservation.

Your Committee also renumbered subsections to reconcile the bill with the major amendments.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 564, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 564, 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. 229            Economic Development on S.B. No. 156

The purpose of this bill is to maintain and encourage private sector participation on the High Technology Development Corporation Board of Directors by statutorily providing Board members immunity from or indemnification for civil liability.

Your Committee concurs with testimony by the High Technology Development Corporation that this measure would address a significant concern regarding the potential civil liability for Board members. The Board of Directors of the High Technology Development Corporation consists of six members from the private sector who serve on a voluntary basis. Your Committee finds that because there is no immunity or indemnification from civil liability, the High Technology Development Corporation considered obtaining a private insurance policy to protect its Board members. However, this was not viable because of the high cost for the policy and the limited policy coverage.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 156 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 230            (Majority) Economic Development on S.B. No. 275

The purpose of this bill is to support the development of high technology enterprises in the State by increasing the existing ceiling for loans to high technology firms under the capital loan program from \$250,000 to \$500,000; by providing that high technology loans bear simple interest at the rate of seven and one-half per cent annually; and, by authorizing the Director of Planning and Economic Development to defer the repayment of the first installment on the principal of each loan for a period not in excess of five years.

Your Committee supports the intent and purpose of this bill and has amended section 1 of the bill, page 2, by inserting a new provision (6) which also authorizes the Director of Planning and Economic Development to defer the date for commencement of interest payments for these loans for a period not in excess of two years. Your Committee has also amended the bill to eliminate the underscoring of existing statutory material on page 2.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 275, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 275, 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. 231            Economic Development on S.B. No. 1409

The purpose of this bill is to provide a creative and cost-effective means of preserving natural, scenic or open space areas by statutorily establishing and recognizing conservation easements as interests in real property that can be perpetual in duration and are freely transferable.

Your Committee heard testimony that thirty-three other jurisdictions now statutorily provide for conservation easements, a recent development in property law. Your Committee finds that Hawaii should also statutorily provide for the enforcement of conservation easements and their perpetual status.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1409 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 232            Economic Development on S.B. No. 1195

The purpose of this bill is to assist electricity consumers by reducing the costs of financing electric utility improvements through authorizing the issuance and refunding of special purpose revenue bonds in an amount not to exceed \$9.4 million for the Kauai Electric Division of Citizens Utilities Company.

Your Committee strongly supports this measure and notes that the Public Utilities Commission will annually report to the Legislature of the progress, under this bill, in reducing electric utility financing costs.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1195 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. 233            Economic Development on S.B. No. 57

The purpose of this bill is to authorize the Department of Hawaiian Home Lands the discretion to grant a person awarded a Hawaiian home lands homestead lease more than one year in which to occupy and begin use of a homestead lot.

The Department of Hawaiian Home Lands testified that under the current provisions of Section 208(3) of the Hawaiian Homes Commission Act, a lessee is required to occupy or begin use of a homestead within one year of the time when the lease is made. This requirement assumes that the homestead lot has been developed to the extent that a lessee can occupy it or begin to use it within such time frame.

Accelerating the distribution of land to more than 8,500 applicants on waiting lists is a major priority goal of the Department. To achieve this goal, it is necessary that the Department consider innovative means of making more homesteads available because there is not sufficient funding to develop and fully improve lands to accommodate all of the applicants for homesteads.

One of the approaches being considered is to award homestead leases for unimproved land or land with minimal improvements. Those who receive lots for which site improvements have not been provided will need more time to prepare the land before occupying or using it.

The proposed amendment to Section 208(3), HHCA, would allow the Department to give a lessee more time than the present year by which the lessee must occupy or use the homestead lot. The occupancy requirement would be addressed in the lease, and would vary, depending on the state of the land.

Other minor amendments to Section 208 are proposed to replace words denoting gender. The suggested changes to paragraphs (6) and (7) are to clarify the language of those provisions without changing their substance.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 57 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. 234            Economic Development on S.B. No. 1226

The purpose of this bill is to support the investment promotion and attraction program of the Economic Development Corporation of Honolulu by appropriating funds to be expended by the Department of Planning and Economic Development.

Your Committee finds that there is a major dependence on a single industry, tourism, throughout the State. That industry is thriving but is subject to volatility due to factors beyond our control. Accordingly, we need to combine the efforts of the public and private sectors in each county to diversify our economy. This can best be done by promoting other opportunities and attracting them to Hawaii.

Your Committee has amended the scope of the bill to include the private, non-profit economic development agencies in each county. Due to this increased scope, the amount of funds to be appropriated has been increased from \$105,000 to \$150,000 for fiscal year 1985-1986 and from \$129,000 to \$175,000 for fiscal year 1986-1987.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1226, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1226, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 235      Tourism and Recreation on S.B. No. 1256

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$157,500, or so much thereof as may be necessary for fiscal year 1985-1986 for the Big Island Ocean Recreation and Tourism project (BIORT).

Testimony submitted by the Director of Planning and Economic Development stated that with cooperative efforts of community groups and individuals, the private sector, County, State, and Federal agencies, BIORT can make a balanced and significant contribution to the quality of life of the community and the State.

Your Committee believes that it is important for the citizens of Hawaii to become aware and knowledgeable about the ocean and the importance of the State's ocean resources. The ocean is an integral part of the attraction that Hawaii holds for the visitors that play a vital role in our economy, and increased participation in ocean recreation activities by both residents and visitors would have a positive effect on businesses that provide recreation services and products.

Your Committee finds that in the past year, BIORT has developed an organizational framework, established a network of cooperation on the Big Island, evaluated proposals for projects, and prepared a five-year plan for the development of ocean recreation facilities and programs.

Your Committee further finds that Hoaaloha O Waiuli is a non-profit community-based organization composed of concerned people throughout the Big Island of Hawaii, with members donating their time, talents and money to the restoration, beautification and preservation of Richardson's Ocean Park, a Hawaii County recreational facility.

Your Committee has amended the bill by deleting the \$30,000 appropriation to BIORT for ocean recreation facilities and adding a new section to have the \$30,000 appropriated directly to Hoaaloha O Waiuli, the organization that will be undertaking the improvements.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1256, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1256, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Mizuguchi, George and Soares.

SCRep. 236      Housing and Community Development on S.B. No. 100

The purpose of this bill is to amend Sections 237-29 and 359G-15, Hawaii Revised Statutes, to clarify the current general excise tax exemptions provided for persons and entities related to low and moderate income housing.

The intent of these provisions is to provide tax exemption incentives to attract competent private sector participation in the construction of new low and moderate income housing units.

The Hawaii Housing Authority, however, indicates that the current language of the statutes would allow certain existing government assisted projects financial gain without providing corresponding benefits to the project's present tenants nor to any governmental body.

This bill clarifies the intent of the general excise tax waiver and narrows its scope to (1) newly constructed or rehabilitated projects developed with Hawaii Housing Authority or county assistance; and (2) existing low and moderate income housing projects receiving government assistance in which rent and operations are controlled under a regulatory agreement with a governmental body, provided, however, that such projects are approved and certified by the Hawaii Housing Authority on an annual basis.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 100 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. 237 (Majority) Housing and Community Development on S.B. No. 154

The purpose of this bill is to authorize the Hawaii Community Development Authority (HCDA) to issue \$15 million of revenue bonds to finance the development of public facilities.

Under the provisions of chapter 206E, Hawaii Revised Statutes, HCDA is required to plan, locate and develop public facilities to support the development of the Kaka'ako Community Development District. Of immediate concern to the Authority is the development of public parking garages. These parking facilities would encourage a walk-to-work community and the development of smaller properties by private owners who are unable to provide the minimum amount of parking due to the size of their lots. Further, the provision of public parking will support major private development in the District and relieve the area of current hazardous conditions created by the lack of on-street parking.

HCDA indicated that it lacks sufficient economic resources to provide public parking structures and other necessary facilities. By authorizing the use of revenue bonds for public facilities in general rather than specifying a particular facility, such as parking structures, HCDA is given the flexibility needed to structure revenue bond financing.

Your Committee concurs with the recommendation of the Hawaii Community Development Authority and the Bond Counsel to insert a new section establishing the public purpose for the use of revenue bonds to finance the development of public facilities.

Your Committee also made a technical nonsubstantive amendment to conform the bill to recommended drafting format.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 154, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 154, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.  
Senator George did not concur.

SCRep. 238 Housing and Community Development on S.B. No. 155

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 recognizes tax increment financing as an innovative financing method that may be utilized by county redevelopment agencies or the Hawaii Community Development Authority to finance public improvements in designated urban areas. Your Committee emphasizes its accord with the provisions of this bill requiring that both the tax increment financing plan and the amount of bonds to be issued to implement the plan be approved by the respective county council where the district is located.

Your Committee concurs with the recommendation of the Department of Taxation to amend the first paragraph of subsection 46-106(b) to read:

"(b) Tax increment bonds, and the income therefrom, issued pursuant to this part shall be exempt from all state and county taxation, except estate and transfer tax."

The Hawaii Inheritance and Estate Tax Law has been repealed by Act 217, Session Laws of Hawaii 1983; death taxes are now governed by a new estate and transfer tax.

The proposed amendment reflects this recent change in the law.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 155, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 155, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 239 Housing and Community Development on S.B. No. 417

The purpose of this bill is to provide that the general excise tax on lease rents shall be four per cent on the last lessor in a series of lessors and if there are sublessors there shall be

imposed a general excise tax of one-half of one per cent.

Your Committee finds that the imposition of the four per cent general excise tax on each lessor in a chain of leases pyramids the general excise tax that the lessee pays in such a manner that a lessee may pay twelve per cent or more in taxes on the cost of the lease due to intervening lessors. In this manner the cost of housing in this State has been added to unnecessarily. Your Committee finds that the enactment of this bill will mitigate the cost of housing in this State.

Your Committee, after consideration of the cost of housing due to inequitable taxation, has determined that other tax impositions should be reduced.

Therefore, in order to reduce this added burden to the housing market, your Committee has amended this bill in several ways. First, your Committee has provided for the exemption of transactions between affiliated corporations. An affiliated corporation under the Internal Revenue Code is a member of a group of corporations which may contain a parent corporation and a number of subsidiary corporations of which at least eighty per cent are owned by the parent corporation. This type of related group of corporations does not pay income tax on transactions between members of the group either for federal or state income tax purposes. In fact due to the income tax law this type of related group of corporations is encouraged due to the favorable tax treatment. The use of affiliated corporations appears to be of particular value in the real estate field due to the different activities of those involved in real estate. However, the use of affiliated corporations in Hawaii is discouraged because the general excise tax taxes transactions between such corporations. Exemption of such transactions from the general excise tax will be in line with the income tax law and will erase an artificial barrier to doing business in Hawaii.

Second, your Committee has amended this bill by providing for the exemption from general excise and use taxation of capital goods. In the housing market, as well as in other industries and businesses, capital goods are the key item in doing business. Capital goods are those goods which may be depreciated for income tax purposes. The general excise or use taxation of these capital goods adds to the cost of doing business in Hawaii for all persons and in particular adds to the cost of housing for Hawaii's people. If Hawaii is to furnish affordable housing it must do all it can to reduce the cost of doing business. The exemption from taxation of capital goods will help to reduce such costs.

Finally, your Committee has added an amendment to section 237-20, Hawaii Revised Statutes, to prevent the department of taxation from using the principle of "gross up". This principle is used by the department of taxation to provide that if a company uses an outside agent, whether or not there is an apparent agency relationship, commissions the department attribute to the agent will be added to the gross proceeds of the company using such agent, even though the company never received such moneys. Such additions to gross proceeds are subject to taxation under the general excise tax. For example, if a tour company offers a tour at \$20 and advertises such fact and an independent person sells a ticket on that tour for \$15, the department attributes the difference between \$20 and \$15 as commission paid to the agent and includes such \$5 difference in the gross proceeds of the tour company. The department applies this concept even though the company never sees the extra \$5 and may have no control over the price for which the agent sells the ticket. Your Committee finds this practice inequitable to businesses in the community and finds it carries a broader implication to businesses which use the discount and independent agent concept. This is particularly true in Hawaii where many of the hotels and other tourist activities package their services. Your Committee finds this to be stifling to business in Hawaii.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 417, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 417, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 240

Housing and Community Development on S.B. No. 1336

The purpose of this bill is to amend Section 356-292, Hawaii Revised Statutes, to delete the provision that tax-exempt revenue bonds issued by the counties pursuant to the federal Mortgage Subsidy Bond Tax Act of 1980 be used solely for new construction projects.

This provision was enacted to prevent the duplication of housing assistance programs by the State (Hula Mae Loan Program) and the counties. However, the sunset provision of the federal mortgage subsidy act makes it imperative that full utilization of the federal subsidy be realized.

Your Committee on Housing and Community Development is in accord with the intent and

purpose of S.B. No. 1336 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. 241 (Majority) Labor and Employment on S.B. No. 425

The purpose of this bill is to grant civil service employees regular salary increments or longevity step increases.

Under present law, increments or longevity increases are prohibited in any year in which a negotiated pay increase is effected, whether by statute or collective bargaining agreement.

Your Committee received testimony in support of this bill from the Hawaii Government Employees Association. However, opposing testimony was presented by the Department of Civil Service, City and County of Honolulu, the Office of Collective Bargaining, and the Director of Personnel Services.

After weighing the testimony and facts at issue, your Committee finds that any legitimate attempt to secure satisfactory pay increases for civil service employees merits the full measure of legislative attention. On that basis, your Committee is referring this bill to the Committee on Ways and Means for further discussion.

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

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 425, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 425, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Holt.  
Senator Abercrombie did not concur.

SCRep. 242 Labor and Employment on S.B. No. 430

The purpose of this bill is to increase the allowance on ordinary disability retirement and establish that the minimum retirement allowance shall be thirty per cent of the average final compensation.

Currently, the ordinary disability benefit is twenty-five per cent of the average final compensation for service of ten to fifteen years plus one per cent for each creditable year of service over fifteen years. A minimum of ten years credited service is required to qualify for ordinary disability benefits.

This bill would set the ordinary disability allowance at one and three-quarters per cent of the average final compensation multiplied by the number of years of credited service, but in no event would the benefit be less than thirty per cent of the average final compensation.

Your Committee received testimony from the Employees' Retirement System, the Hawaii State Teachers Association, and the Hawaii Government Employees Association, and finds that the present ordinary disability benefit is too low in comparison with the benefit for regular service retirement. This bill establishes a more equitable formula for determining ordinary disability benefits, and will thereby provide additional needed assistance to former employees who are permanently incapacitated.

Your Committee has amended the bill by correcting a drafting error and by making stylistic changes in the wording of the appropriation which have no substantive effect.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 430, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 430, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Holt.

SCRep. 243 Labor and Employment on S.B. No. 558

The purpose of this bill is to exempt from the general excise tax, moneys received by employee benefit plans including contributions, dividends, interest, and other income, and amounts received by any entity established by such employee benefit plan or group of employee benefit plans to provide administrative services to employee benefit plans.



The exemptions provided in Chapter 237, Hawaii Revised Statutes, do not presently include employee benefit plans and their related administrative services. Your Committee received testimony from the United Brotherhood of Carpenters and Joiners of America and finds that the tax presently imposed reduces the moneys available to pay benefits to employees and retirees.

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

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 558, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 558, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Holt.

SCRep. 244      Labor and Employment on S.B. No. 679

The purpose of this bill is to appropriate an unspecified sum to the Maui Intake Service Center for the funding of one permanent full time social worker III position and one permanent full time clerk typist position for the 1985-1987 fiscal biennium.

Your Committee received favorable testimony from the Department of Social Services and Housing, the expending agency, and finds that these positions are necessary to enable the Maui Intake Service Center to maintain the current level of services it provides to the various criminal justice agencies.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 679 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. 245      (Majority) Labor and Employment on S.B. No. 471

The purpose of this bill is to increase the salaries of certain executive branch elected and appointed officers.

Your Committee heard testimony from the Department of Personnel Services in support of the bill. In testimony, the Director of Personnel Services elaborated on the existence of salary disparities and inequities between State and City officials, and between certain State executive branch officials and their subordinates.

Your Committee has been notified that the cost for increasing the salaries of these certain executive officers and appointees has not as yet been finalized. Your Committee agrees with the need for such increases. Accordingly, your Committee has amended the bill by providing the statutory salary bases for the affected positions at a level of \$1 to show its agreement with the measure in principle.

Your Committee requests the Committee on Ways and Means to provide the appropriate amounts for each position when they are finally determined.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 471, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 471, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Holt.  
Senator Abercrombie did not concur.

SCRep. 246      Labor and Employment on S.B. No. 1169

The purpose of this bill is to establish an on-going job-sharing program for all permanent, full-time positions of the State government other than positions subject to Section 297-12.5, Hawaii Revised Statutes, and Act 256, Session Laws of Hawaii 1984.

The bill creates a new chapter to govern this new job-sharing program and provides for the following:

- (1) Defines several terms pertinent to performing the functions prescribed by this new chapter;
- (2) Provides procedures for determining guidelines for the announcement and selection of positions and employees;

- (3) Specifies employee benefits associated with the designated positions;
- (4) Maintains union membership in a designated bargaining unit for the permanent job-sharer;
- (5) Specifies provisions on handling of service credits, tenure and employment rights of the permanent job-sharer;
- (6) Clarifies the voluntary contractual nature and commitment of participants of the program; and
- (7) Allows adoption of rules in accordance with Chapter 91 to effectuate the purposes of the new chapter.

Your Committee heard testimony from the Commission on the Status of Women, the Department of Personnel Services and the Hawaii Government Employees Association and finds that a job-sharing program is an innovative approach which affords interested employees the flexibility to maintain a job and also have time to pursue or accomplish other projects or goals. The changing patterns of socio-economic needs and values and the comfortable standard of living enjoyed by many state employees dictate a diverse array of personal goals which may not be attained but for the opportunity to participate in job-sharing programs.

Your Committee believes a job-sharing program would be beneficial to state agencies by providing new people with fresh and different ideas and approaches to accomplishing the prescribed job, as well as invigorating the attitude and morale of the permanent employee.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 1169 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. 247            Government Operations on S.B. No. 269

The purpose of this bill is to exempt the counties from the General Excise Tax by adding a new section to Chapter 237 of the Hawaii Revised Statutes.

Testimony submitted by three county mayors and by various county officials indicated that the counties pay an excise tax on every contract, service, and purchase made. The City and County of Honolulu alone pays \$9 million to the State in general excise taxes on goods and services purchased annually, but only gets back from the State \$7.7 million in grants-in-aid.

Your Committee finds that county revenues used to pay general excise taxes offset and negate State financial assistance to the counties obtained through grants-in-aid. The exemption, therefore, would help the counties realize the full value of the grants-in-aid.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 269 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. 248            Government Operations on S.B. No. 546

The purpose of this bill is to amend Chapter 237 of the Hawaii Revised Statutes by exempting government service companies contracted to operate and maintain a transportation system for government organizations from the general excise tax.

Testimony submitted by the Department of Transportation, the Tax Foundation of Hawaii, and Councilmember Marilyn Bornhorst indicated that Honolulu's island-wide bus system is owned by the City and County, but is operated by MTL, Inc., a private non-profit management company, with revenues from the operations of the system going to the city. Under a management contract, the city reimburses MTL, Inc. for salaries, wages, and fringe benefits. According to the Department of Taxation's interpretation, these payments to MTL, Inc. are considered income and subject to a general excise tax.

Your Committee finds that currently, MTL, Inc. is paying over \$1.6 million per year in general excise taxes on the city payment to MTL, Inc. for their salaries, wages, and fringe benefits. Since this tax payment is an MTL, Inc. cost of doing business, this tax is actually paid by the City. Under this proposed bill this tax would no longer be paid.

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

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 546, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 546, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 249 (Majority) Government Operations on S.B. No. 1149

The purpose of this bill is to tighten controls over swap meets to curtail the sale of stolen goods and to ensure that vendors are in compliance with existing State and county regulations.

Testimony received by the Executive Vice President for the Retail Merchants of Hawaii indicated that swap meets are a convenient means of selling stolen goods because transactions are done in cash, no receipts are issued, and the anonymity of the parties are preserved.

The testimony further indicated concern over uncertainty as to whether swap meet vendors are in compliance with regulations regarding taxes, employment insurance, employee benefits, workers' compensation, and consumer protection.

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

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1149, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1149, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.  
Senator Kuroda did not concur.

SCRep. 250 Government Operations on S.B. No. 1320

The purpose of this bill is to exempt the counties from the four per cent general excise tax.

Testimony submitted by the City and County of Honolulu and the Hawaii State Association of Counties stated that currently an excise tax is paid on every service and purchase made by the counties.

Your Committee recognizes that County revenues paid to general excise taxes offset and negate State financial assistance to counties obtained through grants-in-aid.

Your Committee finds that this bill would aid counties in realizing the full value of grants-in-aid to the counties or any revenue sharing program for the several counties.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1320 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. 251 Government Operations on S.B. No. 1321

The purpose of this bill is to apportion a share of the fines and forfeitures collected by a district court to the county in which it is located, and give that county the option of managing its district court operations involving traffic and animal control.

Testimony submitted by the Chairperson of the Hawaii State Association of Counties indicates that the counties commit much county resources in the form of personnel and equipment to the enforcement of animal and traffic code regulations without receiving needed revenues from fines and forfeitures to cover the costs of such equipment and personnel. Despite the counties' role, the fines and forfeitures resulting from the enforcement of the codes go to the State.

Your Committee finds that under this bill there will be apportioned an equitable share of the revenues to the counties and each county would have the option of enforcing its traffic and animal code. If the county exercises the option of managing its district court operations involving traffic and animal control, it would get 100 percent of the fines and forfeitures, but if it doesn't exercise that option, it would get 50 per cent of the fines and forfeitures.

Your Committee has amended the bill to clarify that fines and forfeitures that are not deposited directly into a county fund shall be deposited with the State Director of Finance pursuant to Section 143-8, Hawaii Revised Statutes. Your Committee has also amended the bill by adding existing statutory language to page 2, line 21 to conform to Ramseyer format.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1321, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1321, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 252            Government Operations on S.B. No. 1329

The purpose of this bill is to delete the requirement for the police to furnish funeral escorts free of charge.

Testimony submitted by the Honolulu Police Department stated that escorting funerals consumes too many man-hours, leaving minimal time for regularly assigned police duties.

Testimony further indicated that during 1984, 1,430 officers were assigned to escort 1,188 funerals comprising a total of 1,710 man-hours, including 102 hours of overtime. Based on the average hourly wage of \$9.71 for an SR-18 officer, plus the 20 percent hazardous pay of \$1.94 an hour, the total cost of man-hours expended was \$41,625.

Your Committee finds that the Honolulu Police Department cannot afford to continue providing free funeral escort services.

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

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1329, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1329, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 253            Government Operations on S.B. No. 541

The purpose of this bill is to amend Chapter 52 of the Hawaii Revised Statutes by adding a new section to part I requiring all initially appointed police officers to serve a probationary period of one year which begins after satisfactory completion of basic police recruit training.

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

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 541, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 541, S.D. 1, and be referred to the Committee on Labor and Employment.

Signed by all members of the Committee.

SCRep. 254            Government Operations on S.B. No. 513

The purpose of this bill is to appropriate funds out of the general revenues of the State of Hawaii to the Historic Hawaii Foundation for the Main Street Program.

Testimony submitted by the Historic Hawaii Foundation and the Hawaii Redevelopment Agency, County of Hawaii indicated that there is a new concept for revitalizing central business districts referred to as the Main Street Program. The thrust of this program is on the unique character of existing buildings that are in serious stages of decline and are considered as assets to a revitalization program. This program would develop progressive marketing and managing techniques for local business and property owners, assisting them in developing and restructuring economic techniques that promote restoration and revitalization.

Your Committee finds that the Main Street Program is a public private partnership which requires government cooperation with private sector action. The Main Street Program was developed on the mainland and has proven to be successful in turning deteriorating towns into economically viable communities.

Your Committee has amended section 1 of the bill by including all districts of the rural towns

in the State of Hawaii to be beneficiaries of this program rather than make Hilo the single beneficiary.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 513, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 513, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 255            Government Operations on S.B. No. 874

The purpose of this bill is to amend Section 445-112, Hawaii Revised Statutes, to control the use of hand-held signs on public highways, sidewalks or other public ways.

Testimony submitted by the Department of Transportation, Councilmember Welcome S. Fawcett, and Rusty Regidor stated that sign waving is distracting and that it can be a safety hazard. The purpose of sign waving is to attract the attention of motorists, and while a driver is reading a sign the driver has taken his eyes off the car, signals, or pedestrians ahead.

Testimony by Rusty Regidor on the many hazards of sign waving included more than 1,200 signatures of concerned citizens supporting controlled use of hand-held signs.

Your Committee finds that although sign waving is recognized as a powerful and effective political tool, increasing public safety is the foremost concern.

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

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 874, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 874, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 256            Government Operations on S.B. No. 913

The purpose of this bill is to require the State and county governments to promptly pay for goods and services received.

Currently, Section 103-10, Hawaii Revised Statutes, prohibits agencies of the State or counties from paying for goods and services received until at least thirty days after a statement is received or delivery of the goods or performance of the services. This bill would require agencies to make payment no later than thirty days after a statement is received or delivery of the goods or services.

Testimony received from the Executive Director of the Construction Industry Legislative Organization (CILO) indicated that there is an ambiguity in the bill as received by your Committee in that one part of the section being amended would require payment no later than thirty days after a statement or the goods or services are received and another part of the same section would set a forty-five day limit on payment. Your Committee has amended the bill to correct the ambiguity and set a time limit on payment of forty-five days.

This bill also requires that any State agency which receives goods or services worth less than \$100 pay for such goods or services from the petty cash fund of the agency.

Your Committee finds that the government should promptly meet its obligations and that the amendments to the law proposed by this bill will help to ensure such promptness.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 913, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 913, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kuroda and Soares.

SCRep. 257            (Majority) Government Operations on S.B. No. 1243

The purpose of this bill is to amend Sections 445-171 and 445-172, Hawaii Revised Statutes, which would make records of inventory purchases for which the resale value will be \$25 or more available to the police department.

Your Committee finds it necessary to amend Section 1 of the bill by changing all the figures

that read \$25 to \$50.

The purpose of the amendment is to allow for lesser administrative recordkeeping of inventory purchases by secondhand dealers.

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

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1243, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1243, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.  
Senators Kuroda and George did not concur.

SCRep. 258            Government Operations on S.B. No. 1292

The purpose of this bill is to simplify purchasing procedures of purchases of more than \$4,000 but less than \$15,000 by eliminating the need for advertisement.

Testimony submitted by the Department of Finance of the City and County of Honolulu stated that the elimination of the advertising request will facilitate the purchasing process by reducing the time required to acquire goods and services.

Your Committee finds that this will enable the centralized purchasing function of the City and County of Honolulu to respond to requests for goods and services much faster.

Your Committee further finds that the passage of this bill will not only facilitate the purchasing process and reduce the response time, but will also reduce the cost of handling small orders.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1292 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. 259            Government Operations on S.B. No. 1319

The purpose of this bill is to establish a State revenue sharing program for the disbursement of general excise tax collections as entitlements to the several counties to replace the present state grants-in-aid program which fixes revenue allocations to counties at 1973 levels.

Testimony submitted by Hawaii County Mayor Dante K. Carpenter, Chairperson for the Hawaii State Association of Counties, and Deputy Chief Budget Officer for the City and County of Honolulu stated that this bill would revise the current grants-in-aid program to provide that the dollar value of the grant would be based on what the counties would have received if Act 155, Session Laws of Hawaii 1965, was still in effect; thereafter increasing the allocation annually by the rate of the State growth as defined by Section 37-91, Hawaii Revised Statutes.

Your Committee finds that the current county grants-in-aid system established under Act 114, Session Laws of Hawaii 1973, is obsolete and is no longer an adequate method of distributing State financial assistance among the counties. The current grants-in-aid system has not responded to the growing needs of the counties nor is it responsive to the increasing inflationary demands on these services. As a result of the nature of the current system, the counties' grants-in-aid have actually decreased in real dollar value since the system was established.

Your Committee has amended Section 2 of the bill by removing all dollar figures. The purpose of the amendment to the bill is to allow the Committee on Ways and Means to evaluate their budget.

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

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1319, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1319, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 260

Energy on S.B. No. 721

The purpose of this bill is to provide funding support in the form of general obligation bonds for the development by OTEC of a small proof-of-concept open cycle pilot plant that will provide freshwater and electrical energy and support aquaculture.

Your Committee received testimony from the Department of Planning and Economic Development, the Natural Energy Institute at the University of Hawaii, and the Honolulu Board of Water Supply, and finds that an open cycle OTEC plant can greatly enhance Hawaii's future by providing both freshwater and electricity as well as economic development potential in aquaculture, and is therefore in the public interest.

Your Committee has amended the bill by specifying that the general obligation bonds shall be in the sum of \$1 million and no funds shall be authorized unless matching funds are provided by the private sector.

Your Committee has also amended the bill by clarifying that OTEC is an organization rather than a process and that the funds are to be used for supporting infrastructure, research, and development of a small open-cycle OTEC pilot plant.

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 721, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 721, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 261

Energy on S.B. No. 876

The purpose of this bill is to appropriate an unspecified amount to be expended by the University of Hawaii to support the development of the Renewable Resources Research Facility at Maalaea, Maui.

Your Committee has amended the bill by providing an appropriation in the sum of \$100,000 to be expended by the Department of Planning and Economic Development during fiscal biennium 1985-1987; provided that the Hawaii Natural Energy Institute supervises the research projects.

Your Committee finds that it would be in the public interest to provide financial support to the development of the Renewable Resources Research Facility at Maalaea, Maui.

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 876, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 876, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 262

Energy on S.B. No. 937

The purpose of this bill is to extend the general excise tax exemption on the sale of gasohol for consumption or use by the purchaser, and not for resale, until June 30, 1992, and to delete the provision that only local gasohol produced from biomass shall be exempt from July 1, 1985 to June 30, 1992.

Over ninety percent of Hawaii's energy is derived from imported petroleum, and reducing our dependence by encouraging production and use of alternate fuels such as ethanol is a major state goal. The development of a gasohol market in Hawaii could encourage construction of ethanol plants which would, among other things, benefit the economically distressed sugar industry by utilizing sugarcane molasses for ethanol production.

Your Committee, after considering supporting testimony presented by the Department of Planning and Economic Development, the Department of Taxation, and Wallace A. Amioka, finds that deletion of the statutory language which limits the tax exemption to gasohol derived from locally produced alcohol is a practical necessity as there is no commercial-sized ethanol plant presently operating in Hawaii. If the exemption is extended, mainland produced ethanol will be introduced, and this will have the effect of creating a market for the product which will in turn encourage local sugar companies and others to produce ethanol from indigenous sources, thus providing a new industry for our economy. Your Committee believes that this overall benefit to the economy will more than offset any loss of tax revenue occasioned by the continuation of the exemption.

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

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 937, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 937, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Mizuguchi.

SCRep. 263            Energy on S.B. No. 877

The purpose of this bill is to appropriate funds to support the development of hydrogen research from renewable energy in Hawaii.

Your Committee heard testimony from the Director of Planning and Economic Development and the University of Hawaii and finds that developing a "hydrogen economy" whereby cheap hydrogen fuel is obtained from water would end our dependence on petroleum fuels. Your Committee finds that hydrogen which is light weight, nonpolluting, and obtained from ordinary water, burns more efficiently than hydrocarbon fuels and pound for pound contains almost three times more energy. Your Committee finds that this bill will provide additional support in efforts to attain a greater degree of energy self-sufficiency in Hawaii.

Your Committee has amended the bill to provide for an appropriation in the amount of \$50,000 to be expended by the Department of Planning and Economic Development.

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 877, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 877, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Mizuguchi.

SCRep. 264            Energy on S.B. No. 1403

The purpose of this bill is to change the excise tax on fuel oil purchased by electric utilities for the generation of electric energy, and on the liquid petroleum gas purchased by producers of gas energy, from the retail sales rate of four percent to the wholesale rate of one-half of one percent. The reason for this change is to eliminate the inequitable tax burden on electric and gas customers.

Currently, there is no tax on the oil used in the Foreign Trade Zone to produce synthetic gas. However, the power plants of the electric companies are not located in the Foreign Trade Zone. Since 1974, sales of synthetic gas by a producer to a retailer, whether the producer is located in the foreign trade zone or not, have been treated as sales at wholesale and are taxed at the rate of one-half of one percent. Taxing oil and liquid petroleum gas purchased from suppliers at the one-half of one percent rate, as proposed in this bill, would bring the generation of electricity more into parity with the synthetic gas energy producers.

Your Committee received testimony from the Department of Taxation, Hawaiian Electric Company, the Kauai Electric Division of Citizen's Utilities Company, and the Hawaiian Sugar Planters Association, and finds that if the change in the tax rate proposed by this bill had been in effect for 1984, the savings would have amounted to \$12.8 million. These savings would have been automatically passed on to the electric customers through the fuel adjustment provision in the electric rates.

Your Committee acknowledges that the reduction in the tax rates proposed herein might impact negatively on the tax revenues of the State. However, your Committee believes that corrective action taken to reduce the cost of electric energy will help to stimulate the economy. When the State has a healthy surplus in its general fund the surplus must be returned to the taxpayers if it exceeds a certain level. Your Committee finds that to accomplish this by returning a portion of the tax money to the people through the reduction of the tax on fuel oil purchase is a satisfactory solution and is in the public interest.

Your Committee has amended the bill by clarifying that fuel, in the context of line 1 on page 13, includes boiler fuel, and by making a technical change which has no substantive effect.

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 1403, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1403, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Mizuguchi.

SCRep. 265            Economic Development on S.B. No. 1232

The purpose of this bill is to improve the efficiency and effectiveness of the Public Utilities



Commission (PUC) and the Department of Commerce and Consumer Affairs Division of Consumer Advocacy by creating the Public Utilities Commission Special Fund into which funds collected by the PUC under Section 269-30, Hawaii Revised Statutes, are deposited and disbursed to both agencies. Your Committee supports this measure as being one of the recommendations of a 1982 Ad Hoc Committee to study amendments to Chapter 269, Hawaii Revised Statutes.

Your Committee concurs with testimony from various public utilities supporting this measure and has adopted a recommendation to amend section 1, page 1, lines 12-15 of the bill, to clarify that the PUC and the Consumer Advocate shall equally share in the use, application and disposition of the fund, rather than allocating funds in order of priority first to the PUC and then to the Consumer Advocate.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1232, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1232, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 266            Economic Development on S.B. No. 1376

The purpose of this bill is to statutorily recognize the rights of native Hawaiians to bring suit in State courts to enforce the provisions of the Hawaiian Homes Commission Act, 1920, as amended, and the relevant trust provisions of the Admission Act.

Your Committee recognizes and supports the rights of native Hawaiians to bring suit for the enforcement of provisions which directly affect their status as native Hawaiians and the rights and benefits due to them. Your Committee believes that the concern expressed by the Department of Hawaiian Home Lands regarding frivolous suits brought under this proposed bill is best addressed by the Committee on Judiciary.

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. 1376, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1376, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 267            Economic Development on S.B. No. 616

The purpose of this bill is to statutorily establish a State policy to actively promote and support expanded employee stock ownership of Hawaii businesses and to provide the administrative structures for this policy.

Your Committee supports the concept of encouraging residents to support and participate in the businesses which employ them by increasing the employee ownership of stock in the companies employing them. Although your Committee concurs with testimony indicating the need to align the goals of managers and employees, your Committee believes that this program's success can be greatly enhanced by restricting current efforts to informing and educating employers and employees of the benefits of increased employee stock ownership. Consequently, your Committee has amended section 2 of the bill by deleting the definitions of "Employee-owned enterprise" and "Employee-ownership group" and by deleting Part III of the proposed chapter (Employee Stock Ownership Loan Program). Your Committee has also deleted section 3 of the bill, which could have appropriated necessary funds, based on the understanding that the Department of Planning and Economic Development would be able to conduct the information and education programs within the current 1985-1986 fiscal year funding request.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 616, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 616, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 268            Agriculture on S.B. No. 1461

The purpose of this bill is to satisfy the requirement of Section 12 of Article VII of the Constitution of the State of Hawaii relating to legislative authorization to issue special purpose revenue bonds to assist processing enterprises.

Your Committee finds that such bonds are important in aiding processing development in the State. Your Committee further finds that it is in the public interest to allow the Department of Budget and Finance to issue such revenue bonds for processing enterprises, and that granting the department such authority is a proper public purpose.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1461 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. 269            Agriculture on S.B. No. 944

The purpose of this bill is to amend Sections 54-26 and 54-63, Hawaii Revised Statutes, to ensure that agricultural water rates remain lower than domestic water rates.

Presently, the agricultural water rates are lower than the domestic rates in all counties - Maui, 54 percent of domestic; Oahu, 82 percent of domestic; Kauai, 39 percent of domestic; and Hawaii, 88 percent of domestic. Your Committee believes that agricultural water rates must be kept lower than domestic water rates in order to encourage development of the State's agricultural industry.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 944, S.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. 270            Health on S.B. No. 322

The purpose of this bill is to enable any adult to execute a declaration directing the withholding or withdrawal of life-sustaining procedures in a terminal condition.

Your Committee received testimony from the Department of Health, the Executive Office on Aging, the Hawaii Nurses Association, the Hawaii Medical Association, and others and, after considering the merits and facts of this issue, has amended the bill in several substantive ways. The amendments are as follows:

- 1) A purpose statement has been added as new Section 1 of the bill and old Section 1 containing the substance of the new chapter to be added to the Hawaii Revised Statutes has been redesignated as Section 2.
- 2) The chapter title has been changed from "Patient's Right of Self-Determination" to "Medical Treatment Decision Act".
- 3) New definitions of "adult", "agent", "artificial means", "medical treatment", and "maintenance medical treatment" have been added, and definitions of "declaration" and "life-sustaining procedure" have been deleted. Definitions of "physician" and "terminal condition" have been amended.
- 4) The substance of section -2(a) of the new chapter has been relocated to sections -7, -10(a), -17, and -18 of the new version. Subparagraph -2(a)(1)(A) has been deleted, and a requirement that a witness to a declaration must not have a present or inchoate claim against the estate of the declarant has been added. Section -2(b) has been relocated to new sections -11(a)(3)(E) and -18(c)(4)(C). Sections -2(c) and -2(d) have been deleted.
- 5) Section -3(a) has been relocated to new sections -12 and -20, and the provision that a declaration may be revoked by directing two persons to sign a notice of revocation in the presence of the declarant has been deleted. New material relating to subsequent written instructions which contradict prior instructions has been added. Section -3(b) has been deleted and a new section -3(b) has been added providing that a person who has knowledge of a revocation shall so notify the attending physician has been added. Section -3(c) has been relocated to sections -14 and -23(b) and (c).
- 6) The provision in section -4 that the attending physician shall seek to locate a recorded declaration when life-sustaining procedures appear necessary is deleted. The other provisions of Section -4 have been relocated to Sections -14, -23(b), 13, and -22 of the new version.
- 7) The provisions in -5 of the old version relating to a declarant's intent and competency

have been deleted. Provisions relating to presumption of mental competency and negligence have been relocated to sections -14 and -23 of the new version.

- 8) Section -6(a) of the old version relating to penalties has been relocated to section -22 of the new version, and the provision relating to pregnant declarants has been relocated to section -10(c). Section -6(b) has been relocated to section -15(a) of the new version and the offense therein has been raised from a misdemeanor to a class C felony. Section -6(c) has been relocated to section -15(a) and section -6(d) has been relocated to section -24.
- 9) Sections -7(a), -7(b), -7(c), -7(d), and -7(e) of the old version have been moved to sections -4, -6(b), -22(c), -6(a), -22(c), -8, and -9 of the new version.
- 10) Section -8 of the old version has been relocated to -3 of the new version.
- 11) Section -9 of the old version has been deleted.
- 12) Section 2 of the original bill has been deleted.

The following material has been added to the new version:

- 1) Section -5 providing that health care personnel participation is not mandatory.
- 2) Section -10(b) providing that an agent's decision prevails over written instructions.
- 3) Section -11(b) providing that if instructions fail to meet requirements but the defect is later corrected that the instructions are valid from the date first made.
- 4) Section -16 relating to court jurisdiction.
- 5) Section -18(a) providing the criteria for a document appointing an agent.
- 6) Section -18(b) providing that no one shall accept appointment as an agent solely because of capacity as a representative, employee, or officer of the appointor.
- 7) Section -18(c) providing for an agent's refusal of appointment.
- 8) Section -18(d) providing for retention of the appointing document.
- 9) Section -18(e) providing for the form of the appointing document.
- 10) Section -18(f) providing that if the appointment fails to meet the requirements but the defect is later corrected, the appointment is valid from the date first made.
- 11) Sections -19(a), (b) and (c) relating to the agent's authority.
- 12) Section -21 relating to medical records.
- 13) Section -22 relating to the liability of the physician or health care provider.
- 14) Section -23 relating to agent's, physician's, or health care provider's immunity.
- 15) Section -24 relating to misrepresentation of agency and the penalty therefor.
- 16) Section -25 providing that no one shall accept remuneration as agent, or seek appointment as an agent, and providing a penalty therefor.
- 17) Section -26 relating to the jurisdiction of the circuit court.

Your Committee finds that the bill, as amended, provides a satisfactory vehicle for further discussion of the issue of self-determination and is therefore in the public interest.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 322, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 322, S.D. 1, and referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 271                      Health on S.B. No. 511

The purpose of this bill is to fund a pilot project for the prevention of child abuse and the

promotion of positive child development among high risk families. The funds are to be appropriated to the Kapiolani Women's and Children's Medical Center through the Department of Health.

Child abuse and neglect is one of the most visible and costly social pathologies and is closely related to mental illness, substance abuse, and crime. Stress is a major contributive factor, especially stress occurring around the time of birth, and a wealth of available information indicates that early intervention and treatment is necessary to impact favorably on the problem.

Your Committee received supporting testimony from the Department of Health, the John Howard Association, the Hawaii Medical Association, the Hawaii Family Stress Center, the Hawaii Council of Churches, the Oahu Children's Protective Services Center Advisory Committee, and the American Association of University Women, and finds that this bill proposes a comprehensive pilot project of services to high risk families and is expected to demonstrate the cost effectiveness of early intervention to reduce child abuse.

Upon further consideration, your Committee has amended the bill by deleting the word "pilot" modifying the project because pilot work has already been done. This project is intended to be a front line intervention program based on clearly established and demonstrated precepts. Your Committee has further amended the bill by inserting the amount of \$175,000 to fund the continuation and expansion of the project in fiscal biennium 1985-1987.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 511, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 511, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 272                      Health on S.B. No. 342

The purpose of this bill is to establish the annual minimum license fee for using a restricted pesticide at \$500.

Currently, the minimum fee for using a restricted pesticide is \$10 per year.

Your Committee heard testimony from the Board of Agriculture to the effect that the proposed increase would deter the purchase and use of highly toxic pesticides, thus minimizing the risk of contaminating the environment. However, testimonies from the Hawaiian Sugar Planters' Association, the College of Tropical Agriculture and Human Resources at the University of Hawaii, Dole Hawaii, and Hawaii Pest Control Association indicate that the proposed increase would negatively impact on the public in the form of higher food prices, should the producer pass the added cost on, or make Hawaiian agriculture less competitive with mainland and foreign production.

After carefully reviewing the testimony, your Committee finds that the highest fee imposed by any other state for restricted pesticide use is \$75 per year and that the average is between \$30 and \$40. Hawaii may enjoy a geographically unique position among the states, and most assuredly has unique agricultural needs, but the imposition of a minimum license fee more than six times greater than any other state would work against the best interests of Hawaii's farmers and the general public. Therefore, your Committee has amended the bill by setting the minimum license fee at \$30, with provision for increase depending on the amount of pesticide sold, offered for sale, or distributed. Your Committee believes that this amount should be large enough to deter the indiscriminate use of toxic contaminants but small enough to protect Hawaii's small farmers.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 342, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 342, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 273                      Health on S.B. No. 1436

The purpose of this bill is to provide support for the prevention of child abuse and neglect and family violence through the creation of a children's special trust fund within the Department of Health to be financed by an individual income tax check-off and surcharges on marriage licenses and birth certificates. The bill also increases the membership of the Child Abuse and Neglect Secondary Prevention Advisory Committee from seven to thirteen members, six of whom shall be appointed by the Governor from a list submitted by the National Committee for the Prevention of Child Abuse, Hawaii Chapter.

Child abuse and neglect and family violence are among the most severe social problems in our

society today, and the legislature has consistently and clearly expressed its intent to reduce such problems through prevention and thus reduce the need for costly state intervention. It is also the legislature's intent that the costs and efforts of child abuse and family violence prevention be shared among communities, citizens, and the State.

Your Committee heard testimony from the Hawaii Chapter of the National Committee for Prevention of Child Abuse, the United Church of Christ, Waipahu United Church of Christ, and the Department of Taxation and finds that the intent of this measure is in the public welfare and interest. However, upon consideration of the facts, your Committee has amended the bill in several substantive ways intended to facilitate the legislative support necessary to bring the above-stated prevention goals to fruition. The amendments are as follows:

1) Section 3 of the bill, which was incorrectly designated as Section 2, is deleted. The Department of Taxation indicated that a tax check off is not an appropriate means of fund raising in that it increases the volume of returns processing, thereby increasing administrative cost and confusing the taxpayer into filing incorrect returns, all of which delay processing. The reference to the check-off on page 3, lines 13 and 14 have also been deleted.

2) The word "secondary" at the end of line 7, page 2 and line 20, page 6 has been deleted in order to give the Child Abuse and Neglect Prevention Advisory Committee greater latitude and discretion in its activities.

3) The provision that six of the Advisory Committee's members be appointed from a list submitted by the Hawaii Chapter of the National Committee for the Prevention of Child Abuse is deleted.

4) Language has been added to subsection (b) on page 7 indicating that the Advisory Committee shall advise the Department of Health on the disposition of funds relating to the areas of child abuse and neglect and family violence.

5) Language has been added to subsection (e) on page 9 and subsection (e) on page 10 to the effect that it is the legislature's intent that the moneys derived from surcharges on birth certificates and marriage licenses be used for prevention of child abuse and neglect and family violence. Otherwise, the surcharge revenues might be diverted for other means, which would not meet with the legislative intent of this measure.

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. 1436, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1436, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 274      Housing and Community Development on S.B. No. 1416

The purpose of this bill is to amend Section 235-7, Hawaii Revised Statutes, to exclude from gross income, adjusted gross income and taxable income an amount equal to four percent of the total rent paid during a taxable year by a resident individual taxpayer for the use of a principal residence.

Your Committee on Housing and Urban Development is in accord with the intent and purpose of S.B. No. 1416 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. 275      Economic Development on S.B. No. 470

The purpose of this bill is to allow a lessee of a Hawaiian home lands homestead to mortgage the lessee's interest in a homestead lease.

Section 208 of the Hawaiian Homes Commission Act does not permit a lessee to mortgage or pledge the lessee's interest in the homestead lease.

Mortgage lenders in Hawaii have been unwilling to make loans because of the non-alienation lease restriction in the HCCA, unless full guarantees are provided by the State. The absence of private financing restricts the ability of the Department of Hawaiian Homes Land to accelerate awarding lands to qualified native Hawaiians. In light of the State's current fiscal constraints and the impact that loan guarantees may have on the State's debt ceiling, furnishing State funds

for loans or guaranteeing loans presents a significant concern.

Recent amendments to Federal law now allow the U.S. Department of Housing and Urban Development (HUD) to insure loans made on homestead leases. Representatives from the Washington offices of HUD, the local director of HUD, members of local lending institutions, and DHHL staff have been meeting over a number of months to ascertain how DHHL homesteaders may be able to obtain loans through the Federal program.

S.B. No. 470 would amend Section 208 of the HHCA to allow a lessee to mortgage the lessee's interest in a homestead with a private bank, financial institution, or any other investor, provided the loan is insured or guaranteed by a Federal agency, such as HUD.

Your Committee heard testimony in support of the bill from the DHHL, the local director of HUD, and others. The DHHL recommended that the bill be amended to insure that it will conform with Federal requirements and program needs, particularly with reference to the purposes of loans and to loan limits.

Your Committee has amended the bill to address the concerns indicated by DHHL, by adding a new subparagraph to Section 208(6).

Your Committee also heard testimony which expressed concern over the foreclosure and sale process included in Section 208(6) of the bill. Your Committee has obtained clarification that the security for loans made under the HUD program lies in the loan guarantee rather than in the leasehold interest. In the event of a default, HUD will insure repayment of the outstanding loan balance to the lender, and will obtain reimbursement from DHHL through the reserve fund established from the fees and receipts deposited in the reserve fund specifically for that purpose. Your Committee therefore has deleted the provision that the mortgages may provide for foreclosure and for sale at foreclosure.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 470, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 470, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 276 (Majority) Economic Development on S.B. No. 1233

The purpose of this bill is to appropriate sufficient sums from the State General Fund to the Department of Hawaiian Home Lands (DHHL) for administration and operating costs of the Department for the fiscal biennium beginning July 1, 1985.

Your Committee concurs with testimony from the Department of Hawaiian Home Lands and from the Office of Hawaiian Affairs in support of this appropriation measure.

The DHHL does not receive State General Fund moneys to cover its administration and operating costs and must depend upon its special funds for that purpose. As a result, the amount of special funds used to cover operating costs is not available to be used for direct benefits to native Hawaiians, such as in making more homesteads and more homestead loans available. External funding of DHHL's operating costs is especially essential if DHHL is to accelerate putting more beneficiaries on Hawaiian Home Lands.

S.B. No. 1233 also addresses a legal issue which has been raised as to how administration and operating costs of DHHL are to be financed.

Your Committee notes that 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." (Emphasis added)

The above has been interpreted to mean that the administration and operating budget of DHHL shall be met through legislative appropriations.

The Committee on Hawaiian Affairs of the 1978 Constitutional Convention, in Standing Committee Report No. 56, provided the following comments to clarify the above cited provision:

"It is clear to your Committee that the intent and spirit of the (Hawaiian Homes Commission) Act would be better served by releasing the department of its present burden to generate revenues through the general leasing of its lands. Your Committee decided that through legislative funding this dilemma would be resolved. In that manner more lands could be made available to the intended beneficiaries."

Despite the clearly stated intent and purpose of the 1978 Constitutional amendment, DHHL remains entirely dependent upon its special fund receipts to cover administration and operating costs. Your Committee supports S.B. No. 1233 which appropriates \$4,985,653 from the General Fund in each of the next two fiscal years.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1233 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. 277                      Economic Development on S.B. No. 97

The purpose of this bill is to establish standards which property owners must meet when they seek to establish title by accretion to new beachfront land. Accretion, or the seaward extension of beaches, could provide the owner of beach property with additional land on which to erect structures. The intent of this bill is to ensure that the accreted lands will not be treated as permanent lands unless there is "...a clear preponderance of the evidence that the accretion is natural and permanent". The bill defines permanent as being in existence at least twenty years.

Your Committee has amended section 1, page 1, line 4 of the bill to clarify that prohibited structures and uses relate to accreted lands as judicially decreed under sections 501-33 or 669-1(e), Hawaii Revised Statutes. Your Committee has further amended the first paragraph of the new statutory section proposed in section 1 of the bill to expressly exclude public property from the new statutory provisions.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 97, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 97, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 278                      (Majority) Economic Development on S.B. No. 868

The purpose of this bill is to support the continued development of aquaculture in Hawaii by appropriating \$75,000 for marine shrimp research. Your Committee recognizes that the Oceanic Institute is an internationally recognized leader in aquaculture research which has secured \$750,000 in federal funds for marine shrimp research.

Although your Committee strongly supports this measure, greater definition of the type of research to be conducted is required and section 1, line 4 of the bill has been amended to specify that the funds are for a detailed site evaluation for pond facilities to be used in the federally funded research program and that the contractor shall coordinate the site evaluation with the University of Hawaii and other affected State agencies. The expending agency in section 2 of the bill has also been changed from the Department of Planning and Economic Development to the Department of Land and Natural Resources.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 868, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 868, 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. 279                      Economic Development on S.B. No. 82

The purpose of this bill is to provide greater financial support for the maintenance of lands under the control of the Board of Land and Natural Resources by increasing the maximum

amount of expenditures from the Special Land and Development Fund for incidental maintenance from \$100,000 to \$200,000 annually.

Your Committee concurs with testimony that an increase in the maximum amount should be increased from \$100,000 to \$200,000 annually, particularly for stream maintenance and other activities which can reduce the likelihood of potential litigation.

Your Committee has 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 S.B. No. 82, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 82, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 280                      Economic Development on S.B. No. 330

The purpose of this bill is to establish a statewide land banking program under which certain lands may be acquired for future public benefit, including an expanded capability to control future growth, development, and land use within the State.

The bill amends Chapter 171, Hawaii Revised Statutes, by adding a new part requiring the Department of Planning and Economic Development (DPED) to prepare a master plan for land banking, including the compilation of an inventory of all public and private lands within the State in terms of their desirability for inclusion in the State land bank.

The bill defines and establishes criteria for four general categories of land to be considered for acquisition: critical natural resource land, critical historical and cultural resource land, land suitable for housing and land suitable for diversified agriculture. The bill also establishes a State land bank special fund to be administered by the Department of Land and Natural Resources (DLNR) which is also responsible for the acquisition and management of land bank lands.

Although your Committee recognizes that DPED testimony indicates that greater emphasis should be placed on the use of existing land use controls as a partial alternative to the proposed land banking program, and the the Hawaii Housing Authority (HHA) is concerned that the land banking program not interfere with HHA projects, your Committee believes that this measure should be considered further in its entirety. In particular, the existence of alternative land use controls under different state and county agencies may not, in itself, constitute sufficient coordinated land use control capability to provide a reasonable alternative to comprehensive and timely land banking programs.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 330 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 281                      (Majority) Economic Development on S.B. No. 883

The purpose of this bill is to encourage the development of new businesses in our State by specifically exempting from the general excise tax the gross proceeds derived from the sale of computer services by a company in Hawaii to a person in another state.

Your Committee recognizes the concern of the Department of Taxation in opposing this bill. However, computer services represent the type of economic activity which the State is seeking to encourage and this bill is a step towards improving the business climate in Hawaii for these types of activities. Your Committee draws particular attention to the apparent competitive disadvantage the current application of the general excise tax has placed on local computer companies competing in out-of-state markets. Your Committee strongly recommends the most serious consideration of this measure.

Your Committee made 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. 883, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 883, 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. 282 (Majority) Economic Development on S.B. No. 733

The purpose of this bill is to grant Public Utilities Commission (PUC) assistants on the PUC staff on the effective date of this bill civil service status without loss of credits or benefits and without the necessity of examination.

The PUC assistants are currently appointed, one for each county with a population of less than 100,000, with the responsibility for receiving complaints from consumers and meeting with the public utilities and transportation companies in their respective counties.

Your Committee supports the granting of civil service status to existing PUC assistants as a means of staff retention and continuity in neighbor island counties which would otherwise suffer from the lack of trained PUC representation.

Your Committee has made technical amendments to section 1 of the bill to conform statutory language in subsection 269-3(a) not intended for amendment to the existing statute. Your Committee has made other technical changes which have no substantive effect and has inserted an effective date of July 1, 1985 for this measure.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 733, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 733, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.  
Senators Kawasaki and Soares did not concur.

SCRep. 283 Economic Development on S.B. No. 151

The purpose of this bill is to update and consolidate existing statutory provisions to clarify the process of State planning, economic development, and energy development and management as an executive function and to more clearly define the mission of the Department of Planning and Economic Development. Chapters 201, 203 and 213, Hawaii Revised Statutes, would be repealed and relevant provisions incorporated into a new chapter which clearly set forth the mission, responsibilities and powers of the Department.

Discussion before your Committee included a review of how a new program would be integrated into this new system as far as the manner in which the broad versus specific guidelines of the proposed system are taken into consideration.

Your Committee has made technical, drafting amendments to conform this bill to recommended drafting style.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 151, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 151, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 284 Labor and Employment on S.B. No. 258

The purpose of this bill is to clarify the protections afforded to volunteers and to members of the public who may be injured by volunteers performing services for the State.

Under current law, volunteers are excluded from the provisions relating to state employment, collective bargaining, wage and hours, leaves and benefits, and workers' compensation coverage for medical and hospital expenses.

Your Committee heard testimony from the Administrative Director of the Courts and the Department of Labor and Industrial Relations and finds that this bill would make clear that volunteers are employees of the State for the purposes of Chapter 662, Hawaii Revised Statutes, better known as the State Tort Liability Act, and that there is no conflict between a volunteer's status under Chapter 90 and the worker's compensation provisions of Chapter 386. Therefore, since volunteerism is a small but vital cornerstone of public service which should be encouraged, your Committee finds that this bill is in the public interest and to the public's benefit.

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

effect and clarifying that volunteers shall be paid reasonable hospital and medical expenses in accordance with part V of subpart B of Chapter 386.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 258, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 258, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Cobb.

SCRep. 285            Agriculture on S.B. No. 1397

The purpose of this bill is to provide the Legislature with criteria and a weighted point system that shall be used to designate important agricultural land in the State.

Your Committee received testimony from the State of Hawaii Land Evaluation and Site Assessment Commission (LESA) stating that although the Commission has undertaken much work to date, it is of the opinion that the LESA standards, criteria, and procedures that the Commission has developed require testing to insure their applicability and validity. Moreover, this will provide the counties with the opportunity to apply and evaluate the proposed LESA system with respect to their individual situations.

The LESA Commission, in addition to the tasks outlined in Act 273, Session Laws of Hawaii 1983, is further directed to: (a) recommend standards and criteria which are needed to change the designation of "important agricultural lands" to urban or other uses; and (b) examine and recommend how the proposed LESA system can be integrated with the present legal framework to amend or modify state land use districts.

Two categories of "agricultural lands" will result as a consequence of implementing the contemplated LESA standards, criteria, and procedures — "Important Agricultural Lands" and "Other than Important Agricultural Lands". The LESA Commission is hereby directed to: (a) recommend the appropriate agency or agencies who should be responsible to administer permitted uses, subdivisions, etc. on "Important Agricultural Lands"; and (b) recommend which agency or agencies should similarly administer "Other than Important Agricultural Lands".

Your Committee finds that the Commission, in its "draft report" of its work pursuant to Act 273, Session Laws of Hawaii 1983, requested that it be authorized to continue its function in order to coordinate the testing and evaluation of the LESA system which it has developed thus far beyond the present expiration date. Your Committee believes that an extension to the life of the LESA Commission for at least one year and to provide funding for its continuance is warranted to allow the Commission to complete its report to the Legislature.

Your Committee has amended the bill by deleting all reference to the criteria and weighted point system, and included language to extend the life of the Commission until the adjournment of the 1986 legislative session. Your Committee has further amended this bill to appropriate funds for the Commission to continue to 1986.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1397, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1397, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 286            Human Services on S.B. No. 656

The purpose of this bill is to reduce the general excise tax rate for Care Homes from the current four percent to one-half of one percent of the gross income due to such an activity.

Testimony submitted by the United Group of Home Operators (UGHO) and the Kokua Council and Senior Citizens of Hawaii stated that monthly payments to Care Homes and Adult Family Boarding Homes for taking care of the elderly, developmentally disabled, and handicapped are inadequate.

Your Committee finds that out of such payments, the Care Providers are expected to provide for food, living accommodation, laundry, recreation, transportation, 24-hour care and supervision to the residents.

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

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 656,

as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 656, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 287            Human Services on S.B. No. 847

The purpose of this bill is to include robbery in the first degree and robbery in the second degree under section 351-32 relating to criminal injuries compensation.

Presently, robbery in the first and second degree are not listed in part III, Chapter 351, Hawaii Revised Statutes.

Your Committee finds that Senate Bill 508 relating to mandatory restitution will affect this bill by making compensation for criminal injuries mandatory.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 847 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 Henderson.

SCRep. 288            Human Services on S.B. No. 1479

The purpose of this bill is to assign to the Department of Social Services and Housing the responsibility of providing a secondary prevention program for child abuse and neglect and coordinating the program with other agencies.

Currently the Department of Health is responsible for the Advisory Committee on Secondary Prevention of Child Abuse and Neglect while the Department of Social Services and Housing is responsible for providing the services.

This bill would reduce the fragmentation of planning and service by having one department responsible for coordination of these activities.

Your Committee received testimony from various agencies supporting the intent of the bill.

Your Committee made technical nonsubstantive amendments to the bill.

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

Signed by all members of the Committee.

SCRep. 289            Human Services on S.B. No. 1432

The purpose of this bill is to specify that care homes and adult boarding homes shall be considered single family dwellings insofar as county codes are concerned.

Your Committee has amended the purpose of the bill by requiring that boarding and care homes subject to licensure under Chapter 346, Part IV and section 321-15.6 of the Hawaii Revised Statutes be inspected by county fire departments to insure minimum standards of fire and safety protection.

Your Committee has appropriated \$100,000, or so much thereof as may be necessary, for the fiscal biennium 1985-1987, to be expended by the department of health for reimbursement to counties for inspection services provided under sections 132-5 and 132-6 of the Hawaii Revised Statutes.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1432, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1432, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 290            Human Services on S.B. No. 1443

The purpose of this bill is to amend Section 346-59, Hawaii Revised Statutes, to include the services of licensed psychologists for medical care payments.

This bill provides medical care recipients the opportunity to seek the professional services of licensed psychologists, eliminates the necessity for a physician referral of a psychologist before the psychologist can treat a patient, and includes licensed psychologists with psychiatrists in the determination of mental impairment.

Your Committee received testimony from the Hawaii Psychological Association Committee in Legislation and Dr. Richard Sword stating that the proposed amendments are beneficial to public assistance recipients who otherwise would not be able to retain the professional services of a licensed psychologist.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1443 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. 291            Human Services on S.B. No. 1446

The purpose of this bill is to provide an income tax credit for child care expenses incurred by an employer for the cost of providing child care for the children of the employer's employees.

Your Committee believes that providing tax credit for child care would encourage employer's to provide child care services within the company.

Your Committee has amended the bill by deleting the definition of "private child care center" and replacing it with a definition of "private child care facility" which is defined under Chapter 346, Hawaii Revised Statutes.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1446, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as S.B. No. 1446, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 292            Human Services on S.B. No. 36

The purpose of this bill is to appropriate \$386,240.11 out of the general revenues of the State of Hawaii to pay victims and providers of services who were awarded compensation in 1984.

The sum appropriated shall be deposited in the Criminal Injuries Compensation Fund to be used for payments by the Criminal Injuries Compensation Commission.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 36 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. 293            (Joint) Human Services and Health on S.B. No. 64

The purpose of this bill is to place all licensing functions relative to domiciliary care facilities in one state agency, the Department of Health (DOH).

Presently the DOH licenses family care homes and residential care facilities while the Department of Social Services and Housing (DSSH) licenses adult boarding homes.

Your Committees find that this bill combines all facilities currently licensed as adult boarding homes, family care homes, and residential care facilities into one licensed group to be referred to as adult residential care homes. Your Committees further find that consolidating the licensing functions into one department will increase cost efficiency.

Your Committees received favorable testimony from the DSSH, the DOH, and the United Group of Home Operators who are in agreement that one agency should license all domiciliary care facilities.

Your Committees have amended section 3 of the bill by replacing the existing statutory language that provides for training of operators and staffs of facilities by the DOH, and have amended section 15 with a grandfather provision to allow facilities previously licensed by the DSSH to be precluded from meeting the physical requirements of the Board of Health.

Your Committees have further amended the bill by making clarifying language changes which have no substantive effect.

Your Committees on Human Services and Health are in accord with the intent and purpose of S.B. No. 64, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 64, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee on Human Services except Senators Holt and Henderson, and the Committee on Health except Senators Matsuura, George and A. Kobayashi.

SCRep. 294            Human Services on S.B. No. 113

The purpose of this bill is to extend the life of the Nursing Home Without Walls demonstration project for the time period July 1, 1985 through June 30, 1987.

In 1983, the Legislature passed Act 192, Session Laws of Hawaii 1983, establishing a Nursing Home Without Walls demonstration project, to provide comprehensive services to patients in their homes to reduce the possibility of prolonged institutionalization or the inappropriate utilization of scarce institutional beds as well as the concomitant high costs and other associated adverse social and medical implication of institutionalization.

Your Committee has amended the bill by deleting the duration dates and references to a demonstration project to establish this as a permanent project; adding a new section to section 3 to provide an exception to the expenditure ceiling; deleting the section which limits the provision of services to the island of Oahu; and making technical changes which have no substantive effect.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 113, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 113, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Holt and Henderson.

SCRep. 295            Human Services on S.B. No. 474

The purpose of this bill is to amend section 346-59, Hawaii Revised Statutes, by deleting those sections which relate to the reimbursement mechanism for health care services.

This bill deletes all provisions relating to reimbursing providers of health care services in accordance with specific fee profiles and replaces them with provisions whereby providers of institutional health care services would be reimbursed through a prospective payment system and non-institutional providers of health care would be reimbursed through a rate determined by the Department of Social Services and Housing (DSSH) but limited by Medicare and the State Legislature.

Your Committee received testimony from the DSSH stating that in the Appropriations Act of 1984, the DSSH was mandated to develop and implement prospective payment plans for institutional health care services. The plan for long-term institutional care has already been developed and a plan for hospital in-patient care payment is being developed for implementation in July 1985. The DSSH further testified that a plan to pay physicians and other practitioners on the basis of the Health Care Administration's Procedure Code System rather than on the basis of individual fee profiles is projected for implementation in July 1985.

Your Committee finds that the Hawaii prospective payment system is a facility-specific cost system based on each facility's actual audit cost experience trended forward and made applicable to today's cost. Your Committee further finds that prospective payment enables the State to control future expenditure growth, to some extent, and easily project for anticipated costs.

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

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 474, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 474, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 296            Human Services on S.B. No. 508

The purpose of this bill is to make it mandatory for persons convicted of any violent crime listed in Section 351-32, Hawaii Revised Statutes, to make restitution to the State if they are able to do so.

Restitution is a sanction imposed by the courts under the Penal Code whereby a convicted offender must compensate the victim for injury resulting from an offense listed under the Criminal Injuries Compensation Law, Chapter 351, Hawaii Revised Statutes. The victim is also entitled to compensation from the State under the Criminal Injuries Compensation Law, Section 351-52, for medical expenses, pain, suffering, loss of earnings, and property loss due to the offense. This award is independent of the restitution ordered under the Penal Code.

This bill would require the convicted offender to pay the State an amount equal to the amount awarded to the victim under the Penal Code less the amount awarded to the victim under the Criminal Injuries Compensation Law. Your Committee received testimony from the Department of Social Services and Housing and, after due consideration finds that this proposal constitutes an equitable formula for balancing the State's obligation to reimburse victims of violent crimes with the offender's obligation to make restitution to the victim. Your Committee notes that S.B. No. 847 relates to similar subject matter by adding new compensable offenses to Section 351-32.

Your Committee has amended the bill to correct a typographical error on page 1, line 6. A reference to Section 351-52 has been corrected to Section 351-32.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 508, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 508, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Holt and Henderson.

SCRep. 297 (Joint) Labor and Employment and Higher Education on S.B. No. 869

The purpose of this bill is to repeal Act 185, Session Laws of Hawaii, 1984, which established a temporary comparable worth commission and establish a pay equity task force to conduct a comparable worth job study.

Presently the establishment and maintenance of position classification plans are the responsibility of the respective personnel directors. These plans are linked together through a biennial review by a conference of personnel directors whose actions are appealable to the Public Employees Compensation Appeals Board (PECAB). Essentially the existing system embodies the concept of equal pay for equal work, with the knowledge of the consequences of collective bargaining.

This bill would establish a task force to evaluate each job and make specific recommendations to correct any underpayment of female-dominated jobs.

Your Committees received testimony in favor of and against the bill. Based upon the testimony received your Committees made the following amendments:

- 1) Section 11: Added two subsections which limit the number of occupational classifications that the exclusive bargaining representatives shall be entitled to select.
- 2) Section 12: Reworded subsection (c) to read as follows: "Recommend an implementation timetable not to exceed three years and the cost of correcting the underpayments uncovered in the study;"
- 3) Deleted old Sections 13, 14, and 15 and substituted new Sections 13, 14, and 15. New Section 13 provides that findings of the study shall not be used in any suit against the State if certain conditions are met. New Section 14 is a combination of old Sections 13 and 14. New Section 15 provides that the Act takes effect upon approval provided that the lawsuit identified as Civil No. 84-134, (United States District Court, District of Hawaii) is withdrawn.

Your Committees on Labor and Employment and Higher Education are in accord with the intent and purpose of S.B. No. 869, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 869, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees.

SCRep. 298 Ways and Means on S.B. No. 1071

The purpose of this bill is to amend the laws of the State of Hawaii and is a short form bill.

Your Committee has amended this bill to provide that a taxpayer may deposit taxes owed to the State with a bank, savings and loan association, credit union, or trust company as payment

of taxes to the State. The bill provides for the protection of the statistical information that the department of taxation requires.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1071, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1071, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 299            Ways and Means on S.B. No. 1075

The purpose of this bill is to amend the laws of the State of Hawaii and is a short form bill.

Your Committee has amended the bill by providing for the constitutionally mandated income tax credit, leaving the amount to be rebated blank.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1075, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1075, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 300            Ways and Means on S.B. No. 1085

The purpose of this short form bill is to amend chapter 245, Hawaii Revised Statutes, to increase the excise tax on tobacco products.

Your Committee has amended the bill by: (1) amending section 245-3, Hawaii Revised Statutes to increase the excise tax on tobacco products from forty to fifty per cent of the wholesale price of each article or item; and (2) changing the effective date of the Act to July 1, 1985.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1085, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1085, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 301            Energy on S.B. No. 153

The purpose of this bill is to authorize the Board of Land and Natural Resources to fix royalty payments for the utilization of geothermal resources or waive royalty payments for any fixed period of time not exceeding eight years in order to encourage production.

Major geothermal programs were initiated in Hawaii in the late seventies and early eighties when oil price projections made geothermal appear economically attractive. Since more than ninety per cent of Hawaii's energy comes from imported oil, geothermal is a most promising alternate energy resource, the development of which is crucial to the economy of the State and to the achievement of the State Plan goal of energy self-sufficiency.

Your Committee heard testimony from the Board of Land and Natural Resources, the Department of Planning and Economic Development, Hawaiian Electric Company, the Chamber of Commerce of Hawaii, Mid-Pacific Geothermal, Inc., and Puna Geothermal Venture, and finds that this bill provides the Board of Land and Natural Resources the flexibility needed to positively impact upon geothermal development operations in each resource area. Your Committee further finds that this bill will promote public interest by encouraging exploration and development as well as the continued production of geothermal resources which would not otherwise have been undertaken because of prohibitive financial costs.

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 153 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 302            (Majority) Housing and Community Development on S.B. No. 1351

The purpose of this bill is to make two amendments to section 206E-1, Hawaii Revised Statutes.

The first amendment of the bill provides an additional finding by the legislature that the Hawaii Community Development Authority's (HCDA) redevelopment activities and the issuance of bonds to finance public improvements are of public interest and of statewide concern. The second amendment provides clarifying language that an assessment levied by HCDA against real property shall not constitute a tax on real property.

Pursuant to chapter 206E, Hawaii Revised Statutes, the HCDA is required to develop a district-wide improvement program for designated redevelopment districts, such as Kaka'ako. Under this program, the HCDA is required to implement needed public improvements and to assess a portion of the improvement costs against the real properties which specially benefit from the improvements. For any property owner who elects to pay an assessment in installments, the unpaid assessment amount would be secured by a lien against the owner's property, and the HCDA would issue Improvement District (ID) assessment bonds to provide the funds necessary for construction.

Under Article VIII, Section 3, of the State Constitution, the power to tax real property is exclusively reserved to the counties. In view of this, there is a legal question as to whether the proposed ID assessments of HCDA, which are to be secured by liens against real property, could be construed to be a form of taxation of real property, and therefore, in conflict with this constitutional provision.

In an effort to resolve this issue, the State's bond counsel and the Office of the Attorney General have done considerable research of the State Constitution, the Hawaii Revised Statutes, and relevant judicial determinations. Based on their findings to date, however, they are unable to make a definitive conclusion that an ID assessment is clearly not a form of real property taxation. As such, it has been determined that a ruling from the State of Hawaii Supreme Court would be necessary to fully resolve this matter.

Your Committee has corrected minor typographical errors in the bill.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 1351, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1351, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.  
Senator George did not concur.

SCRep. 303            Ways and Means on S.B. No. 117

The purpose of this bill is to maintain the integrity of the state income tax system by discouraging the rapid growth of deliberate defiance of the tax laws by tax protestors by penalizing frivolous tax returns.

The bill provides for a penalty to be imposed on those persons who file frivolous or protest returns which clearly are not designed to inform the department of taxation of the taxpayer's income and which are intentionally not in processable form. The proposed section is patterned after a similar provision in the Internal Revenue Code.

Your Committee received testimony from the Director of Taxation that the bill provides a definite disincentive to those taxpayers considering filing frivolous tax returns.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 117 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 304            Ways and Means on S.B. No. 120

The purpose of this bill is to conform the nondisclosure provisions afforded the general excise tax law to the use tax law.

The bill provides that it is unlawful to disclose information contained on use tax returns to any person other than the taxpayer filing the return, the taxpayer's authorized agent, or persons with material interest in the return.

The bill specifies who has material interest in the return, and includes in this category trustees, partners, and persons duly authorized by the State in connection with their official duties.

Although Act 170, Session Laws of Hawaii 1981, amended the general excise tax law to



provide that tax returns filed under the provision of chapter 237, Hawaii Revised Statutes, and information relating to these returns be confidential, however, no conforming amendment was provided for the use tax law. Since use tax returns relate to business income, the same provisions should apply.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 120 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 305            Ways and Means on S.B. No. 118

The purpose of this bill is to provide for an extension of the applicable statutory period for the levy, assessment, or refund of general excise taxes for one year from the department's receipt of written notification of an adjustment to income tax liability by the taxpayer or the Internal Revenue Service, applying to taxable years beginning after December 31, 1984.

This bill provides the department of taxation with the time needed to review the changes by the Internal Revenue Service as it affects general excise tax, if any, and to make any necessary adjustments to the taxpayer's tax liability.

Your Committee has adopted the recommendation of the department of taxation by amending the bill to add a new subsection to section 237-40, Hawaii Revised Statutes, to provide for reporting any changes, adjustments, or recomputations of federal income taxes to the department of taxation. The report is required within ninety days after such change, correction, adjustment, or recomputation is finally determined or the amended income tax return is filed. Your Committee finds that setting forth this requirement as a separate subsection in section 237-40, Hawaii Revised Statutes, will provide better notice to the taxpayer than the bill as originally drafted.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 118, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 118, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 306            Ways and Means on S.B. No. 119

The purpose of this bill is to conform the statute of limitations relating to substantial understatement of income with the limitations period under federal provisions.

Present state law provides for a three-year statute of limitations in assessing income taxes imposed under chapter 235. In the case of a fraudulent return or no return, the tax may be assessed at any time.

The proposed amendment would extend the statute of limitations from three to six years in those instances where the gross income which should properly be included in the return is understated by more than twenty-five per cent of the amount reported on the return.

Your Committee received testimony from the Director of Taxation that this amendment would lessen the chances of this means of tax avoidance.

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. 119, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 119, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 307            Ways and Means on S.B. No. 714

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist (1) Kaiser Foundation Hospitals, Oahu, in financing additions and parking to its Moanalua Medical Center and the construction of a skilled nursing facility, including a reference laboratory and a data processing center, and (2) Kaiser Foundation Health Plan, Maui, in financing the expansion of its Wailuku Clinic.

Your Committee finds that approval of the certificate of need from the State Health Planning and Development Agency for the facility at the Moanalua Medical Center on Oahu has been received. Approval of the certificate of need for the Wailuku Clinic on Maui is pending

and therefore issuance of the special purpose revenue bonds for this project is contingent on such approval.

This bill further authorizes the issuance of refunding special purpose revenue bonds at such times and in such principal amounts as the Department of Budget and Finance shall determine to be necessary, in compliance with federal tax laws.

Your Committee received favorable testimony from the Hospital Association of Hawaii and Kaiser Foundation Health Plan/Hospitals. Your Committee finds that Kaiser, as a federally qualified health maintenance organization, is required to develop rates based on cost, and therefore any savings in interest expense is directly passed on, via reduced increases in rates, to the consumer. Your Committee believes that this bill affords an opportunity for significant cost containment in health care costs.

Your Committee Ways and Means is in accord with the intent and purpose of S.B. No. 714 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 308            Ways and Means on S.B. No. 1392

The purpose of this bill is to authorize the issuance of special purpose revenue bonds in a total amount of \$4,600,000 to assist Wahiawa General Hospital in financing the last major component of the hospital's building program, including the correction of existing code deficiencies and accommodations not conforming to current standards, modernization of the hospital's obstetrical service, replacement of the surgical suite, and refurbishing of the radiology facility.

Your Committee received favorable testimony from Wahiawa General Hospital and the Hospital Association of Hawaii and finds that Wahiawa General Hospital has a fine record of service to their community and is a major provider of services to people of their community. 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. 1392 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 309            Ways and Means on S.B. No. 557

This bill authorizes the department of budget and finance to issue special purpose revenue bonds to assist not-for-profit corporations that provide health care facilities to the general public for financing or refinancing the acquisition of equipment related to and useful in their operation, in particular to Queen's Medical Center, Oahu (\$5 million); Wahiawa General Hospital, Oahu (\$3 million); and G. N. Wilcox Memorial Hospital, Kauai (\$3 million).

Stanley B. Snodgrass, President and Chief Executive Officer, Hospital Association of Hawaii; Ruth M. Ono, Vice President, Queen's Medical Center; Phil Palmer, Chief Executive Officer, G. N. Wilcox Memorial Hospital; and David Sakata, Vice President, Wahiawa General Hospital testified to support the enactment of this bill.

The interest on financing and refinancing necessary to provide for the continuing equipment needs of health care facilities is a significant factor in the cost of providing health care to the general public. Interest costs would be greatly reduced by using special purpose revenue bonds to finance hospital equipment needs, as is the case when they have been used to finance major hospital construction and renovation programs.

Authorization for the issuance of these special purpose revenue bonds for hospital equipment will result in an estimated savings of \$600,000 for Queen's Medical Center, \$350,000 for G. N. Wilcox Memorial Hospital, and \$225,000 for Wahiawa General Hospital.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 557 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 310            Ways and Means on S.B. No. 561

This bill adds a section to the Hawaii income tax law which would exclude from gross income taxable in the State of Hawaii any intangible income, such as dividends, interest, or capital

gains earned by a trust administered in the State of Hawaii, where the beneficial interest in the trust is held by a beneficiary living outside of the State. This exclusion would not apply to any income received from real property or from real property held in a land trust. The bill further provides that any resident beneficiary of a trust with a situs in another State may claim a tax credit for income taxes paid by the trust to the other state or income attributable to other than intangibles.

Herbert M. Dias, Director of Taxation; Michael Shea, Honolulu attorney, Tax Committee member, Chamber of Commerce; John R. Conrad, Tax Section, Hawaii State Bar Association; and Carole Ann Gibbs, Vice President, Hawaiian Trust Company, Limited testified for the enactment of this bill, and made the following points. Usually, a state taxes a beneficiary of a trust for income from intangibles only when that state is the beneficiary's residence. However, Hawaii taxes this income regardless of the trust beneficiary's residence. This may result in double taxation of a nonresident trust beneficiary on this income, because many states do not allow a tax credit for these taxes paid to Hawaii.

Therefore, because of the current law, trusts situated in Hawaii with nonresident beneficiaries may move to other states to avoid such taxation. Moreover, Hawaii is at a disadvantage in attracting trusts from foreign sources, for they tend to look to states that do not tax nonresidents on trust income.

Trust companies are a desirable type of business for Hawaii because they provide clerical, white collar, and professional employment without pollution or adverse consequences; they generate tax revenues on trust administration fees and commissions; and they are essential if Honolulu wishes to become a financial center of the Pacific.

Traditionally the trust beneficiary has received little sympathy from legislators because of the well-to-do image of the beneficiary who is well able to afford taxes. But in fact, many trust beneficiaries are senior citizens living on relatively fixed incomes.

This bill would help to provide an incentive for trusts to be located in Hawaii by eliminating the potential of double taxation on a nonresident beneficiary of a trust for income on intangibles.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 561 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 311            Ways and Means on S.B. No. 116

This bill provides for the imposition of a civil penalty of \$500 on an individual who supplies false or fraudulent information to an employer which results in a reduction of taxes to be deducted or withheld by the employer.

The bill provides that the penalty is in addition to any other penalty imposed under the state income tax law to be imposed for each tax year the amount of taxes required to be deducted and withheld were reduced. It also provides that an individual aggrieved by the imposition of the penalty may appeal the penalty.

Your Committee finds that enactment of this amendment would provide the department of taxation with a means of penalizing those tax protestors who claim excessive numbers of withholding exemptions on the statements filed with the employer for the purpose of defying the tax laws relating to exemptions. This penalty will conform to the federal enforcement provisions and those being adopted by other states as a means of discouraging this means of tax protest.

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. 116, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 116, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 312            Ways and Means on S.B. No. 338

The purpose of this bill is to extend the expiration date of the public service company tax exemption of certain contract carriers (ocean-going vessels exceeding 10,000 gross tons), primarily engaged in the business of transporting persons for tourism or sightseeing from June 30, 1986, to June 30, 1991.

Your Committee received testimony supporting the bill from the Department of Transportation and the Director of Planning and Economic Development. Testimony was also received from the Director of Taxation that the Department of Taxation does not oppose the bill.

Testimony was submitted by American Hawaii Cruises (AHC), which operates the S.S. Independence and the S.S. Constitution, that its cruise ship business in the State was started in 1980 with one ship, the Independence. With legislative enactment of the tax exemption in 1981, AHC launched the Constitution in 1982. 1984 was the first year in which AHC made a small profit, although its liabilities still exceed its assets by approximately \$20 million. With an extension of the present tax exemption, AHC envisions a promising future of growth, generating benefits to the tourism industry, the Aloha Tower Development, and the State.

Your Committee has made technical, nonsubstantive amendments in the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 338, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 338, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 313            Ways and Means on S.B. No. 34

The purpose of this bill is to implement the allocation of the \$200 million ceiling on private activity bonds set by the federal Deficit Reduction Act of 1984 (DEFRA), P.L. 98-369, for the State of Hawaii.

DEFRA limits the principal amount of tax-exempt private activity bonds—generally, student loan and industrial development bonds—which may be issued within each state during a calendar year. Hawaii's ceiling is \$200 million a year. DEFRA allocates 50%, or \$100 million, of Hawaii's ceiling for state agencies authorized to issue private activity bonds. The other one-half is allocated to the several counties according to their respective shares of the State's population.

DEFRA also provides that any state may enact legislation to modify the formula for allocation. This bill provides for legislative allocation of the state ceiling according to DEFRA and also authorizes the Department of Budget and Finance, the department responsible for the administration of the state debt, to administer a program under which the allocations may be assigned and reassigned among the State and the several counties. This flexibility will maximize use of the state allocation and afford issuers of private activity bonds the opportunity to plan and aggregate allocations for the financing of large projects.

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. 34, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 34, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 314            Ways and Means on S.B. No. 35

The purpose of this bill is to remove the statutory interest rate ceiling on general obligation bonds issued by the State so as to provide greater flexibility for the financing of state capital improvement projects.

Act 245, Session Laws of Hawaii 1980, established the maximum interest rate which may be paid on general obligation bonds issued by the State at 9-1/2%. Since its enactment on June 7, 1980, it has been temporarily raised from time to time to accommodate escalating interest rates in order to facilitate the sale of general obligation bonds in the municipal bond market. Act 118, Session Laws of Hawaii 1983, provided for a temporary increase of the statutory ceiling to 14% until June 30, 1985, at which time it will revert to 9-1/2%.

Your Committee received testimony from the director of finance that the interest rate ceiling should be eliminated as it restricts and hinders the orderly financing of public improvements which are funded by general obligation bonds. It has been demonstrated that prevailing market conditions rather than statutory interest rate ceilings determine the interest which state and local governments must pay on their bonds.

On March 24, 1982, the State attempted to issue \$75 million General Obligation Bonds, Series

AT, but received no bids because of conditions in the municipal bond market and the 12% statutory interest rate ceiling in effect at the time. The Bond Buyer's 20-Bond Index of general obligation bonds at that time was 13.04%. In the period from March 31, 1982 to May 13, 1982, after the statutory interest rate ceiling had reverted to 9- 1/2%, the State was effectively shut out of the municipal bond market. During this period the 20-Bond Index fluctuated from a low of 11.82% to a high of 13.13%. The Series AT bonds were finally sold on June 17, 1982, after the statutory ceiling had been raised to 14%.

Expenditures for capital improvement projects are expected to continue at a rate of about \$150 million a year. To ensure continued, orderly financing of these projects without relying upon borrowings from the state general fund, your Committee favors the removal of the interest rate ceiling on general obligation bonds. Such bonds are callable or refundable after ten years. If interest rates should decline significantly, the State can refinance the high interest bonds.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 35 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 315                      (Majority) Ways and Means on S.B. No. 362

This bill provides that the statute of limitations set forth in Hawaii Revised Statutes sections 237-40, 238-7, and 238-13 is waived by the State to allow taxpayers to claim refunds to use import tax payments.

The Hawaii Automobile Dealers' Association recommended enactment of this bill because General Motors dealers discovered that both the distributor and the dealer were incorrectly paying the use tax on the same product for about ten years. Under the existing three-year statute of limitations, dealers were granted refunds for three years back but denied refunds for those years beyond the statute of limitations. This bill would permit General Motors dealers to be refunded for this tax inequity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 362, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Henderson.  
Senator Fernandes Salling did not concur.

SCRep. 316                      Ways and Means on S.B. No. 115

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

Your Committee has amended this bill by deleting its contents and substituting the provisions proposed by the department of taxation. These provisions are the annual submission conforming the state income tax law to the federal Internal Revenue Code as required by law.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 115, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 115, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 317                      Ways and Means on S.B. No. 477

The purpose of this bill is to amend section 235-2.3 by (1) updating conformance between the Hawaii income tax law and the Internal Revenue Code from December 31, 1983 to December 31, 1984, and (2) by adding a new subsection to make operative for the Hawaii income tax law section 1016 of the Internal Revenue Code (relative to adjustment of basis) in order to bring the tax basis of investment tax credit property for Hawaii purposes into conformity with the tax basis for federal purposes.

The proposed subsection permits the basis adjustments under Internal Revenue Code section 1016(a)(24) to apply to state income tax computations but limits the amount of the adjustment to that provided by Internal Revenue Code section 48(q)(1) and (q)(2). A state deduction from gross income is allowed in the amount of the basis reduction under section 48(q)(1), determined as though an investment tax credit were allowed under section 46(a). In the case of recapture of the federal credit, the state deduction shall be recaptured, and the basis of the property shall be restated in a like amount.

Your Committee received testimony from the Director of Taxation that the new provision will simplify record-keeping for taxpayers claiming the investment tax credit under federal tax law, as present law provides different bases for federal and state tax purposes.

Favorable testimony was received from the Chamber of Commerce of Hawaii and the Hawaii Bar Association. However, these organizations called attention to the possibility that taxpayers may be inconsistent in their election of the tax credit for federal and state tax purposes. It was recommended that statutory language be added to clarify that if the taxpayer claims the full federal investment tax credit, then the taxpayer must claim the additional first year deduction and adjustment in basis for Hawaii income tax purposes. The taxpayer should not be allowed to exercise the Hawaii election independently. The elections must be consistent so that the Hawaii and federal income tax bases in the property will always be identical.

Your Committee agrees with the foregoing recommendation and has amended subsection (j)(1) accordingly. Technical, nonsubstantive amendments were also made.

Your Committee on Ways and Means is in accord with the intent and purpose of S. B. No. 477, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 477, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 318            Ways and Means on S.B. No. 479

This bill provides a technical amendment by deleting the reference to chapter "244", which was repealed by the First Special Session of the State Legislature in 1984, and inserting chapter "244D", the new liquor tax law which the Legislature reenacted without the constitutionally questioned exemptions.

Your Committee has amended this bill by adding other sections which should be amended to reflect the change in chapter designations.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 479, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 479, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 319            Ways and Means on S.B. No. 1209

The purpose of this bill is to reduce, from four per cent to .15 per cent, the general excise tax rate imposed on the commissions received by travel agents from the sale of air fares.

Your Committee finds that travel agents and agencies currently pay a four per cent tax on commissions received but, unlike other businesses which pay the four per cent tax, they are prohibited by federal law from passing on the general excise tax to their customers. The commissions earned and the cost of the products or services sold by travel agents and agencies are unilaterally established by the suppliers of services, e.g., airlines, hotels, and car rental companies, and any increases in the operational expenses of an agency can only be met by increased sales. This predicament has resulted in the closing of businesses by many agencies which have been unable to meet increased costs and in more purchases of airline tickets by consumers directly from the airlines.

Although the State stands to lose some revenue from the reduction of the general excise tax for travel agencies, your Committee notes that the State does not receive any revenue when consumers purchase their tickets from the airlines; therefore, it would be in the State's interest to correct the inequitable treatment of travel agents under the general excise tax law. Your Committee further notes that insurance agents, subagents, and solicitors who are also prohibited by state law from passing on the general excise tax to their customers, were granted a reduction of their general excise tax rate to .15 per cent in 1978.

Your Committee has amended the bill to clarify that (1) the reduced rate applies to registered travel agencies as well as registered travel agents; and (2) the commissions for which the reduced excise tax rate does not apply are those received on sales other than air fare sales. The bill was also amended to include the complete text of section 237-13 since many of the paragraphs apparently were inadvertently omitted. Other minor technical amendments which do not affect the substance of the bill were also made.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1209, as amended herein, and recommends that it pass Second Reading in the form attached

hereto as S.B. No. 1209, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 320            Ways and Means on S.B. No. 884

The purpose of this short form bill is to create an industrial development authority.

Your Committee has amended this bill to provide for such an authority which would have the power to issue special purpose revenue bonds up to \$10,000,000 for industrial, processing, and manufacturing enterprises.

Under this bill, the legislature would authorize an aggregate amount of special purpose revenue bonds which could be issued by the authority during a fiscal year. The authority would review the specific proposals and issue the bonds needed to finance the particular project. The authority would not be allowed to issue any bonds in an amount greater than \$10,000,000. In addition, no bond for an amount greater than \$5,000,000 could be issued unless the council of the county in which the project is located passes a resolution indicating its support for the project.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 884, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 884, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senator Hee.

SCRep. 321            Ways and Means on S.B. No. 885

The purpose of this short form bill is to propose an amendment to Article VII, section 12, of the Constitution of the State of Hawaii.

Your Committee has amended the bill to so amend the constitution to allow the legislature to authorize an industrial development authority, an administrative agency, to issue special purpose revenue bonds. The authority would not be allowed to issue any bond in an amount greater than \$10,000,000 without legislative authority for each individual issue.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 885, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 885, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senator Hee.

SCRep. 322            Economic Development on S.B. No. 967

The purpose of this bill is to amend the laws of the State of Hawaii as they relate to land.

Your Committee has amended this bill in its entirety to provide a statutory amendment relating to section 171-11, Hawaii Revised Statutes, entitled "Public purposes, lands set aside by the governor; management" for the purpose of informing interested and affected parties of the substance of the proposed amendment so that testimony may be submitted for your Committee's consideration.

The amendment would grant greater flexibility in utilizing certain public lands set aside by the governor by eliminating the requirement that the disposition of lands set aside to state and county agencies in regards to the issuance of leases, easements, licenses, revocable permits, concessions, or rights of entry covering these set aside lands be subject to the prior approval of the Board of Land and Natural Resources.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 967, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 967, S.D. 1, and be recommitted to the Committee on Economic Development for further consideration.

Signed by all members of the Committee.

SCRep. 323            Ways and Means on S.B. No. 237

The purpose of this bill is to adopt numerous amendments to the Hawaii income tax law.

Among the amendments proposed are the taxation of pensions and social security benefits, the adoption of the federal alternative minimum tax for Hawaii, decoupling real property from ACRS, the adoption of modified adjusted gross income for the excise tax credit and increasing the credits, amending the taxation of individuals and corporations, and sunseting various special tax credits.

Your Committee has amended the bill by deleting many of the provisions, but retaining the adoption of modified adjusted gross income for the excise tax credit and raising the income brackets and credits for that credit and amending the corporate tax rates to be imposed in new bracket amounts. Your Committee has added a provision increasing the personal exemption from \$1,000 to \$1,040 which is the same as the federal amount for taxable year 1985.

Your Committee has also changed the sunseting of the child passenger restraint credit and the credit to discourage the sale of dangerous drugs to a repeal of both credits. Your Committee finds that the child passenger restraint credit has fulfilled its purpose and that as drafted it has no relevance to the income of the claimants nor to the cost of such restraints some of which cost less than the credit given. In the case of the credit to discourage the sale of dangerous drugs, your Committee has been advised that no claims have been made for the credit since it was enacted in 1970.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 237, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 237, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senator Holt.

SCRep. 324            Ways and Means on S.B. No. 239

The purpose of this bill is to exempt certain affiliated groups of corporations from the general excise tax, to exempt exports of tangible personal property and tangible by-products of services from the general excise tax, to impose a transient accommodations tax and to sunset various exemptions from the general excise tax.

Your Committee has deleted the contents of the bill except for the exemption of certain affiliated business transactions. This exemption has been rewritten pursuant to suggested testimony to exempt affiliated corporations as defined in the Internal Revenue Code and to include transactions by controlled groups of corporations also defined by the Internal Revenue Code. By using commonly understood definitions for this exemption, your Committee feels that those corporations doing business in this manner will appropriately be exempted from the general excise tax. Your Committee has also amended section 237-20, Hawaii Revised Statutes, to clarify the "gross up" activities of the department. Presently, the department is attributing compensation of independent agents to the seller of a tour whether or not the seller of such tour ever collected the money and whether or not there is an agency relationship.

Finally, your Committee has provided for an exemption for the common paymaster situation. The exemption has been redrafted to meet earlier objections of the department to the bill which, the department stated in testimony in 1980 on H.B. No. 2980-80, if corrected, the department would not object to the exemption.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 239, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 239, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senator Holt.

SCRep. 325            Ways and Means on S.B. No. 241

The purpose of this bill is to repeal the public service company tax and the franchise tax. In addition, the bill repeals the franchise tax provisions of the various public utility franchises now in existence. The result of these deletions and repeal would be to subject the public service companies to the general excise tax and the real property tax.

Your Committee has deleted the provisions of this bill and substituted provisions to exempt from the general excise tax shipbuilding and ship repair to surface vessels operated for commercial purposes out of any harbor in the State. Provisions have been added to update, clarify, and broaden the general excise tax exemption for scientific contracts. Your Committee has acted on the recommendation of the Tax Review Commission and included a provision to repeal the bagasse exemption from the general excise tax. Finally, this bill phases in a reduction of the general excise tax on leases reducing the tax from four per cent to



one-half of one per cent on intermediate lessors.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 241, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 241, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senator Holt.

SCRep. 326            Ways and Means on S.B. No. 246

The purpose of this bill is to amend the manner of taxing the sale of gasoline from the present system to an ad valorem method by imposing an unknown percentage of tax on the selling price of the gasoline.

Upon consideration of this bill your Committee has amended the bill to provide instead that sales and gross proceeds of sales to the State and its political subdivisions by certain general excise tax licensees shall be exempt from the general excise tax. Your Committee has also provided for an exemption of certain government service companies from the general excise tax.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 246, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 246, S.D. 1, and be recommitted to your Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senator Holt.

SCRep. 327            Health on S.B. No. 62

The purpose of this bill is to restructure the mental health and substance abuse service area boards and to statutorily provide authorization for designating the number and boundaries of the geographical service areas.

Currently, each service area board consist of fifteen members and the geographical service areas are defined by catchment boundaries existing as of June 30, 1984. This bill would reduce board membership to nine and authorize the Director of Health to designate geographical service areas.

Your Committee heard testimony from the Department of Health and the Mental Health Association in Hawaii, and finds that previous boards have experienced difficulty recruiting enough qualified members. The change proposed in this bill should make it easier to have a quorum at meetings, thereby facilitating the boards' business. However, relating to the Director's authority to designate the number and boundaries of geographical service areas, your Committee finds that such decisions must be made in conformance with Chapter 91, Hawaii Revised Statutes, and has amended the bill accordingly.

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. 62, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 62, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 328            Ways and Means on S.B. No. 231

The purpose of this bill is to provide that any person, whether or not presently enumerated in the state income tax law as exempt, who is exempt under the federal Internal Revenue Code and who has approval of such exempt status, may file such approval with the department of taxation and automatically receive tax exempt status under the state income tax law.

The department noted that it had no objections to the bill and that persons presently exempt under both the federal and state law are granted an automatic exemption. After discussion at the public hearing the department agreed with the Tax Foundation of Hawaii that a better solution to the problem this bill is attempting to solve is to delete the majority of the exemptions in section 235-9, Hawaii Revised Statutes, which are redundant to the Internal Revenue Code and to make the appropriate provisions in the Code operative in Hawaii. Your Committee finds that this solution will be in the interest of conformity with the federal Internal Revenue Code, that there will be little change in revenues, and that the nonprofit taxpayer will be assisted in obtaining exemption from the income tax law in Hawaii.

Your Committee has amended this bill to provide for the appropriate sections concerning nonprofit activities in the Internal Revenue Code to be operative in the Hawaii income tax law. In drafting this bill your Committee was assisted by the department of taxation which is in accord with the amendments now contained in this bill. As drafted, the bill now exempts organizations exempted by the Internal Revenue Code which is a small change from their present status. The bill also codifies the present treatment by the department of taxation of certain homeowners associations and political organizations. Although the bulk of the income of these organizations is tax exempt, certain amounts are taxable under the corporation tax of the State. This bill codifies such present treatment. Section 235-9, Hawaii Revised Statutes, has been amended by deleting provisions redundant to the now operative provisions of the Internal Revenue Code. Reference to fish marketing associations is added to the section as they are presently exempt under section 422-33, Hawaii Revised Statutes, the same as agricultural marketing associations, already mentioned in section 235-9, under section 421-23, Hawaii Revised Statutes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 231, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 231, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 329

Ways and Means on S.B. No. 689

The purpose of this bill is to exempt members of the council on revenues from the two-term limitation imposed on all members of state boards and commissions.

Due to the nature of the council's responsibilities, that is, preparing estimates of the State's revenues and making forecasts of the growth in the State's personal income for the purpose of setting the state general fund spending ceiling, particular expertise and specific understanding of the State's tax system and spending process are required. Preparing the estimates required of the council requires an understanding of the state and national economy and how the state tax system interacts with the economy.

Your Committee agrees with the recommendation of the Tax Foundation of Hawaii, that since the development of competence in performing the tasks required of this position is gained only by experience, limiting members of the council on revenues to two terms would not fully use the experience gained while serving on the council. Cumulative experience and continuity would lend consistency and accuracy to the council's work.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 689 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 330

Ways and Means on S.B. No. 1210

The purpose of this bill is to repeal the exclusion from the general excise tax provided for federal cost-plus contractors and to provide for exempting amounts received by contractors with respect to sales to the federal government.

Your Committee received favorable testimony from the Construction Industry Legislative Organization, Inc., the Plumbing and Mechanical Contractors Association of Hawaii, the General Contractors Association of Hawaii, the Sheet Metal Contractors Association, the Hawaii Business League, and the Building Industry Association of Hawaii and finds that this measure will permit the local contractor who bids on federal government contracts to be more competitive with out-of-state contractors. Currently, local contractors are at a disadvantage in bidding for federal work because mainland contractors do not include the general excise tax in their bids, nor pay this tax to the state tax office. Because the local contractor must include the general excise tax in the contractor's bid, the local contractor in most cases is not able to receive federal work. In 1983, the federal government offered \$171,469,000 in work and local contractors received \$68,587,000 of that amount. Your Committee supports this bill which would put local contractors on an equal footing with mainland contractors when bidding for federal contracts.

Your Committee has provided for the repeal of section 237-13(2)(E) which refers to section 237-13(3)(C) which is repealed by the bill.

Your Committee has corrected section 237-13, Hawaii Revised Statutes, which as set forth in the bill left out paragraphs (4), (6), (8), and (10). Other technical, nonsubstantive amendments were also made.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1210, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1210, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Holt.

SCRep. 331            Ways and Means on S.B. No. 1297

The purpose of this bill is to increase the ceiling of tax liability for the filing of general excise tax returns on a quarterly basis from \$1,000 to \$2,000. This bill also allows taxpayers with an annual general excise tax liability of less than \$1,000 to file a general excise tax return on a semiannual basis on July 31 and January 31; provided that the Director of Taxation is satisfied that this filing and payment on a semiannual basis will not jeopardize the collection of taxes.

Your Committee received favorable testimony from the Department of Taxation, the Tax Foundation of Hawaii, and the Hawaii Business League and finds that this measure will ease the flow of tax returns and forms being processed by the Department of Taxation, and will lessen the burden of filers with a limited tax liability, thereby encouraging greater taxpayer compliance. Moreover, the State's cash flow will not be impaired by the changes proposed in this measure.

Your Committee has made a technical, nonsubstantive amendment to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1297, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1297, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 332            Health on S.B. No. 66

The purpose of this bill is to provide for the licensing of laboratory technologists and supervisors by the Department of Health.

Your Committee heard testimony from the Department of Health to the effect that laboratory technologists and laboratory supervisors have become increasingly important to the public health and safety since section 321-13, Hawaii Revised Statutes, was last revised, and that the emergence of these two categories is reflective of the complexity of modern society and the multitude of skilled procedures necessary to carry out the business of medical laboratory work. Therefore, your Committee finds that the increased regulatory authority granted to the Department in this bill would further protect the public safety and is in the public interest.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 66 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 333            Ways and Means on S.B. No. 1077

The purpose of this short form bill is to amend the laws of the State of Hawaii relating to the legislature.

Your Committee has amended this bill to provide an appropriation of sufficient funds to pay the salaries of the members of the Senate and the House of Representatives for the period from November 6, 1984 to June 30, 1986. This bill as amended is a housekeeping measure that is necessary due to constitutional amendments in 1978.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1077, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1077, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 334            Judiciary on S.B. No. 253

The purpose of this bill is to amend H.R.S. §§586-3 and 4 to 1) permit a family or household member to apply for an order for protection on behalf of a minor or an incapacitated person, and 2) extend the protection of the order to the applicant's immediate family or household

members.

Both the Family Court and Victim/Witness Kokua Services of the City and County of Honolulu testified in favor of this bill. The current law, providing that orders for protection may only be made on behalf of minor children, is too restrictive and does not offer assistance to the disabled and elderly, unless they are capable of filing a petition and attending the court hearing in person. These two groups are often victims of abuse, but are without recourse to an order for protection.

Furthermore, under the present law, the Court is limited to granting protection to the applicant and the applicant's children or relatives who are residing with the applicant at the time of the filing of the petition. Since relatives who were not living with the applicant at the time of the filing of the petition, and relatives who never lived with the applicant, may need the same protection against harassment and abuse, the distinction between these two types of relatives is artificial and irrational. For instance, the statute does not afford protection to the children who were sent to stay with relatives prior to the parent's filing for an order for protection against the abusive parent. The bill would remedy this situation.

Your Committee amended the bill to clarify that the application for an order may be made on behalf of a person who is physically or mentally incapacitated. As it read, the term "incapacitated person" could be interpreted as referring to the definition of "incapacitated person" under H.R.S. §560:5-101(2), as someone who lacks the capacity to understand. That interpretation would have been too limited to achieve the purposes of the bill.

Your Committee also amended the bill to delete the word "immediate" in specifying the family members who will be protected by the order. H.R.S. 586-1 already includes a detailed definition of "family member", so that the use of the term of "immediate" to refer to the same group of people is unnecessary.

Finally, your Committee made technical, nonsubstantive amendments to conform with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 253, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 253, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 335            Judiciary on S.B. No. 104

The purpose of this bill is to conform Hawaii's Uniform Reciprocal Enforcement of Support Act, H.R.S. §576, with recently enacted federal law by including a reciprocal provision for enforcement of support orders from another state or country. The bill also clarifies established enforcement procedures by including an automatic wage assignment provision which the court may extend to support orders issued in other jurisdictions.

Your Committee received supporting testimony on the bill from the Family Court, the Department of the Corporation Counsel of the City and County of Honolulu, and the Department of Social Services and Housing. It finds that in order to satisfy the federal Child Support Enforcement Amendments of 1984, Public Law 98-378, by October 1985, Hawaii must enact a law which establishes procedures that extends its automatic wage assignment system to include support orders from another state or country. The provision would insure national uniformity of collection of child support, regardless of the residence of the child.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 104 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 336            Judiciary on S.B. No. 434

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 twenty-nine separate sections of the H.R.S. The proposals originate from the legislative directive contained in section 23G-20, H.R.S., which directs the revisor of statutes to conduct a continual review of the laws of the State for the purpose of removing inconsistencies, redundancies, unnecessary repetitions and otherwise improving their clarity. This bill also makes technical and nonsubstantive amendments throughout the respective sections.

Section 1 amends section 26-9, H.R.S., by deleting reference to the factory built housing advisory board. Act 225, Session Laws of Hawaii (hereafter "S.L.H.") 1983, section 1, repealed section 359L-6, H.R.S., which established a factory built housing advisory board.

Section 2 amends section 91-3(b), H.R.S., by deleting brackets around the word "or". Act 64, S.L.H. 1979, section 1, amended section 91-3, H.R.S., by adding subsection (d). Through an apparent clerical error, subsection (b) of section 91-3 was affected when the second "or" from the language "without prior notice or hearing or upon such abbreviated notice" was omitted from the text of subsection (b). The revisor of statutes, pursuant to statutory authority, corrected this omission by reinserting the second "or". The revisor indicated the change by the use of brackets and a revision note.

Section 3 amends section 187-18, H.R.S., by deleting a reference to part III of chapter 189, H.R.S. Act 79, S.L.H. 1973, section 1, repealed sections 189-31 through 189-35, H.R.S., which constituted part III of chapter 189. A reference to part III of chapter 189 remains in section 187-18, H.R.S., and should be deleted.

Section 4 amends section 226-52, H.R.S., by reinstating the word "federal" in subsection (b). When Act 236, S.L.H. 1984, section 4, made amendments to section 226-52, H.R.S., the word "federal" in the phrase "all proposed federal projects", in section 226-52(b)(3), appears to have been inadvertently deleted.

Your Committee received testimony from the director of planning and economic development that the wording of subsection (b)(3) should be amended to reflect the fact that the state clearinghouse does not review all federal projects but only those federally-assisted and direct federal development projects which are covered under Presidential Executive Order 12372, "Intergovernmental Review of Federal Programs". The director also suggested that reference to A-95 be deleted, inasmuch as Circular A-95 was rescinded in 1982 and replaced with Presidential Executive Order 12372. Your Committee adopted these recommendations and amended section 4 of the bill accordingly.

Section 5 amends section 227-2, H.R.S., by changing "marine affairs coordinator" to "marine affairs advisor". Act 281, S.L.H. 1982, section 1, repealed the office of marine affairs coordinator, chapter 218, H.R.S. Act 247, S.L.H. 1984, section 1, amended section 188E-1, H.R.S., by changing the term "marine affairs coordinator" to "marine affairs advisor". Due to an apparent oversight, the term "marine affairs coordinator" remained in action 227-2, H.R.S.

Section 6 amends section 334-59(e), H.R.S., by changing a reference to section 334-60(b)(2) to 334-60.3. Act 188, S.L.H. 1984, section 2, repealed section 334-60, H.R.S., and added new sections to chapter 334, concerning voluntary and involuntary admission to a psychiatric facility. Former section 334-60(b)(2) covered "involuntary hospitalization: Initiation of proceeding." That subject is now covered by section 334-60.3 "Initiation of proceeding for involuntary hospitalization."

Section 7 amends section 334-61, H.R.S., by changing a reference to section 334-60.3 to 334-60.4. Act 188, S.L.H. 1984, section 2, repealed section 334-60, H.R.S., and added new sections to chapter 334, concerning voluntary and involuntary admission to a psychiatric facility. Former section 334-60(b)(3) covered "involuntary hospitalization: Notice; waiver of hearing on petition." That subject is now covered by section 334-60.4, "Notice; waiver of notice; hearing on petition; waiver of hearing on petition for involuntary hospitalization."

Section 8 similarly amends section 334-71, H.R.S., by changing a reference to section 334-60(b)(3) to 334-60.4, for the same reasons as the change made in section 7 of this bill.

Section 9 amends section 334-74, H.R.S., by changing a reference to section 334-60(b) to collectively, sections 334-60.1 to 334-60.7. Act 188, S.L.H. 1984, section 2, repealed section 334-60, H.R.S., and added new sections to chapter 334, concerning voluntary admission to a psychiatric facility. Former section 334-60(b) covered "involuntary hospitalization." That subject is now covered by sections 334-60.2 to 334-60.7.

Your Committee finds that the collectively referenced sections should begin with section 334-60.2 and has amended section 9 of the bill accordingly.

Section 10 amends section 334-76, H.R.S., by changing references to sections 334-60(b)(6) and 334-60(b)(1) to section 334-60.7 and 334-60.2, respectively. Act 188, S.L.H. 1984, section 2, repealed section 334-60, H.R.S., and added new sections to chapter 334, concerning voluntary and involuntary admission to a psychiatric facility. Former section 334-60(b)(6) covered "Notice of intent to discharge." That subject is now covered by section 334-60.7. Former section 334-60(b)(1) covered "Involuntary hospitalization: Criteria." That subject is now covered by section 334-60.2, "Involuntary hospitalization criteria."

Section 11 conforms section 408-18, H.R.S., to the new terminology and renumbered sections of chapter 476. Act 86, S.L.H. 1984, made extensive amendments to chapter 476, H.R.S., to take effect on July 1, 1985. The title of chapter 476 is to be changed from "Retail Installment Sales" to "Credit Sales". Section 476-1 was amended by substituting new definitions, including the substitutions of "credit sale" for "retail installment sale", "credit sale contract" for "retail installment contract", "credit buyer" for "retail buyer", and "credit seller" for "retail seller".

Section 12 similarly relates to the amendment of chapter 476, H.R.S. Section 437-1.1, H.R.S., is amended to conform to the new terminology of chapter 476 by adding the definition of "credit sale contract" and deleting the definition of "retail installment contracts".

The numbers before the definitions have been deleted to facilitate future amendments.

Section 13 amends section 442-6(c), H.R.S., by deleting references to "the subjects" contained in section 442-2. Section 442-6(c), H.R.S., contains references to "subjects enumerated" and "subjects mentioned" in section 442-2. Act 240, S.L.H. 1984, section 2, deleted the portion of section 442-2 which included the list of subjects referred to.

Section 14 amends section 453-2, H.R.S., by deleting brackets around a phrase that appears to have been inadvertently omitted during typing. Act 168, S.L.H. 1984, section 7, amended section 453-2, H.R.S., which requires a license to practice medicine or surgery in the State. Through an apparent clerical error, the language "when in actual consultation with a licensed practitioner of this State if the practitioner from another state" was omitted from section 453-2(3) when the bill was typed as Senate Bill No. 1744-84, S.D. 1, H.D. 1, C.D. 1, Twelfth Legislature, 1984, State of Hawaii. The revisor of statutes, pursuant to statutory authority, remedied this error by the use of brackets and a revision note.

Section 15 amends section 465-7, H.R.S., by reinstating four paragraphs that appear to have been inadvertently omitted during typing. Act 142, S.L.H. 1984, section 1, purported to amend section 465-7, H.R.S., by setting forth psychologists' licensing requirements in four enumerated paragraphs. Through an apparent clerical error, these paragraphs were omitted when the bill was typed as House Bill No. 2028-84, H.D. 1, S.D. 1, C.D. 1, Twelfth Legislature, 1984, State of Hawaii. Section 465-7 is amended by reinstating paragraphs (1) to (4) as they appeared in the section prior to the 1984 amendment.

Section 16 amends section 481C-6, H.R.S., for the same reasons as the changes made to other H.R.S. sections by sections 11 and 12 of this bill.

Section 17 amends section 486K-3, H.R.S., by changing a reference to chapter 523 to 523A. Act 37, S.L.H. 1983, repealed chapter 523, H.R.S., "Revised Uniform Disposition of Unclaimed Property Act", and enacted a new chapter entitled "Uniform Unclaimed Property Act", which was subsequently designated chapter 523A, H.R.S.

Section 18 conforms section 490:9-203, H.R.S., to the new title of chapter 476, H.R.S., resulting from Act 86, S.L.H. 1984, which also effected the changes made under sections 11, 12, and 16 of this bill.

Section 19 amends section 502-52, H.R.S., by changing a reference to section 622-23 to section 626-1, rule 901 or 902. Act 164, S.L.H. 1980, section 1, enacted the Hawaii Rules of Evidence, codified as chapter 626, H.R.S. Sections 5, 6, and 7 of Act 164 repealed chapter 622, entitled "Documentary Evidence". Among the sections repealed was section 622-23. The subject of that section is now covered by section 626-1, rules 901 and 902.

Sections 20 through 28 amend the respective H.R.S. sections listed below by changing references to section 523 to 523A, for the same reasons as the change made to another H.R.S. section in section 17 of this bill.

Section 20 - section 507-15, H.R.S.

Section 21 - section 507-65, H.R.S.

Section 22 - section 507-66, H.R.S.

Section 23 - section 531-33, H.R.S.

Section 24 - section 531-34, H.R.S.

Section 25 - section 532-14, H.R.S.

Section 26 - section 560:3-1210, H.R.S.

Section 27 - section 560:3-1212, H.R.S.

Section 28 - section 560:2-1213, H.R.S.

Section 29 amends section 634-36, H.R.S., by deleting the term "the notice". Act 209, S.L.H. 1984, section 4, amended section 634-36, H.R.S., by deleting from the first sentence, language requiring that notice of the service of summons be served upon the defendant. Through an apparent oversight, reference to "the notice" remained in the second sentence of section 634-36.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 434, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 434, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 337      Consumer Protection and Commerce on S.B. No. 188

The purpose of this bill is to allow the employee responsible for the administration of the Medical Claims Conciliation Panels to report to the Director of Commerce and Consumer Affairs rather than the executive secretary of the Board of Medical Examiners.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs to the effect that Act 168, Session Laws of Hawaii 1984, required different personnel to handle the Board of Medical Examiners and the Medical Claims Conciliation Panels. It also required that the person assigned to the panels must report to the executive secretary of the board. Under the current organizational structure of the department, the panels and the employee assigned to them are part of the director's office; and the executive secretary of the board is part of the Professional and Vocational Licensing Division. This structural alignment makes the reporting provision difficult to implement and administrate. This bill corrects this problem.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 188 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 B. Kobayashi, McMurdo, Young and Henderson.

SCRep. 338      Consumer Protection and Commerce on S.B. No. 226

The purpose of this bill is to require credit sellers to issue to buyers an annual statement which discloses the amount of finance charges paid by the buyer in the preceding calendar year pursuant to a credit sale contract.

Your Committee heard testimony from the Office of Consumer Protection supporting this bill. Your Committee believes this annual statement will provide consumers a useful summary of the cost of their credit purchases and with necessary information for income tax purposes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 226 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 B. Kobayashi, McMurdo, Young and Henderson.

SCRep. 339      Consumer Protection and Commerce on S.B. No. 187

The purpose of this bill is to allow boards and commissions to recover the cost of publishing a hearing notice when service by registered or certified mail to a licensee's address of record is unsuccessful.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs to the effect that under current procedures when a petition to discipline a licensee is filed a notice is mailed to the licensee's address of record. Many times licensees refuse to accept the certified mail, thus requiring the publishing of a notice of hearing in the newspaper by the department.

Your Committee agrees with the Department that it is the duty of a licensee to address consumer complaints that are filed against him. Such licensee who refuses to receive notice by registered or certified mail should bear the cost of publishing any notice of hearing arising from the complaints filed. The Committee notes that the bill language is permissive such that a licensee may not be penalized should the board determine that a good reason exists for non-receipt of the notice by the licensee.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 187 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 B. Kobayashi, McMurdo, Young and Henderson.

SCRep. 340 Consumer Protection and Commerce on S.B. No. 954

The purpose of this bill is to amend Chapter 514A, Hawaii Revised Statutes, the Horizontal Property Regime Act.

Your Committee has amended the bill by inserting provisions that require disclosure of information by developers regarding communications between the developer and fee owner concerning terms and conditions for purchase of the fee interest by apartment purchasers. Provisions for disclosure by leasehold apartment owners to prospective purchasers of any plans to convert the leasehold interest to fee interest and any information regarding price, terms and time frame for such conversion are also included.

The purpose of this amendment is to engender discussion on this topic in a Committee hearing to be scheduled for this bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 954, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 954, S.D. 1, and be recommitted to the Committee on Consumer Protection and Commerce for further consideration.

Signed by all members of the Committee except Senators B. Kobayashi, Matsuura and McMurdo.

SCRep. 341 Consumer Protection and Commerce on S.B. No. 953

The purpose of this bill is to amend Chapter 514A, Hawaii Revised Statutes, the Horizontal Property Act, to clarify and update the rights and duties of owners, tenants, and condominium associations.

This bill adds several new sections to Chapter 514A, Hawaii Revised Statutes, which your Committee intends to consider in hearings to be held on these changes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 953, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 953, S.D. 1, and be recommitted to the Committee on Consumer Protection and Commerce for further consideration.

Signed by all members of the Committee except Senators Young, Henderson and A. Kobayashi.

SCRep. 342 Consumer Protection and Commerce on S.B. No. 960

The purpose of this bill is to exempt certain investment advisers from the examination requirements of Section 485-14, Hawaii Revised Statutes.

The present law allows an exemption from an examination to a person that shows evidence of passing an examination required by the Securities and Exchange Commission, or by any national securities exchange or national securities association registered under the Securities Exchange Act of 1934, or who was registered as an investment adviser by the Securities and Exchange Commission as of January 1, 1983.

This bill proposes to expand the exemptions from an examination to include persons passing examinations which entitle that person to be called any one of the following:

- (1) certified financial planner (CFP);
- (2) chartered financial consultant (CHFC); or
- (3) chartered financial analyst (CFA).

Your Committee plans to hold hearings on this proposal to discuss and consider its merit.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 960, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 960, S.D. 1, and be recommitted to the Committee on Consumer Protection and Commerce.



Signed by all members of the Committee except Senators B. Kobayashi, McMurdo, Young and Henderson.

SCRep. 343            Agriculture on S.B. No. 19

The purpose of this bill is to allow the Department of Agriculture, through administrative rules, to require grade labeling of agricultural commodities destined for export.

Your Committee finds that a system of grades and standards assists in the orderly marketing of agricultural commodities and assures consumers that they are getting what they pay for.

Your Committee received testimony from the Board of Agriculture which states that the Kona Coffee industry desires to maintain the high image of its product in the export market. The industry feels that mandatory grade labeling for export coffee would be a means to accomplish this goal. The proposed amendment would also work for other commodities.

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

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 19, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 19, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 344            Agriculture on S.B. No. 16

The purpose of this bill is to give alleged violators of Chapter 145, Hawaii Revised Statutes, and Chapter 4-48, Hawaii Administrative Rules, the option to waive the right to a formal hearing.

Presently, all violators of Chapter 145, Hawaii Revised Statutes, and Chapter 4-48, Hawaii Administrative Rules, must be given a formal hearing. Your Committee received testimony from the Board of Agriculture favoring the proposed amendment because there may be instances when the proposed penalty is minimal or the alleged violator will admit guilt, making a formal hearing unnecessary or not worth the cost.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 16 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 345            Ways and Means on S.B. No. 701

The purpose of this bill is to exempt the sale or importation of capital goods from the general excise and use taxes.

Your Committee finds under current law, the sale of capital goods is subject to the full 4 per cent rate under the general excise tax law. In the long run this tax must be passed on to the business making the purchase which subsequently must pass this cost on along to its customers as part of its overhead cost. Therefore, the cost of the tax imposed on these goods tends to increase the cost of living in Hawaii and adds to the price disadvantage of Hawaii products sold out-of-state. The taxing of such goods is but another element which adds to Hawaii's poor business climate and the State's relatively high cost of living and doing business in Hawaii.

The general excise tax imposed at the 4 per cent rate on all goods and services purchased by businesses adds to the cost of doing business in Hawaii. Without purchasing these items, the business could not operate. For example, a garment manufacturer must have sewing machines to produce clothes. Since the cost of the sewing machine including the tax on the machine must be recovered by the business if it is to remain viable, the cost of the sewing machines including the tax, must be passed along to the consumer in the form of higher prices or in the form of reduced returns to the business and its investors.

There is no doubt that when a potential investor looks to the business climate in Hawaii, a major factor of consideration is the cost of starting up the business and the added impost of the general excise tax as it affects these costs. In addition, because the general excise tax adds to the cost of all products and services delivered in Hawaii, the price tag for starting a new business is considerably more than it would be in other areas of the nation. Eliminating the tax on the purchase of capital goods made by businesses would be a major step toward improving the business climate in Hawaii.

Providing an exemption from the general excise tax for the purchase of such goods which are

essential to business operations would provide an incentive for existing business to modernize their facilities with the acquisition of machinery that will increase productivity or in the case of new businesses, the reduction of costs implicit in the start up of a new business will provide an added incentive to locate a new business in Hawaii. As a result of increased economic activity due to new business and increased productivity of existing businesses, the State can look forward to additional income and payroll taxes, increased general excise taxes from increased sales, etc. Thus, the exemption proposed by this measure will help to revitalize Hawaii's economy by spurring new capital investment and thereby improve the State's economic outlook.

Your Committee has amended this bill to phase in the exemption of capital goods over a three-year period and to limit the exemption to sales to licensees under the general excise and use taxes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 701, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 701, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senator Holt.

SCRep. 346 (Majority) Judiciary on S.B. No. 1108

The purposes of this bill are to amend the definition of "minor" under the intoxicating liquor regulation law to mean a person below the age of twenty-one, instead of eighteen, years and to specify that the selling or serving of liquor on licensed premises does not constitute "public possession". The effect of this bill is to raise the legal drinking age to twenty-one, but allow a person of at least eighteen years of age to sell or serve liquor. Concern about the seemingly unrestricted accessibility of intoxicating liquor to high school students is the primary impetus for this bill.

Your Committee has amended the bill by substituting for the proposed redefinition of "minor" a limitation on the retail sale of intoxicating liquor. The bill, as amended, prohibits a person licensed by a county liquor commission as a class 4 retail dealer from selling liquor to a person under nineteen years of age. The prohibition on the sale of intoxicating liquor by all licensees to a person under the age of eighteen years remains. A class 4 retail dealer is authorized to sell liquor for consumption off the dealer's premises. Other licensees authorized to resell liquor may do so only for consumption on the premises. These licensees can observe the behavior of patrons and, as required by present law, refuse to serve patrons who are under the influence of liquor. A person who purchases liquor from a class 4 retail dealer is not under similar supervision while drinking, and the chances of that person becoming intoxicated and a danger to society is increased greatly. The intention of your Committee in proposing the amendment to this bill is to allow a person of at least eighteen but less than nineteen years of age to drink liquor only under the supervision of licensees who have the legal duty to refuse service when the person is under the influence of liquor.

This bill, as amended, is an alternative proposal for restricting the access of high school students to liquor and minimizing the danger to society by restricting the access of supposedly less mature persons to liquor. Because the proposal is a new concept, your Committee desires to reconsider the bill, as amended.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1108, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1108, S.D. 1, and be recommitted to the Committee on Judiciary for further consideration.

Signed by all members of the Committee.  
Senator George did not concur.

SCRep. 347 Judiciary on S.B. No. 108

The purpose of this bill is to amend H.R.S. §571-52 to prohibit any employer from discharging or taking any other disciplinary action against an employee whose wages are assigned to satisfy a child support obligation. It also prescribes that the penalty for any violation of the section is a misdemeanor.

The federal Child Support Enforcement Amendment Act, Public Law 98-378, enacted in August, 1984, requires the State to provide for the imposition of a fine against any employer "who discharges from employment, refuses to employ, or takes disciplinary action against any parent subject to wage withholding," 42 U.S.C. §657(b)(6)(ii)(D). The bill conforms state law to this requirement.

Cooperation of all employers is essential if child support enforcement is to be successful. However, many employers are still reluctant to comply with the wage assignment law. Imposing a penalty is one effective method to gain compliance, which in turn ensures that children will be able to receive timely and regular payments made on their behalf.

Your Committee amended the bill to include as an unlawful act the refusal to hire an employee against whom a wage assigned has been ordered. This addition was necessary to fully meet the requirements of federal law.

Your Committee also specified for purposes of clarity that any employer violating H.R.S. 571-52 will be guilty of a misdemeanor under section 710-1-77(1)(g).

Finally, your Committee made technical, nonsubstantive amendments to the bill for correct grammar and conformance with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 108, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 108, S.D. 2.

Signed by all members of the Committee.

SCRep. 348                      Judiciary on S.B. No. 260

The purpose of this bill is to make public the financial disclosures of the trustees of the Office of Hawaiian Affairs.

The 1978 Constitutional Convention amended Article XIV of the State Constitution to provide that all elected officials for elective office are required to file public financial disclosures. Chapter 84, Hawaii Revised Statutes, was amended in 1979 to implement the mandate of Article XIV of the State Constitution. However, the trustees of the Office of Hawaiian Affairs were inadvertently omitted in the revision of chapter 84. This bill corrects the omission by including the financial statements of the trustees of the Office of Hawaiian Affairs as proper documents for public disclosure.

The Office of Hawaiian Affairs has no objections to the bill.

Your Committee made technical, nonsubstantive amendments to the bill to conform with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 260, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 260, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 349                      (Majority) Judiciary on S.B. No. 498

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 Court, Intermediate Court, and Circuit Court, after their term of office has expired. The bill also provides that upon retention, the justices and judges will be given the status of senior justices and senior judges.

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.

Once retained for another term of office, the justice or judge is elevated to the status of senior justice or senior judge and should be provided a higher salary, commensurate with his or her experience, competence and ability as a veteran of the bench. Your Committee envisions the eventual implementation of a system of judicial compensation in which justices and judges, who are confirmed by the Senate and retained in office, are paid more than the new justices and judges. In preparation for this new system of compensation, your Committee amended the bill to specify that the judicial salary commission will review and recommend salaries for senior justices and senior judges, as well as justices and judges. All judicial salaries will be provided by statute.

Your Committee also made technical, nonsubstantive amendments for clarity and for conformance with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 498, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 498, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.  
Senator George did not concur.

SCRep. 350            Judiciary on S.B. No. 610

The purpose of this bill is to increase the amount of fees notaries public are entitled to charge for their notarial services.

Your Committee heard testimony that notary public fees have not increased in almost ten years. In addition, the costs of providing various types of notary services as well as the potential liability to notaries have increased in recent years without a corresponding increase in fees.

Your Committee amended the bill to provide for increased fees for all types of notary services.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 610, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 610, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 351            Agriculture on S.R. No. 27

The purpose of this Resolution is to request the Congress of the United States to include sugar price support provisions within its 1985 Farm Bill.

Your Committee finds that the United States has had a national sugar policy in its Farm Bill for 47 of the last 50 years. The policy has been in the best interests of domestic producers and consumers and your Committee believes it is imperative that a fair sugar policy be continued.

Your Committee further finds that a sugar policy is required to insulate producers and consumers from the violent price fluctuations of the world sugar market. There is evidence, in fact, that there will be an oversupply of sugar and prices will be severely depressed. If this occurs, there will be a major fight between all major sugar exporters to hold on to their market shares. United States producers would be at a competitive disadvantage in the world market against the heavily subsidized foreign sugar producers. If the sugar program is dropped the influx of subsidized sugar would soon drive American producers out of business and force the United States to rely solely on imported sugar.

Your Committee believes it is essential for Congress to be supportive of Hawaii's concern regarding sugar prices and urges the adoption of this Resolution.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 27 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 352            Consumer Protection and Commerce on S.B. No. 189

The purpose of this bill was to allow individual consumers to pursue collection from the travel agency recovery fund based upon a court order for restitution obtained on their behalf by the Office of Consumer Protection against a registered travel agency or sales representative.

Your Committee heard testimony from the Office of Consumer Protection supporting the bill. The present law requires that an "aggrieved person" obtain a judgment against a registered travel agency or sales representative and take all the necessary procedural steps under Section 468K-5, Hawaii Revised Statutes, before seeking moneys from the travel agency recovery fund. Thus, if the Office of Consumer Protection, on behalf of the "aggrieved person", obtains a monetary judgment against the travel agency or sales representative, the aggrieved consumer cannot receive any funds from the travel agency recovery fund to cover any portion of the judgment. The individual must completely duplicate the Office of Consumer Protection's efforts by filing a private lawsuit against the same travel agency or sales representative and incur further expenses in obtaining a monetary judgment and in seeking direct recovery of the judgment from the defendant before pursuing collection from the recovery fund.

Your Committee agrees with the Office of Consumer Protection that such duplication of

efforts is wasteful and unnecessary. The consumer should be allowed expeditious settlement of his or her valid claims, including if need be, collection of that claim or any portion thereof from the travel agency recovery fund.

Your Committee has amended the bill by adding a new subsection (f) which allows the Office of Consumer Protection to apply for a court order directing payment out of the travel agency recovery fund on behalf of the aggrieved person after the office has obtained an order directing the payment of restitution to the aggrieved person, and specifies that the Office of Consumer Protection may not receive costs and attorney fees from the travel agency recovery fund. This amendment gives the Office the power to act on behalf of the aggrieved person in obtaining the necessary restitution from the recovery fund, but precludes any cost reimbursements from the recovery fund for services it provided to the aggrieved party.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 189, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 189, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Kawasaki, Kuroda, Matsuura and A. Kobayashi.

SCRep. 353            Consumer Protection and Commerce on S.B. No. 224

The purpose of this bill is to continue Act 189, Session Laws of Hawaii 1980, beyond its scheduled termination date of December 31, 1985.

Generally, the purpose of Act 189, Session Laws of Hawaii 1980, is to require developers of a condominium project to offer to sell at least fifty per cent of the residential apartment units being developed to prospective owner-occupants. The developer is required to publish a notice in a newspaper of general circulation in the county giving material information about the project to prospective purchasers. A reservation list of prospective owner-occupants who apply to purchase one of the apartment units must be compiled and the seller must sell to qualified buyers on such list.

Your Committee heard favorable testimony from the Real Estate Commission that Act 189 should be retained because it serves a purpose in notifying not only potential owner-occupants of what is planned, but the entire community of what is going to happen in their area.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 224, 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, Kawasaki, Kuroda and Matsuura.

SCRep. 354            (Majority) Consumer Protection and Commerce on S.B. No. 203

The purpose of this bill is to delete the invalid and unconstitutional residency requirement from the contractors licensing law.

The present law precludes issuance of a contractor's license unless the person has been a resident of the State for at least two years. In testimony supporting this bill, the Department of Commerce and Consumer Affairs noted that durational residency requirements have been declared unconstitutional, and the Contractors License Board has not been imposing the resident requirement since 1972.

Your Committee also received testimony from the United Brotherhood of Carpenters and Joiners of America, Local No. 745, AFL-CIO, expressing concerns that removal of the residency requirement would open the door to financially unstable foreign companies to do business in the State to the detriment of employees and consumers. Your Committee believes, however, that current licensing and bonding requirements should suffice to protect employee wages and the consumer.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 203 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Kawasaki and Henderson. Senator A. Kobayashi did not concur.

The purpose of this bill is to allow all occupants, both tenants and owners, of a condominium project to have the same privileges regarding ownership of pets within the condominium project.

Your Committee believes that the policy of some associations of apartment owners of allowing owners to have and keep pets in apartments, but prohibiting tenants from doing so, fosters animosity and disharmony among residents living within the apartment building complex, and is discriminatory. This bill will obviate the problem of unequal treatment between the two classes of occupants by subjecting every apartment occupant to the same set of rules - either all may have pets subject to the same reasonable restrictions or prohibitions that management may impose or all are prohibited from having any pets.

Your Committee received testimony from the Hawaiian Humane Society strongly supporting this bill.

Your Committee has amended page 2, lines 1 to 5 of this bill by making language changes to clarify that if the bylaws do not specifically "forbid" owners from having animals as pets in their apartment, then, likewise, the bylaws cannot "forbid" tenants from having the same privilege. Thus, where bylaws are silent regarding the issue of pets, both owners and tenants may keep them.

Your Committee also amended item (2) on lines 9 to 10 of page 2 by deleting the sentence "The tenants may keep only dogs, domestic cats, aquarium fish, or birds as pets"; and substituting the sentence "The tenants may keep only those types of pets which may be kept by apartment owners". This change allows greater flexibility to the association of apartment owners to decide the type of animals that may be allowed as acceptable pets for apartment living. The change also maintains the nondiscriminatory treatment between tenants and owners.

Your Committee further amended item (5) on lines 17 to 19 of page 2 by adding the words "or prohibitions" before the word "against", by adding the words "or other problems" after the word "noise", and by deleting the word "the" before the word "pets". These amendments make clear that prohibitions as well as restrictions may be delineated in the bylaws and that such prohibitions or restrictions may cover problems, other than just excessive noises, caused by the pets.

In addition, your Committee amended item (6) on lines 20 to 22 on page 2 by deleting the phrase "the right of the tenant to run the pet" and substituting the phrase "or prohibit the running of pets" after the word "restrict". This change conforms item (6) to the other provisions that allow prohibitions of practices deemed undesirable. The change also expands the prohibitions or restrictions to both owners and tenants.

Also, your Committee added a new subsection (b) which provides that any grandfather clause in a pet restriction or prohibition provision in the bylaws shall apply equally to both apartment owners and tenants. This new subsection serves two purposes. First, it prevents discrimination by condominium associations against tenants regarding the application of grandfather provisions. Secondly, the provision clarifies the proposition that tenants are not immune from pet restrictions or prohibitions which are applicable to owners on account of a few owners or tenants who are allowed to have pets by virtue of a grandfather clause.

Finally, your Committee made other technical, nonsubstantive amendments to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 205, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 205, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Kawasaki and Henderson.

The purpose of this bill is to reestablish a uniform beginning date of January 1, and ending date of December 31, for all terms of members of boards and commissions.

Currently, there is no express beginning or ending date for the term of a member of a board or commission appointed under section 26-34, Hawaii Revised Statutes. Act 54, Session Laws of Hawaii 1984, amended section 26-34 and inadvertently deleted the uniform beginning and ending dates for terms of members of boards and commissions. This bill reestablishes that provision.

Your Committee amended the bill to correct a technical, nonsubstantive drafting error in the original bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 462, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 462, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 357 (Majority) Judiciary on S.B. No. 735

The purpose of this bill is to impose treble damages in civil actions against persons whose checks are dishonored, in an amount equal to \$100 or triple the amount for which the check is drawn, whichever is greater, but not exceeding \$500.

The bill requires the plaintiff to make a written demand of the defendant for payment on a check that is dishonored not less than thirty days before commencing a civil action to collect on the dishonored check. During these thirty days, the defendant is afforded the chance to make payment on the dishonored check. The written demand provides that if payment is not received within ten days, the defendant may be liable for treble damages as outlined in the above paragraph. Furthermore, if payment is made by the defendant after the commencement of the civil action but prior to a hearing on the matter, the defendant must pay for the plaintiff's court and service costs in addition to the amount of the dishonored check.

Testimony received in support of this bill praised the civil remedies afforded to businesses who mistakenly accept bad checks. Deterrence is the main objective of this bill. More check writers will be very careful not to write a bad check and subject themselves to the civil penalties imposed by this bill. The honest person who mistakenly writes a bad check has at least thirty days, upon receipt of written notice from the business that accepted the check, to make good on the dishonored check. Only those check writers who purposely write bad checks and who refuse to make good on written demand are subject to the civil penalty of treble damages.

Your Committee amended the bill to shorten the time allowed between the written demand for payment sent to the check writer and the commencement of the civil action from thirty days to fourteen days. Only upon the filing of the civil action is the check writer liable for treble damages, provided the check writer receives actual notice.

Your Committee further amended the bill to provide that the written notice and demand for payment must be sent by registered mail to the check writer's last known address, with a request for a return receipt and marked "deliver to addressee only".

Moreover, the bill was further amended to delete the requirement that if the action is brought in small claims court the judgment shall be paid to the court. The court should not be used as a collection agency; therefore payment of the judgment is made in the same manner as any other civil judgment. Also deleted from the bill is a provision which mandated automatic contempt of court action if the defendant fails to pay the judgment.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 735, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 735, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.  
Senator Kawasaki did not concur.

SCRep. 358 Judiciary on S.B. No. 1158

The purpose of this bill is to repeal Hawaii's Uniform Gifts to Minors Act (HUGMA), Chapter 553, Hawaii Revised Statutes, and to enact instead the Uniform Transfers to Minors Act (UTMA).

Testimony submitted by the Hawaii Commission to Promote Uniform Legislation indicated that HUGMA was enacted in 1957 and has been amended at various times since then. Because some states have significantly amended their versions of HUGMA over the years, uniformity has been lost. To regain uniformity, the national Uniform Law Commissioners promulgated the Uniform Transfers to Minors Act in 1983, which incorporated the predecessor Gifts to Minors Acts and superseded all the earlier acts.

The proposed UTMA provides for the custodianship of property that otherwise transfers directly to the minor. The custodial relationship, with an adult or appropriate institution, is created by the execution of a simple document and remains effective until the minor attains the age of majority.

Comparing the proposed UTMA to the existing HUGMA, two major differences emerge:

1. The UTMA allows any kind of property, real or personal, tangible or intangible, to be transferred to a custodian for the benefit of a minor; the HUGMA only permits gifts of cash or securities.
2. The UTMA provides for transfers based on the occurrence of a future event; the HUGMA authorizes present gifts from adult persons only.

More importantly, adoption of the proposed UTMA will eliminate the current conflict-of-law problems caused by the non-uniformity among the states with the Uniform Gifts to Minors Act.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1158 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 359            Transportation on S.B. No. 1050

The purpose of this short form bill is to amend the laws of the State of Hawaii relating to air transportation.

Your Committee has amended the bill to amend the developmental rates for buildings and land areas use exclusively for general aviation activities. Current law provides that these developmental rates be not less than fifty percent of the fair market rentals of the buildings and land areas. This bill amends the rates to not less than twenty-five percent nor more than fifty percent of the fair market rentals of the buildings and land areas.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1050, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1050, S.D. 1, and be recommitted to the Committee on Transportation for further consideration.

Signed by all members of the Committee except Senators George and Soares.

SCRep. 360            Transportation on S.B. No. 1056

The purpose of this short form bill is to amend the Uniform Aeronautics Act (Modified).

Your Committee has amended this bill to repeal Section 263-5 dealing with damage to land.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1056, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1056, S.D. 1, and be recommitted to the Committee on Transportation for further consideration.

Signed by all members of the Committee except Senators Toguchi, Cobb, B. Kobayashi and Machida.

SCRep. 361            Energy on S.B. No. 980

The purpose of this bill is to amend the laws of the State of Hawaii relating to the two level review and approval process for authorizing geothermal activities.

Your Committee has amended this short form bill to include the following substantive material:

1) A purpose section. Your Committee finds that there is a need to clarify that it is the intent of the legislature that geothermal resource subzones be designated by the Board of Land and Natural Resources through its rulemaking powers rather than through contested case hearings.

2) A substantive amendment to section 205-5.2(d), Hawaii Revised Statutes, to provide that once a proposal for potential designation of an area as a geothermal resource subzone is made, the Board shall conduct public hearings pursuant to section 205-5.2 and its rulemaking powers, without the necessity of a contested case hearing.

Sections 205-5.1 and 205-5.2, Hawaii Revised Statutes, establish a two level review and approval process for the regulation and control of geothermal resource development. The first level concerns the suitability of broad land areas for potential and non-specific future geothermal development, and is intended to be a long-range planning procedure for selecting the most appropriate areas where potential geothermal activities may be considered for approval in the second level of the review process.



The second level of review concerns the consideration of land use permits for specific development proposals by particular developers or land owners within a broader geothermal resource subzone. Section 205-5.1 specifically provides that contested case proceedings be instituted by the reviewing agency upon appropriate request at this stage of review.

Your Committee finds that although it was the intent of the Legislature to require only rulemaking proceedings at the first level of review during geothermal resource subzone designations, such intent has not been carried out. This situation has created duplication and difficulty in the review procedure because the Department of Land and Natural Resources itself has been required to be an adversary party in the contested case proceedings at the first level of review. It is the intent of the Legislature that contested case proceedings should only be held at the second level of review where specific applicants and particular proposals for development are presented for permit approval.

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 980, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 980, S.D. 1, and be placed on the calendar for Third Readings.

Signed by all members of the Committee.

SCRep. 362            Ways and Means on S.B. No. 1066

The purpose of this bill is to amend the laws of the State of Hawaii.

Your Committee has amended this bill to authorize the issuance of \$3,000,000 in special purpose revenue bonds to assist Wahiawa General Hospital in acquiring new equipment.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1066, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1066, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee except Senator Matsuura.

SCRep. 363            Health on S.B. No. 68

The purpose of this bill is to increase the opportunities for community residential placements of certain clients of the mental health system.

Act 221, Session Laws of Hawaii 1980, provided the legislation for establishment of the community residential treatment system to provide a range of services which would serve as alternatives to institutional care. Until present, these alternative residential arrangements were thought of as half-way houses for people returning to the community from hospitalization.

This bill acknowledges that semi-supervised living arrangements can frequently provide sufficient care to enable individuals to avoid costly hospitalization in the first place, and increase the ability of the Department of Health to meet the treatment and residential needs of its clients.

Your Committee has amended the bill by further broadening the Department's authority to provide satisfactory community residential facilities by deleting the language in each of the four program elements which describes, limits, and specifies the kinds and scope of services, facilities, and living arrangements to be provided, and by providing for the addition of more program elements, if appropriate. Your Committee believes that specific aspects of these activities are best provided by rule, as authorized under section 334-9, Hawaii Revised Statutes.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 68, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 68, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 364            Health on S.B. No. 65

The purpose of this bill is to authorize the Department of Health to establish regulating levels for pesticides in products by reference to 21 CFR Part 193, as well as 40 CFR Part 180 or the United States Food and Drug Administration Compliance Policy Guides, without regard to Chapter 91, Hawaii Revised Statutes, and to obtain without charge a food, drug, device, or cosmetic sample for analysis.

Your Committee heard testimony from the Department of Health and the Hawaii Food Industry Association and finds that regulatory levels or tolerances are continually being revised by the federal government, and it is simply not feasible for the Department to adopt each new regulating level or tolerance pursuant to Chapter 91. Your Committee further finds that any substantial delay in adopting revised tolerances or action levels may adversely impact on the health and welfare of the consumer and that the Department should have maximum discretion in obtaining suspect samples as quickly and expeditiously as possible. Therefore, it is in the public interest to expand the Department's ability to adopt regulating levels for pesticides by reference and to obtain free product samples for analysis.

Your Committee has amended the bill by providing that before a free sample is given to the Director of Health for analysis, it must be known to be or suspected of being contaminated. This will ensure against the frivolous application of the new powers authorized by this Act. Your Committee has further amended the bill by making stylistic changes which have no substantive effect.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 65, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 65, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 365      Health on S.B. No. 60

The purpose of this bill is to empower the Director of Health to impose administrative penalties or obtain injunctive relief from the courts in cases of violations of Chapter 321, Hawaii Revised Statutes, or the departmental rules adopted pursuant to the chapter.

Currently, the penalty for violation of departmental rules implementing Chapter 321 is a misdemeanor. In accordance with law, each such violation must be brought to court, tried, and a verdict rendered before a final determination of violation can be made. This is a lengthy, costly process, and because of limited legal resources available to the State, few health related misdemeanors are actually prosecuted. The only present alternative is to revoke a license or operating permit, thereby depriving a business of the right to engage in an activity, and potentially causing irreparable economic harm. Even numerous minor violations may not warrant so drastic a remedy. Thus, license suspensions or revocations are rather rare.

Your Committee heard testimony from the Department of Health and finds that the provisions in Chapter 321 and rules adopted pursuant to the chapter are primarily intended to deter potential violators. However, the threat of penalty is so limited that the deterrent effect is minimal. By invoking administrative penalties rather than judicial processes or license revocation/suspensions, the Department will be able to act quickly and decisively in its regulatory functions and will be better able to tailor the punishment to the nature of the violation.

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. 60, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 60, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 366      Health on S.B. No. 67

The purpose of this bill is to strengthen the law relating to the retention of medical records.

Specifically, this bill establishes record retention standards and procedures for hospitals, provides a more workable definition of "medical records" for retention purposes, reduces the amount of information to be retained, and establishes a retention period. The bill also limits the retention requirements to records which were active as of May 25, 1984, the effective date of Act 150, Session Laws of Hawaii 1984, which provided the original medical records retention legislation.

Your Committee heard testimony from the Department of Health and the Hospital Association of Hawaii and finds that since the enactment of Act 150, several significant problems have surfaced that require the remedies proposed in this bill. First, the definition of "medical records" in Act 150 is extremely broad, encompassing virtually every patient record kept by any medical facility, including screening programs, topical fluoride application consents, and many other records which, if not demonstrating pathology, could otherwise be

routinely discarded after a reasonable period. Maintenance of such records constitutes a significant addition to the cost of medical care, and your Committee finds that the proposed definition adequately defines the class of medical records that should be retained.

Second, under Act 150, before a record may be destroyed either a summary record must be made or the record must be minified or computerized. Each of these procedures entails costly staff time and equipment, and there is no exemption for records which were completed before the provision was enacted. All records in all medical facilities are currently subject to the statute, even those which have been inactive for many years. This again constitutes an additional cost to medical facilities and providers, and your Committee finds that the proposals in this bill which would limit retention to records which were active at the time the original law was enacted and allow disposal of the summary record after twenty-five years, fairly balances the needs of records retention with the costs of such retention.

Third, your Committee finds that only facilities the size of hospitals have the resources to efficiently maintain records in the manner provided by law. Since most significant medical procedures occur within hospitals, record retention should be limited to them, as provided in this bill.

Finally, your Committee finds that this bill satisfactorily defines the basic information to be retained to utilize the more precise terminology used in medical records keeping.

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. 67, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 67, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 367            Health on S.B. No. 76

The purpose of this bill is to amend the schedules of controlled substances to conform to federal law and to clarify that cocaine, whether natural or synthetic, is a controlled substance.

Specifically, the bill places the following substances into the following schedules:

Schedule I:    Alfentanil  
                  Alpha-Methylfentanyl  
                  Parahexyl  
                  Tilidine

Schedule II:    Sufentanil and,

Schedule IV:    Alprazolam  
                      Camazepam  
                      Clobazam  
                      Clotiazepam  
                      Cloxazolam  
                      Delorazepam  
                      Estazolam  
                      Ethyl loflazepate  
                      Fludiazepam  
                      Flunitrazepam  
                      Halazepam  
                      Haloxazolam  
                      Ketazolam  
                      Loprazolam  
                      Lormetazepam  
                      Medazepam  
                      Methylphenobarbital (mephobarbital)  
                      Nimetazepam  
                      Nitrazepam  
                      Nordiazepam  
                      Oxazolam  
                      Pinazepam  
                      Temazepam  
                      Tetrazepam  
                      Triazolam

Your Committee heard testimony by the Department of Health that these amendments will conform our controlled substances law to federal law and are necessary to enforce the Uniform Controlled Substances Act.

Your Committee also received testimony from the Honolulu Police Department supporting the expansion of the definition of cocaine to include synthetic cocaine. This change clarifies the legislature's intent to control natural and synthetic cocaine.

The Hawaii Pharmaceutical Association also supported the bill.

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. 76, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 76, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 368 (Joint) Education and Health on S.B. No. 59

The purpose of this bill is to establish immunization requirements for attendance at any school in the State, and to permit the Department of Health to suspend provisional entrance to schools when there is danger of an epidemic from a communicable disease.

Your Committees heard supporting testimony from the Departments of Health and Education and find that current law requires immunization of students only when they enter the school system for the first time. This bill strengthens the Department of Health's powers to maintain immunization levels in the school population, a population which has great potential for the rapid spread of communicable diseases.

Your Committees have amended the bill by authorizing the Department of Health to implement emergency measures to refuse, modify, or limit school attendance if it is determined that there is imminent danger of an epidemic or a serious outbreak of a communicable disease.

Your Committees on Education and Health are in accord with the intent and purpose of S.B. No. 59, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 59, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 369 Government Operations on S.B. No. 10

The purpose of this bill is to provide flexibility in issuing state payments by expressly authorizing certification of bills for advance payment or deposit when specified in the related purchase order or contract.

Testimony submitted by the Department of Accounting and General Services indicated that from time to time in the normal course of transacting state business, payment must be made as an advance payment or as a deposit, before a contractor or other vendor will furnish the goods or services required by the State.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 10 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 Government Operations on S.B. No. 11

The purpose of this bill is to provide for the destruction of State warrants which have been paid and which bear any date three years prior to the date of destruction provided that microfilm copies of the warrants are made and maintained for a period of ten years.

Your Committee finds that this bill will help to reduce the cost of maintenance and space requirements for the storage of the physical warrants.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 11 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

## SCRep. 371 Government Operations on S.B. No. 13

The purpose of this bill is to allow a contractor supplying services to a governmental agency a reasonable period, as determined by the contracting officer, to correct noncompliance with wage scales and labor laws prior to cancellation of a contract over \$5,000.

Presently the law provides that if a contractor is not in compliance with the requirements of Section 103-55, Hawaii Revised Statutes, the contract shall be cancelled.

Your Committee finds that it is in the best interest of the State to allow a contractor to correct the deficiency rather than cancel the contract and go through another bidding process.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 13 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

## SCRep. 372 Judiciary on S.B. No. 1404

The purpose of this bill is to enact the Uniform Fraudulent Transfer Act, which would promote national uniformity in determining and proving fraudulent transfer cases.

Your Committee heard favorable testimony on the bill from the Hawaii Commission for Promulgation of Uniform Legislation. The Uniform Act was brought about to remedy the varying standards used in different states to prove fraud. Since the intent to hinder, delay or defraud creditors is seldom susceptible of direct proof, courts have relied on badges, or indicia, of fraud and assigned different weights to them, from jurisdiction to jurisdiction.

Presently, there is no Hawaii statutory law which directly addresses the problem of fraudulent transfers. Case law has provided guidance. The leading case in this area is Achilles v. Cajiles, 39 Haw. 493 (1952). The Court there indicated eight badges, or indicia of fraud. The Uniform Act would increase the number of indices and categorize these into two divisions. One category would only pertain to present creditors. The other category would pertain to both present and future creditors. The Uniform Act also seeks to minimize or eliminate the diversity of standards from different jurisdictions by providing that the proof of certain fact combinations would conclusively establish fraud. In absence of evidence of the existence of such facts, proof of a transfer would depend on evidence of actual intent.

The Uniform Act is necessary to conform with the new Bankruptcy Act of 1978 and the Uniform Commercial Code.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1404 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.

## SCRep. 373 (Majority) Housing and Community Development on S.B. No. 1350

The purpose of this bill is to amend section 206E-20, Hawaii Revised Statutes, to enable the Hawaii Community Development Authority (HCDA) to file an action in the Hawaii Supreme Court, and to specifically vest the Supreme Court with original jurisdiction over such action.

Pursuant to chapter 206E, Hawaii Revised Statutes, HCDA is required to develop a district-wide improvement program for designated redevelopment districts, such as Kaka'ako. Under this program, HCDA is required to implement needed public improvements and to assess a portion of the improvement costs against the real properties which specifically benefit from the improvements. For any property owner who elects to pay an assessment in installments, the unpaid assessment amount would be secured by a lien against the property, and HCDA would issue Improvement District (ID) assessment bonds to provide the funds necessary for construction.

Under Article VIII, Section 3, of the State Constitution, the power to tax real property is exclusively reserved to the counties. In view of this, there is a legal question as to whether the proposed ID assessments of HCDA, which are to be secured by liens against real property, could be construed to be a form of real property taxation, and therefore in conflict with this constitutional provision.

In an effort to resolve this issue, the State's bond counsel and the Office of the Attorney General have done considerable research of the State Constitution, the Hawaii Revised Statutes, and relevant judicial determinations. Based on their findings to date, however, they

are unable to make a definitive conclusion that an ID assessment is clearly not a form of real property taxation. As such, it has been determined by bond counsel that a ruling from the State of Hawaii Supreme Court may be necessary to fully resolve this matter.

S.B. No. 1350 allows HCDA to file for a ruling directly from the Supreme Court without the need to involve any of the lower courts. This would mean a reduction of time and expenses to the lower courts and HCDA since it is conceivable that, without this amendment, HCDA would be required to file an action and obtain rulings from the Circuit Court and Intermediate Appellate Court before being heard by the State Supreme Court.

Your Committee is of the opinion that in consideration of the substantial benefits to be realized from the redevelopment activities of HCDA, it is important the Authority be provided with the means to proceed in an expeditious time frame. Further, your Committee finds that declaratory relief is the most efficient means of obtaining a ruling from the courts. The rules of the State Supreme Court, however, preclude declaratory relief for actions regarding tax matters, and this preclusion could deny HCDA the right to obtain declaratory relief on certain actions, such as the ability of the Authority to secure ID assessments by liens against real property. Therefore, your Committee has amended the bill to include a provision which would enable HCDA to obtain declaratory relief for any action with respect to the validity of chapter 206E, Hawaii Revised Statutes.

Your Committee has also made technical corrections.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 1350, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1350, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.  
Senator George did not concur.

SCRep. 374            Housing and Community Development on H.B. No. 269

The purpose of this bill is to add a new section to part II of chapter 356, Hawaii Revised Statutes, to establish owner-occupancy requirements for loans made under the State's Housing Loan and Mortgage Program, also known as "Hula Mae".

Although the Hula Mae program requires the financed property to be occupied as the borrower's principal place of residence, the statute does not explicitly set forth an owner-occupancy requirement. Further, the law is silent on what the consequences of noncompliance will be.

The bill clarifies that an eligible borrower shall utilize the dwelling unit financed under the Hula Mae program as the borrower's permanent and primary residence. The bill also authorizes the Hawaii Housing Authority (HHA) to submit a verification of owner-occupancy form to the Hula Mae borrower from time to time. Failure to respond to this verification form in a timely manner may result in one of the following:

- (1) An escalation of the interest rate charged on the eligible loan; or
- (2) Acceleration of all payments due under the mortgage and not covering the eligible loan.

The escalation of interest rate would apply to eligible loans insured by the Federal Housing Administration (FHA) or guaranteed with the Veteran's Administration (VA) or the Farmers Home Administration prior to the calendar year 1983. The reason HHA does not accelerate FHA-insured or VA-guaranteed loans originated prior to 1983 is that regulations governing these Federal programs prohibited the use of a "due on sale" clause in their mortgages. Since January 20, 1983, this prohibition has been deleted on FHA-insured loans.

Hawaii's Hula Mae Loan Program is intended to assist eligible home buyers by providing below-market interest rates. This bill strengthens the intent of the program by providing statutory requirements designed to decrease opportunities for potential abuse.

Your Committee on Housing and Community Development is in accord with the intent and purpose of H.B. No. 269 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 375            Housing and Community Development on H.B. No. 271

The purpose of this bill is to amend section 359G-9.3, Hawaii Revised Statutes, to make the

use restriction outlined in this section consistent with the intent of the buy-back provision set forth in subsection 359G-9.2(a), Hawaii Revised Statutes.

Section 359G-9.3, Hawaii Revised Statutes, states that a dwelling unit purchased from the Hawaii Housing Authority (HHA) shall be occupied by the purchaser at all times.

HHA's buy-back provision set forth in subsection 359G-9.2(a), Hawaii Revised Statutes, specifies that for a period of ten years after the purchase of an HHA unit, if a purchaser wishes to sell or otherwise transfer the property, the Authority would have the first option to purchase the unit at a determined price. Since the buy-back provision remains in effect for the first ten years after the purchase, the restriction on use of the property should apply for a similar period of time. After the tenth year, the homebuyer may sell or use the property with no further restrictions.

The bill also provides that the HHA may submit a verification of owner-occupancy form to purchasers. Failure to respond to the form in a timely manner may be sufficient cause for the HHA to exercise its option to repurchase the unit. This amendment is intended to minimize abuses in the Authority's home purchase program.

Your Committee on Housing and Community Development is in accord with the intent and purpose of H.B. No. 271 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 376            Ways and Means on S.B. No. 20

The purpose of this bill is to appropriate funds for sugar research and development, including research on alternate crops, provided that the Hawaiian Sugar Planters' Association provide for a dollar-for-dollar match of funds.

Your Committee finds that research on alternate crops and by-products of sugar are important for the future of Hawaii's sugar industry. Such research is presently needed to sustain the sugar industry.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 20, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 377            Ways and Means on S.B. No. 87

The purpose of this bill is to establish an aquaculture advisory council to advise the Board of Land and Natural Resources on statewide aquaculture development.

The council would carry out various functions, including coordinating state activities, periodically reviewing the progress and status of state programs, and providing a forum for the discussion of development problems and issues. The council would be composed of representatives from both the public and private sectors of Hawaii's aquaculture community to provide broad and diverse input into state decision-making.

Your Committee finds that for the State's fast-developing aquaculture industry, coordination and communication are areas in need of constant attention. An aquaculture advisory council would offer a much-needed formal mechanism to bring together key government, university, and private-sector groups who are active and interested in aquaculture development for 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. 87, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 87, S.D. 2.

Signed by all members of the Committee.

SCRep. 378            Ways and Means on S.B. No. 168

The purpose of this bill is to extend the expiration date of the special handling fees special fund, created pursuant to section 416-97, Hawaii Revised Statutes, for an additional three years until July 1, 1988, and to expand the types of documents that may be processed by the expedited services.

Your Committee has made technical, nonsubstantive amendments to the bill to conform with

standard drafting style.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 168, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 168, S.D. 2.

Signed by all members of the Committee.

SCRep. 379            Ways and Means on S.B. No. 170

The purpose of this bill is to extend the expiration date of the compliance resolution fund (CRF) which funds the Regulated Industries Complaints Office (RICO), from July 1, 1987 to July 1, 1997.

The compliance resolution fund was created after a Legislative Auditor's study found that the professional and vocational licensing boards were generally unresponsive to consumers and the investigation and resolution of complaints were marked by unnecessary delays and bias by some boards. The legislature created the RICO to handle consumer complaints from their inception to their final resolution. The RICO has eliminated a four year backlog of complaint investigations and has reached a point where even complaints involving courtroom resolution are or will be resolved within a year.

Your Committee finds that an extension of the CRF repeal date is necessary in order to continue fee collection and the CRF.

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. 170, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 170, S.D. 2.

Signed by all members of the Committee.

SCRep. 380            Ways and Means on S.B. No. 726

The purpose of this bill is to establish a Board of Physical Therapy within the Department of Commerce and Consumer Affairs and to transfer the licensure function of physical therapists from the Department of Health to this Board of Physical Therapy.

This bill creates a new chapter which establishes a Board of Physical Therapy and specifies the jurisdiction, composition, powers, and duties of the board. The Board of Physical Therapy would be established on January 1, 1986, by this bill and the rules of the Department of Health would remain in effect until modified or repealed by the board. The board would be repealed effective December 31, 1991.

This bill is supported by the Hawaii Chapter of the American Physical Therapy Association and many individual registered physical therapists on the basis that physical therapists perform procedures on human bodies using various physical agents of heat, cold, light, sound, and special equipment, as well as techniques of assistance and resistance which have the potential for abuse and physical harm when incorrectly or carelessly applied. For this reason, close monitoring and regulation of persons who indulge in physical therapy is required and a Board of Physical Therapy is a necessity.

The Department of Health and the Department of Commerce and Consumer Affairs have no objections to the establishment of a Board of Physical Therapy. In its report, Regulation of Physical Therapy in Hawaii, the Legislative Reference Bureau also supported the establishment of such a board.

Your Committee notes that section 26H-6, Hawaii Revised Statutes, which requires an analysis of the probable effects of a regulatory measure and an assessment as to whether it meets the policy requirements of section 26H-2, Hawaii Revised Statutes, has been determined inapplicable to this measure. An Attorney General's review of this matter confirms the Legislative Auditor's opinion that since physical therapists are currently licensed by the Department of Health in order to practice their profession, the physical therapists are regulated. Thus, since section 26H-6, Hawaii Revised Statutes, applies to "unregulated professions", a Legislative Auditor's analysis is not required in the present case.

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. 726, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached



hereto as S.B. No. 726, S.D. 2.

Signed by all members of the Committee.

SCRep. 381            Ways and Means on S.B. No. 165

The purpose of this bill is to support the development of private parking structures in the Kakaako Community Development District by specifically including parking facilities in the definition of projects which qualify for special purpose revenue bond financing.

Since the overall development of Kakaako has far reaching social and economic benefits to the State, your Committee supports this bill which provides a necessary means of financing development activities of the Hawaii Community Development Authority.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 165 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 382            Ways and Means on S.B. No. 383

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

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

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

This bill would assist the department in maintaining the tuition at its current level.

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. 383, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 383, S.D. 1.

Signed by all members of the Committee.

SCRep. 383            Ways and Means on S.B. No. 150

The purpose of this bill is to extend the expiration date of the state tax credit for solar, wind energy devices, and heat pumps and to increase the credit should federal energy tax credits not be extended beyond December 31, 1985.

This bill proposes to extend the state tax credit, which is scheduled to terminate, like the federal energy credits, on December 31, 1985, to December 31, 1992 and to increase the state credit to fifteen per cent of the total cost of the device from the date the federal credit expires until December 31, 1992, should the federal energy credit not be extended.

Since Hawaii presently depends upon imported oil for more than ninety per cent of its energy requirements, at a cost of over \$1 billion a year, tax credits for alternate energy devices provide important public benefits such as homeowner savings, utilities using less fuel, and increased economic development, income, and employment. Lack of support for the tax credit could seriously dampen a growing local industry and indicate to the public and the business community that the State lacks a true commitment to resolving our energy problems.

Therefore, your Committee finds that this measure is necessary for the economic soundness of the State and strongly recommends its approval.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 150, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 384      Ways and Means on S.B. No. 159

The purpose of this bill is to permit state agencies to enter into agreements with private parties for the installation of energy conserving or renewable energy production systems whereby the agency and the private party would share the energy cost savings.

Currently, state statutes do not provide for third-party financing. This bill would clearly authorize and encourage such energy and money saving arrangements under the leadership of the department of accounting and general services as the approving agency.

Your Committee finds that lack of capital has been a serious barrier for most state governments in accomplishing economically beneficial energy projects. However, several other states such as California, Washington, and New Jersey have successfully demonstrated the effectiveness of third-party or shared-saving arrangements. Under such a system, the State would bear no out-of-pocket costs for the implementation of energy and cost saving systems in its facilities and would thereby reduce operating costs.

Your Committee has made technical amendments for style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 159, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 159, S.D. 2.

Signed by all members of the Committee.

SCRep. 385      Ways and Means on S.B. No. 319

The purpose of this bill is to make permanent the one-half per cent general excise tax rate on sales of generated electricity to public utility companies for resale to the public.

Act 103, Session Laws of Hawaii 1981, provides that the gross proceeds from the sale of electric power to a public utility company shall be taxed at the rate assessed producers—one-half of one per cent—until December 31, 1985. Since the Act was passed, the sale of electricity by small energy producers to the utilities has risen from \$14 million per year to an estimated \$20 million in 1984. More than ninety per cent of this electricity was produced from indigenous renewable resources, including bagasse, geothermal, wind, solar, and hydro. A small amount of petroleum is needed to supplement these renewable sources depending on weather and supply factors.

Your Committee finds that it is essential for the State to continue reducing its dependence upon imported petroleum by developing indigenous energy resources. Favorable tax treatment is one way of encouraging new industries and is especially crucial to the energy industry because the federal energy tax credit is scheduled to terminate at the end of 1985, and plentiful oil supplies and lower oil prices, even though temporary, act as disincentives to alternate energy development.

Your Committee further finds that geothermal groups already enjoy in perpetuity the tax incentives proposed in this bill. Therefore, since there is ample precedent and need, your Committee believes that the perpetual incentive proposed in this bill should be authorized in order to help the fledgling alternate energy industry reach full development for the long-range benefit of Hawaii's economic security.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 319 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 386      Ways and Means on S.B. No. 937

The purpose of this bill is to extend the general excise tax exemption on the sale of gasohol for consumption or use by the purchaser, and not for resale, until June 30, 1992, and to delete the provision that only local gasohol produced from biomass shall be exempt from July 1, 1985 to June 30, 1992.

Over ninety per cent of Hawaii's energy is derived from imported petroleum, and reducing our dependence by encouraging production and use of alternate fuels such as ethanol is a major state goal. The development of a gasohol market in Hawaii could encourage construction of ethanol plants which would, among other things, benefit the economically distressed sugar industry by utilizing sugarcane molasses for ethanol production.

Your Committee finds that deletion of the statutory language which limits the tax exemption

to gasohol derived from locally produced alcohol is a practical necessity as there is no commercial-sized ethanol plant presently operating in Hawaii. The overall benefit to the economy will more than offset any loss of tax revenue occasioned by the continuation of the exemption.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 937, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 937, S.D. 2.

Signed by all members of the Committee.

SCRep. 387            Ways and Means on S.B. No. 27

The purpose of this bill is to place the state fire council within the department of labor and industrial relations for administrative purposes and to appropriate an unspecified amount for the operation of the council.

Your Committee finds that there is some question as to whether the state fire council has been validly established in accordance with section 6 of article V of the Hawaii State Constitution, which requires that "all executive and administrative offices, departments and instrumentalities of the state government and their respective powers and duties shall be allocated by law among and within not more than twenty principal departments in such a manner as to group the same according to common purposes and related functions."

Your Committee further finds that placing the state fire council within an executive department satisfies the requirements of section 6, article V of the Hawaii State Constitution.

Your Committee has amended the bill by deleting the appropriation section and by making technical, nonsubstantive amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 27, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 27, S.D. 1.

Signed by all members of the Committee.

SCRep. 388            Ways and Means on S.B. No. 936

The purpose of this bill is to reappropriate \$33,260,000 in revenue bond funds for the public participation portion of the redevelopment of the Aloha Tower Complex ("project").

Act 17, Special Session Laws of Hawaii 1981, originally authorized the Aloha Tower Development Corporation (ATDC) to issue revenue bonds of \$33,260,000, for the project for fiscal years 1981-82, 1982-83, and 1983-84. Act 285, Section 5F, Session Laws of Hawaii 1984, extended this appropriation for fiscal year 1984-85. Despite this extension, your Committee finds that the foregoing amount must be reappropriated because of the delay required to select a new developer for the project, after the developer granted an exclusive right to negotiate with ATDC pulled out of the project.

ATDC is currently meeting with four development concerns interested in the project. The delay caused by the need to secure a new developer will prevent ATDC from issuing revenue bonds prior to June, 1985.

The financial plan for the project includes private sector and public participation. The major elements for the private sector include hotel, commercial, and retail facilities. Public financing is necessary to encourage private sector participation, and for the required demolition and site improvements, and auxiliary maritime facilities. The use of revenue bonds would eliminate the need for cash participation by the State.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 936 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 389            Ways and Means on S.B. No. 135

The purpose of this bill is to establish a University of Hawaii at Manoa malpractice self-insurance special fund to provide professional liability insurance for the institution, its faculty, and students engaged in the delivery of professional services. The bill allows the

university to charge fees, as appropriate, to individuals covered by this fund.

In providing professional services connected with instructional and research programs, it is often difficult to determine whether a claim for malpractice arises out of the actions of the institution or of the faculty member acting as an individual practitioner. Your Committee finds that the establishment of a malpractice self-insurance special fund is a viable solution to this problem.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 135 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 390            Ways and Means on S.B. No. 136

The purpose of this bill is to statutorily establish existing special funds at the University of Hawaii at Manoa, the University of Hawaii at Hilo, and West Oahu College.

Your Committee finds that these campuses provide a variety of programs which are funded through the collection of fees paid by the individuals or organizations receiving the benefits of such programs including summer session instruction, credit and non-credit continuing education courses, study abroad and exchange programs, theatre groups and the university theatre, library services, and other consultative and cultural enrichment services.

Your Committee supports the view that the establishment of these special funds would allow the university to continue to respond to the needs of its students and the community in a timely and efficient manner and finds that enactment of this bill would ensure conformance with generally accepted accounting principles and the recommendations issued pursuant to a recent review of the non-general fund structure of the University of Hawaii conducted by Peat, Marwick, Mitchell and Company.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 136 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 391            Ways and Means on S.B. No. 137

The purpose of this bill is to establish a revolving fund to account for the intercollegiate athletic programs at the University of Hawaii at Manoa and the University of Hawaii at Hilo.

The University of Hawaii at Manoa and the University of Hawaii at Hilo operate and maintain intercollegiate athletic programs at the varsity level with both male and female student participants. These programs generate revenue from a number of sources which include, but are not limited to, contributions from campus student associations; gate receipts; television and radio income; athletic program meal plans; clinics sponsored or participated in by the athletic department of the university; interest accruing to investments of athletic program funds; guarantees from opponents for games played away from home; income from the sale of programs, press books, advertising and concession items; and contributions from public and private agencies.

Your Committee finds that this bill would allow the university to properly account for intercollegiate athletic program revenues and expenditures and that establishment of the revolving fund proposed by the bill would be appropriate in light of the revenue sources and expenditures characteristic of an intercollegiate athletic program. Your Committee further finds that enactment of this bill would ensure conformance with generally accepted accounting principles and the recommendations issued pursuant to a recent review of the non-general fund structure of the University of Hawaii conducted by Peat, Marwick, Mitchell and Company.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 137, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 392            Ways and Means on S.B. No. 138

The purpose of this bill is to establish a revolving fund for the operation of the University of Hawaii at Manoa and the University of Hawaii at Hilo's internal support services programs. The bill would enable the University to allocate the costs of such services to its programs through user fees, credit revenues to the revolving fund, and utilize the fund to pay for the cost of

providing support services.

The support services included in this bill are transportation services, duplicating services, audiovisual services, graphic services, data processing services, machine shop services, and other technical and specialized services.

Your Committee finds that establishment of the revolving fund proposed by this bill would simplify the University's complex fund structure by providing one support service fund for each campus which would account only for those functions and activities which provide internal support services to basic programs.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 138 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 393            Ways and Means on S.B. No. 139

The purpose of this bill is to establish a revolving fund for the operation of the University of Hawaii's computer services programs.

The revolving fund would allow the university to allocate the costs of such services to each campus through user fees, credit revenues to the revolving fund, and use the fund to pay for the cost of providing computer services.

The University of Hawaii provides centralized administrative and academic computer services to the various campuses in support of instruction, research, public service, and institutional management. Your Committee finds that establishment of the revolving fund proposed by this bill would assist the university in responding to the needs of university programs and the university community in a timely and efficient fashion.

This fund will be used to account for revenues collected on a cost reimbursable basis, and expenditures made by the computing center and the systemwide computer consortium in providing computer services to all of the campuses within the University of Hawaii. Expenditures from this fund will be for personal service costs, purchase and leasing of computer hardware, maintenance, software acquisition, materials and supplies, and equipment.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 139 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 394            Ways and Means on S.B. No. 140

The purpose of this bill is to amend section 304-8.3, Hawaii Revised Statutes, so that it applies to financial aid transcripts.

According to the University of Hawaii, the federal government now requires all applicants for federally-funded financial aid to submit a transcript listing all prior federal aid the applicant received from any school, with a notation as to whether the applicant is delinquent on any federal student loan. Because of this requirement, financial aid offices on all campuses of the university must now create, duplicate, and mail those transcripts for all present and past University of Hawaii students who apply for financial aid at any other college or university.

Your Committee finds that it is appropriate for the University to use the existing transcript and diploma revolving fund, created by section 304-8.3, Hawaii Revised Statutes, to deposit and expend fees for the creation, duplication, and mailing of financial aid transcripts. However, according to the Attorney General, neither the language nor legislative history of that section, as it is now constituted, allows that use. Therefore, your Committee finds it necessary to amend section 304-8.3, Hawaii Revised Statutes, to allow such use of the revolving fund.

Your Committee finds that that amendment is consistent with the spirit and intent of the original enabling legislation for the transcript and diploma revolving fund.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 140 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 395            Ways and Means on S.B. No. 141

The purpose of this bill is to amend section 304-8.4, Hawaii Revised Statutes, by adding

language necessary to include equipment user fees and equipment purchase costs under the provisions of the University of Hawaii's vocational and technical training project revolving fund.

Your Committee finds that this bill would assist the University in optimizing the learning experience it presently furnishes vocational students at the community colleges by providing a revenue source, in addition to general fund support, to be disbursed for equipment replacement costs. The amendment proposed by this bill is appropriate in light of the desirability of providing vocational students with state-of-the-art learning experiences.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 141, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator B. Kobayashi.

SCRep. 396            Ways and Means on S.B. No. 313

The purpose of this bill is to authorize the Hawaii commissioners of the Western Interstate Commission for Higher Education (WICHE) to require students who participate in the professional student exchange program (PSEP) to either repay the State for support fees after completion of their educational program or practice within the State for a certain period of time the profession for which support fees were paid, or both. The bill also establishes a revolving fund into which any repaid support fees and other moneys for support or participation in WICHE programs are to be deposited.

Your Committee finds that expenditures for the WICHE program, particularly for the PSEP, have been questioned in the past because the program provides educational subsidies to students who enter lucrative professions upon graduation without requiring a return to the State. A study conducted by the Legislative Auditor did not recommend a repayment requirement noting that even with the support fees, students incur heavy debts. Your Committee, however, agrees with the concerns expressed by the Committee on Higher Education in Standing Committee Report No. 115 that the Hawaii commissioners should have some authority to increase revenues for the program when appropriations may be insufficient.

The Hawaii commissioners of the Western Interstate Commission for Higher Education shall submit a report to the legislature twenty days prior to the convening of the Regular Session of 1986 on the effects on the program as a result of the amendments made by this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 313, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 397            Ways and Means on S.B. No. 1289

The purpose of this bill is to require the annual report of the University of Hawaii on the research and training revolving fund to include information on allocations and actual expenditures for the preceding fiscal year and projected allocations for the current fiscal year, a display of allocation and expenditure distribution in conformance with guidelines approved by the governor, and a narrative report of research and training accomplishments, issues, and problems. The bill also deletes the requirement that the annual report include a breakdown of travel expenses.

Your Committee finds that this bill will improve the information available to the public and legislature on the activities funded through and status of the research and training revolving fund.

Your Committee has amended the bill by conforming the provisions to accepted drafting style and making technical changes. The amendments made by your Committee are not intended to be substantive nor signify a departure from the findings and intent of the Senate Committee on Higher Education as expressed in Senate Standing Committee Report No. 100.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1289, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1289, S.D. 1.

Signed by all members of the Committee.

SCRep. 398            Ways and Means on S.B. No. 61

The purpose of this bill is to establish that patients are liable for expenses incurred in mental health clinics and psychiatric facilities which derive more than fifty per cent of their revenues

from the state general fund.

Currently, the director of health establishes reasonable charges for outpatient and personal services and has the authority to waive collection. In addition, only those able to pay for hospitalization are expected to do so, and no consideration is given to the presence of third party payers.

Your Committee finds that under this bill, all patients or their third party payers would be liable for fees to pay for mental health services provided by a clinic or facility which is primarily funded by the State. Collection of the fees would be adjusted by the director after third party collections to avoid undue hardships on the patient or family. Your Committee believes that these changes are in the public interest because they will facilitate collection efforts without endangering the delivery of needed services to those who lack the ability to pay.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 61, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Mizuguchi and Solomon.

SCRep. 399            Ways and Means on S.B. No. 69

The purpose of this bill is to reauthorize the Department of Health to regulate the systematic testing and screening of newborn infants for congenital metabolic diseases and to appropriate \$22,829 to carry out a monitoring and follow-up program for affected infants.

This bill proposes more appropriate placement of section 333-1, Hawaii Revised Statutes, which requires the testing of newborn infants for phenylketonuria and hypothyroidism, in chapter 321, part IV, Hawaii Revised Statutes, under the crippled children services branch program, since not all metabolic diseases lead to mental retardation. Further, it gives the Department the authority to determine and test for other diseases that can lead to lifelong disability if not detected and treated.

Your Committee has amended this bill by deleting the appropriation.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 69, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 69, S.D. 2.

Signed by all members of the Committee.

SCRep. 400            Ways and Means on S.B. No. 342

The purpose of this bill is to raise the annual minimum license fee for using a restricted pesticide from \$10 to \$30 and to provide for increases in the licensing fee depending on the amount of pesticide sold, offered for sale, or distributed.

Your Committee finds that this increase in the minimum license fee is large enough to deter the indiscriminate use of highly toxic pesticides thus minimizing the risk to the environment, yet not penalizing small farmers nor varying significantly from the fees charged by other states.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 342, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 401            Ways and Means on S.B. No. 1188

The purpose of this bill is to authorize the department of health to administer maternal and child health programs.

The department of health's authority concerning maternal and child health programs is limited to prevention services under present law. This bill expands the department's authority to provide programs to reduce infant and maternal mortality and morbidity and otherwise promote the health of women of childbearing age, mothers, infants, children, and youth. Your Committee finds that this bill is necessary to promote the public health and welfare for future, as well as present, generations.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1188 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 402            Ways and Means on S.B. No. 103

The purpose of this bill is to permit the State to retain state income tax refunds due to those persons who are delinquent in the payment of child support.

This bill responds to the federal Child Support Enforcement Amendments of 1984, Public Law 98-378. The federal law requires states to withhold the state income tax refunds due to absent parents who are delinquent in child support payments. Your Committee is aware that delinquent child support payment is a significant problem because of the hardship imposed on the custodial parent and child. This bill will assist in easing that hardship.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 103 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 403            Ways and Means on S.B. No. 245

The purpose of this bill is to authorize and appropriate \$636,900 for the revisor of statutes to publish the 1985 Replacement Volumes to the Hawaii Revised Statutes.

Only 122 sets of the current edition of the Hawaii Revised Statutes are available and the sets should be totally distributed within a year. Pending publication of the replacement volumes, suspension of the publication of the 1985 Supplement is necessary so that the efforts of the revision staff can be directed toward updating the Hawaii Revised Statutes through 1985, and to produce replacement volumes as soon as possible.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 245 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 404            Ways and Means on S.B. No. 252

The purpose of this bill is to specify the procedures for appealing a land court decision, and require that the same amount be paid for an appeal from land court as an appeal from circuit court.

Amendments made in Act 102, Session Laws of Hawaii 1984, in general, expedited the processing of land court cases. One of the provisions empowered the land court to hold jury trials, which were previously only heard in circuit court. Given the new powers of the land court, it should also be permitted to collect from an aggrieved party filing fees for appeals of its decisions equal to those collected by circuit courts for appeals from circuit court decisions. Accordingly, the bill increases land court fees for filing appeals from \$1 to \$30, the amount required to be paid for appeals from courts pursuant to section 607-5(32), Hawaii Revised Statutes. The \$30 fee established by the bill is to be paid in addition to the amount already required to be deposited as supreme court costs.

The bill also explicitly requires the land court registrar to collect the newly established fees, then deposit them to the clerk of the Supreme Court.

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. 252, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 252, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 405            Ways and Means on S.B. No. 881

The purpose of this bill is to raise the fees provided to witnesses for their attendance and their mileage to and from civil and criminal cases. The bill increases the flat fee to witnesses in civil cases from \$4 to \$10 a day, and in criminal cases from \$10 to \$20 a day. It also raises the fee for neighbor island witnesses in civil cases from \$6 to \$15 a day and in criminal cases from \$12 to \$25 a day. The bill also increases from \$20 to \$30 a day the fees for material witnesses in criminal cases. Finally, the bill would increase from 20 cents and 30 cents a mile the compensation to witnesses for their travel expenses in civil cases and allow neighbor island witnesses compensation for their travel by ship in criminal cases.

Your Committee finds that the rate of witness fees has not changed in civil cases since 1972, and in criminal cases since 1980. A raise in fees is now timely to better reflect the cost of



living increase in the past years.

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. 881, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 881, S.D. 2.

Signed by all members of the Committee.

SCRep. 406            Ways and Means on S.B. No. 934

The purpose of this bill is (1) to appropriate a total of \$225,000 to computerize the land court system, (2) to revise the appropriate provisions of chapter 501, Hawaii Revised Statutes, relating to land court registration, to implement the new computerized system, (3) to increase the fees for the registration of land court documents, (4) to eliminate land court procedures which are duplicative and cause unnecessary work, and (5) to codify present practices of land court.

Your Committee finds that there is currently a seven month delay in processing land court documents. Over the past five years, because of the continuous backlog, a variety of administrative actions have been taken, such as mechanization with word processors, reassignment of personnel, and overtime work. The backlog was only reduced temporarily; within a short period, it climbed back up again. With the installation of the computer, the department of land and natural resources projects that the processing time will be reduced to ten days.

The new system also obviates the necessity for file cabinets by allowing micro-filming, referred to in the bill as "recording", to store the over 50,000 documents received each year. The department estimates that all available storage space will be used within 2 years if they continue with the present system using file cabinets.

The bill also permits the land court to increase their registration fees. The anticipated revenues from this increase will be more than the cost of installing the computer. Furthermore, the bill frees land court from complying with administratively and financially burdensome procedures. Finally, the bill brings the statute up to date by codifying present practices.

The computer system is a much needed modernization measure for land court. It is also an appropriate remedy for the backlog and storage space problems.

Your Committee made technical, nonsubstantive amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 934, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 934, S.D. 2.

Signed by all members of the Committee.

SCRep. 407            (Majority) Ways and Means on S.B. No. 6

The purpose of this bill is to grant civil service status to the researcher in the office of collective bargaining.

Act 191, Session Laws of Hawaii 1977, gave civil service coverage to all employees of the office of collective bargaining except the chief negotiator, the chief's deputy, and a researcher. The researcher gathers and analyzes data to help decision-makers reach timely and appropriate decisions. This work supports not only the chief negotiator but also all other employer representatives including county governments.

Your Committee finds that a permanent staff in the office of collective bargaining is necessary to assure continuity in labor relations regardless of the political changes which may occur among the policy-making ranks. Providing civil service status to the researcher through this measure will assure the continuity of staff support to an office whose program is statewide and essential to public employers in the field of labor relations.

Your Committee has made nonsubstantive, technical amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 6, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 6, S.D. 2.

Signed by all members of the Committee.

Senators Hee, Henderson and Soares did not concur.

SCRep. 408            Ways and Means on S.B. No. 37

The purpose of this bill is to provide funding authorizations and appropriations for collective bargaining unit 1 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1985-1987.

In accordance with section 89-10(b), Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing collective bargaining agreements for state public officers and employees.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 37, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 409            Ways and Means on S.B. No. 38

The purpose of this bill is to provide funding authorizations and appropriations for collective bargaining unit 2 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1985-1987.

In accordance with section 89-10(b), Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing collective bargaining agreements for state public officers and employees.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 38, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 410            Ways and Means on S.B. No. 39

The purpose of this bill is to provide funding authorizations and appropriations for collective bargaining unit 3 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1985-1987.

In accordance with section 89-10(b), Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing collective bargaining agreements for state public officers and employees.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 39, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 411            Ways and Means on S.B. No. 40

The purpose of this bill is to provide funding authorizations and appropriations for collective bargaining unit 4 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1985-1987.

In accordance with section 89-10(b), Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing collective bargaining agreements for state public officers and employees.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 40, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 412            Ways and Means on S.B. No. 41

The purpose of this bill is to provide funding authorizations and appropriations for collective bargaining unit 5 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1985-1987.

In accordance with section 89-10(b), Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing

collective bargaining agreements for state public officers and employees.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 41, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 413            Ways and Means on S.B. No. 42

The purpose of this bill is to provide funding authorizations and appropriations for collective bargaining unit 6 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1985-1987.

In accordance with section 89-10(b), Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing collective bargaining agreements for state public officers and employees.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 42, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 414            Ways and Means on S.B. No. 43

The purpose of this bill is to provide funding authorizations and appropriations for collective bargaining unit 7 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1985-1987.

In accordance with section 89-10(b), Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing collective bargaining agreements for state public officers and employees.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 43, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 415            Ways and Means on S.B. No. 44

The purpose of this bill is to provide funding authorizations and appropriations for collective bargaining unit 8 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1985-1987.

In accordance with section 89-10(b), Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing collective bargaining agreements for state public officers and employees.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 44, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 416            Ways and Means on S.B. No. 45

The purpose of this bill is to provide funding authorizations and appropriations for collective bargaining unit 9 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1985-1987.

In accordance with section 89-10(b), Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing collective bargaining agreements for state public officers and employees.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 45, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 417            Ways and Means on S.B. No. 46

The purpose of this bill is to provide funding authorizations and appropriations for collective

bargaining unit 9 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1985-1987.

In accordance with section 89-10(b), Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing collective bargaining agreements for state public officers and employees.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 45, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 418            Ways and Means on S.B. No. 47

The purpose of this bill is to provide funding authorizations and appropriations for collective bargaining unit 11 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1985-1987.

In accordance with section 89-10(b), Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing collective bargaining agreements for state public officers and employees.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 47, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 419            Ways and Means on S.B. No. 48

The purpose of this bill is to provide funding authorizations and appropriations for collective bargaining unit 13 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1985-1987.

In accordance with section 89-10(b), Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing collective bargaining agreements for state public officers and employees.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 48, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Solomon.

SCRep. 420            Ways and Means on S.B. No. 49

The purpose of this bill is to provide funding authorizations and appropriations for state officers and employees excluded from collective bargaining, including the cost of salary adjustments for the fiscal biennium 1985-1987.

In accordance with chapter 89C, Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing salary increases and other cost adjustments for state public officers and employees excluded from collective bargaining.

Your Committee has amended section 5 of this bill by adding the ethics commission.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 49, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 49, S.D. 2.

Signed by all members of the Committee.

SCRep. 421            Ways and Means on S.B. No. 50

The purpose of this bill is to provide funding authorizations and appropriations for adjustments to the monthly contributions paid to the Hawaii public employees health fund by the State and the counties on behalf of public officers and employees for the fiscal biennium 1985-1987.

In accordance with chapter 89, Hawaii Revised Statutes, legislative funding authorizations and appropriations are necessary to cover the expected cost of implementing monthly contribution adjustments. Your Committee finds that this bill conforms to the legislative

requirement of the law.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 50, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Solomon.

SCRep. 422            Ways and Means on S.B. No. 51

The purpose of this bill is to limit a public employee's state or county retirement credit while serving in the military service to two years and to exclude from state or county retirement credit members who enter military service voluntarily.

Currently, under section 88-132, Hawaii Revised Statutes, a member of the Employees' Retirement System who leaves state or county employment to enter military service is given retirement credits for the period of military service. During this period the state or county employer is required to pay all contributions payable to the retirement system by the employer and member.

For members who enter the military service for set periods, the entitlement under section 88-132 terminates ninety days after the period for which the member entered the military forces. However, if a member enters the military service for an indefinite period, the member would accumulate retirement credits for the entire period of service and the state or county employer would be responsible for all payments to the retirement system. This bill would prevent such an occurrence by limiting the entitlement under section 88-132 to two years of military service and excluding members who voluntarily enter the military service.

Your Committee finds that this measure serves the public interest by extending benefits to members called upon to serve in the armed forces while preventing windfall benefits from accruing to members who voluntarily pursue a military career.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 51 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 423            Ways and Means on S.B. No. 52

The purpose of this bill is to allow the Board of Trustees of the Employees' Retirement System to expand its investment capability.

The bill (1) authorizes the Board to invest in real property with noninsurance companies; (2) incorporates into the statutes the definition of "securities" to permit the Board to invest in securities as defined in section 485-1, Hawaii Revised Statutes; and (3) authorizes the Board to invest in futures and options.

Your Committee finds that if the measures proposed in this bill had been in effect in 1984, the Board could have realized an additional return of approximately \$7,000,000 on its fixed-income portfolio. Such an increase in investment yield is clearly to the benefit of the system and its beneficiaries and is therefore in the public interest.

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. 52, S.D. 1, and amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 52, S.D. 2.

Signed by all members of the Committee.

SCRep. 424            Ways and Means on S.B. No. 77

The purpose of this bill is to abolish the Hawaii employment relations board and transfer its functions to the Hawaii public employment relations board effective January 1, 1986. The latter would be renamed the Hawaii labor relations board.

The department of labor and industrial relations reported that the Hawaii employment relations board, at its regular meeting on August 24, 1984, recommended the transfer of its functions to the Hawaii public employment relations board because its low caseload did not warrant the continuation of a separate board. This measure, however, would not result in the lessening of the rights of workers to organize and bargain collectively. All of the present provisions of chapter 377, Hawaii Revised Statutes, are being retained and the current

administrative rules will remain in effect under the new board.

Your Committee agrees with the Committee on Labor Relations that abolishing the Hawaii employment relations board and merging its functions into the Hawaii public employment relations board is a logical progression that will provide effective services to those in private employment at less cost to government.

Your Committee has amended the bill by making nonsubstantive, technical amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 77, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 77, S.D. 2.

Signed by all members of the Committee.

SCRep. 425            Ways and Means on S.B. No. 257

The purpose of this bill is to provide workers' compensation to volunteer deputy sheriffs who may be injured in the line of duty.

Currently, under workers' compensation law, a public board member, reserve police officer, volunteer firefighter, or volunteer deputy fish and game warden who is injured while performing services is entitled to medical rehabilitation, income, and indemnity benefits under workers' compensation law, and is deemed to have earned wages for benefit computation purposes.

Your Committee finds that volunteer deputy sheriffs are subject to injury in connection with their duties and should not have to secure their own insurance when they are providing valuable free services to the Judiciary. This bill would give them workers' compensation status comparable to the other volunteers as stated above, which is equitable under the law and in the public interest.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 257, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 426            Ways and Means on S.B. No. 381

The purpose of this bill is to set the salaries of the chairpersons of the Hawaii Public Employment Relations Board, the Labor and Industrial Relations Appeals Board, and the Public Utilities Commission at the current salary level of state department heads, effective July 1, 1985. It likewise proposes to set the salary level of the other members of those boards and commission at the current salary level of a first deputy to the head of a state department. Finally, the bill proposes to set the salary of the State Librarian at the current level of state department heads, effective July 1, 1985.

Prior to 1982, the chairperson of those boards and commission were compensated at parity with circuit court judges by virtue of their judicial roles in administering various state statutes. Parity with circuit court judges also resulted in parity with state department heads because these chairpersons also served as administrative heads of their respective organizations and programs.

On the other hand, the salary level of the State Librarian is at the equivalent level of an assistant superintendent of education or a second deputy to the head of a state department. Organizational and functional relationships and responsibilities of the State Librarian have changed significantly with the establishment of the office of the State Librarian under the direct control of the Board of Education. Previously, the Office of Library Services was subject to the direction and control of the superintendent of education and the deputy, and was accountable to the superintendent. In that previous organization, the State Librarian functioned at the same level as an assistant superintendent of education or second deputy.

The responsibilities and complexities of the work of the chairpersons of the Hawaii Public Employment Relations Board, the Labor and Industrial Relations Appeals Board, and the Public Utilities Commission, warrants the compensation of these positions at the equivalent level of a state department head. The adjustment of the salary level of other members of those boards and commission to the current salary level of the first deputy to the head of a state department is necessary to maintain proper internal alignment of salaries. Finally, the proposed salary adjustment for the State Librarian is necessary by virtue of the significant changes in duties and responsibilities of the position.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 381 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 427            Ways and Means on S.B. No. 426

The purpose of this bill is to expand the authority of the public employees health fund board of trustees to contract for prescription drugs, vision treatment and care, and dental insurance through a statewide indemnity plan, a statewide service benefit plan, health maintenance organization plans, or, for prescription drugs and vision benefits, a combination of the plans.

This bill will allow the board of trustees to initiate studies for and formulate plans to provide public employees with better health care benefits. Your Committee finds that this bill is in the public interest because it will enhance the State's and counties' ability to attract and retain skilled and dedicated public employees and increase employee satisfaction and consequently, productivity.

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. 426, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 426, S.D. 2.

Signed by all members of the Committee.

SCRep. 428            Ways and Means on S.B. No. 1487

The purpose of this bill is to establish the amount of contribution by a public employer for the health benefits plan of an employee who retired after June 30, 1984 with at least five but less than ten years of credited service, excluding sick leave, at one-half of the monthly HMSA self only or family regular plan premium, as applicable. The bill also repeals the requirement that the monthly contribution of all public employees and the public employers be based on the HMSA regular plan rates.

The board of trustees of the public employees health fund has proposed this bill to correct an inadvertent consequence resulting from the nonintegration of Acts 252 and 254, Session Laws of Hawaii 1984. Prior to Act 252, a retiree from public employment was not required to contribute towards the cost of the health benefits plan. Act 252, however, requires an employee who retired after June 30, 1984, with at least five but less than ten years of credited service, excluding sick leave, to make a contribution for the employee's health benefits plan. The amount of the contribution had been intended to be the difference between the public employer's statutory contribution and the cost of the plan. Act 254, however, eliminated the public employer's flat statutory contribution and made the public employer's contribution subject to collective bargaining agreement or adjustment under the excluded officers and employees law. The net effect of the combination of the Acts is to require the employee to pay for one hundred per cent of the cost of the health benefits plan. This bill requires the employee and public employer to share in the cost of the health benefits plan, consistent with the intent of Act 252.

Your Committee agrees with the reasoning of the board of trustees and thus acts favorably on this bill.

Your Committee also finds that repeal of the requirement that the public employer's contribution be based on the HMSA regular plan rate is for housekeeping purpose. That requirement is no longer applicable because of the provisions of Act 254.

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. 1487, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1487, S.D. 2.

Signed by all members of the Committee.

SCRep. 429            Ways and Means on S.B. No. 134

The purpose of this bill is to provide a hazard pay schedule for airport employees of the Department of Transportation.

Your Committee finds that state airport employees and airline workers are used at neighbor

island airports to supplement professional full-time airport firefighters.

Airline employees under contract with the Department of Transportation are paid on the basis of each drill attended and/or actual response to an emergency. However, section 261-18, Hawaii Revised Statutes, limits payment to state employees to \$25 a month.

Your Committee believes that state employees and airline workers should receive the same compensation. The pay schedule included in the bill will accomplish this purpose.

Your Committee has made technical, nonsubstantive amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 134, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 134, S.D. 1.

Signed by all members of the Committee.

SCRep. 430            Ways and Means on S.B. No. 350

The purpose of this bill is to establish mandatory use of seat belts and provide penalties for non-compliance.

Your Committee believes that a mandatory seat belt policy would be an effective way of reducing the probability of injury to drivers and passengers of motor vehicles involved in accidents. A National Highway Traffic Safety Administration study has concluded that safety belt use is the single most cost-effective highway safety measure currently available.

Your Committee amended subsection (d) of the bill by requiring that noncompliance with the new section shall not be admissible as evidence in any civil action with regard to the issue of mitigation of damages, in addition to its inadmissibility with regard to the issue of liability.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 350, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 350, S.D. 2.

Signed by all members of the Committee.

SCRep. 431            Ways and Means on S.B. No. 397

The purpose of this bill is to exempt motor vehicles which have been specially constructed or modified and adapted for the handicapped from state vehicle registration fees and the vehicle weight taxes.

Your Committee believes that such modified or specially constructed vehicles are essential to the ability of the handicapped to actively participate in our society. Since these vehicles are heavy and consequently more expensive to register, this exemption will aid the handicapped while having no significant impact on the state highway fund.

Your Committee has made nonsubstantive, technical amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 397, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 397, S.D. 1.

Signed by all members of the Committee.

SCRep. 432            Ways and Means on S.B. No. 481

The purpose of this bill is to place the provisions of sections 76-32 and 76-33, Hawaii Revised Statutes, into chapter 79, Hawaii Revised Statutes.

Section 76-32 relates to educational and certain other leaves of absence of public employees, and section 76-33 relates to sabbatical leaves. Chapter 79, Hawaii Revised Statutes, already provides for public employee leaves of absence including vacation leaves, sick leaves, and other leaves and, therefore, is the appropriate location for the provisions of sections 76-32 and 76-33.

Your Committee made nonsubstantive, technical amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 481, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 481, S.D. 2.



Signed by all members of the Committee.

SCRep. 433            Ways and Means on S.B. No. 485

The purpose of this bill is to amend certain sections of chapters 76 and 77, Hawaii Revised Statutes, for housekeeping purposes.

Specifically, the bill does the following:

- (1) Amends section 77-4(a) by deleting an obsolete prohibition on "pricing" reviews of blue collar positions to reflect the current practice that permits all blue collar positions to be reviewed by the public employees compensation appeals board.
- (2) Amends section 77-5 by clarifying that the blue collar supervisory and nonsupervisory wage board schedules are actually one, and deletes redundant material.
- (3) Amends section 76-35 by authorizing the director of personnel services to adopt rules governing transfers.
- (4) Amends section 77-10 to correspond to the change in section 76-35.

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. 485, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 485, S.D. 2.

Signed by all members of the Committee.

SCRep. 434            Ways and Means on S.B. No. 685

The purpose of this bill is to allow part-time employees who work less than 20 hours a week, but whose hours are equal to one-half of a full-time equivalent position, to be served by an exclusive collective bargaining representative.

Your Committee finds that there exists an anomaly in the present law that allows a Department of Education employee whose hours are equal to one-half of a full-time equivalent position to be excluded from representation by an exclusive bargaining representative, while other half-time equivalents in other departments have such representation.

Your Committee believes such inequities that exist in the law should be corrected.

Your Committee made technical, nonsubstantive amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 685, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 685, S.D. 1.

Signed by all members of the Committee.

SCRep. 435            Ways and Means on S.B. No. 893

The purpose of this bill is to amend the definition of "firefighter" to include employees of the Department of Transportation who were assigned duties at state airports prior to June 3, 1978.

Before the Department of Transportation established state firefighters at the airports in the mid-1970s, certain employees of the Department were assigned firefighter's duties in addition to their regular assignments and were paid \$25 a month differential for this responsibility. This bill would grant those employees benefits similar to that currently enjoyed by police officers and firefighters and would allow them to use their years of firefighting service prior to June 3, 1978 as years of employment as firefighters for retirement purposes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 893 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 436            Ways and Means on S.B. No. 1170

The purpose of this bill is to give the board of trustees of the public employees' retirement system the authority to establish the investment yield rate and other factors for actuarial

valuations of the system beginning with the year ending on June 30, 1985 and thereafter.

Your Committee finds that this bill is necessary to provide the board with discretion to adopt realistic actuarial assumptions for the system. The discretion will better enable the board to discharge its fiduciary duty to maintain the health of the system for present and future members.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1170 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 437                      Ways and Means on S.B. No. 1374

The purpose of this bill is to require the expense fund of the public employees' retirement system to be funded by investment earnings of the system, rather than appropriations from the State and counties.

Administration and operation expenses of the system are paid from the expense fund. Under current law, the State and the counties are required to make appropriations for the expense fund. For fiscal year 1984-1985, the request for appropriation for the expense fund amounted to \$1.3 million.

This bill proposes to replace the state and county funding of the expense fund with funding by the investment earnings of the system. Investment earnings are expected to amount to \$206 million for fiscal year 1984-1985 and increase further in forthcoming years. Thus, your Committee finds that the investment earnings are sufficient to fund the administration and operation expenses of the system.

This bill will have an effect on the amount of the State's and counties' contributions for the retirement benefits of public employees. Under current law, the required contributions are reduced by the amount of investment earnings over a stated level. Under this bill, since a portion of the investment earnings will be credited to the expense fund, that credited amount will not be available for reduction of the State's and counties' contributions.

Your Committee has amended the bill by requiring the board of trustees of the system to submit to the legislature an annual detailed budget report of its actual or projected expenditures from the expense fund for the immediate prior fiscal year, fiscal year in progress, and immediate following fiscal year. This new provision and the provision already in the bill which requires gubernatorial approval of the amount credited to the expense fund ensures against possible abuse.

Your Committee finds that this bill's impact on the State's and counties' contributions and the lessening of legislative control over the system's operational expenses are outweighed by the benefit of eliminating the general fund appropriations for the expenses of the system.

In addition, your Committee has made other technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1374, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1374, S.D. 1.

Signed by all members of the Committee.

SCRep. 438                      Ways and Means on S.B. No. 384

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. This 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 intent of your Committee that such amounts will be inserted at a later time when they become known.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 384 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 439                      Ways and Means on S.B. No. 459

The purpose of this bill is to replace the existing Hawaii criminal justice data center advisory committee with a formal board to be known as the criminal justice data interagency board, consisting of eleven members, appointed by the governor. The board, which will sunset on June 30, 1989, is given the responsibility of promoting interagency cooperation and coordination in the development and management of a fully integrated statewide criminal justice information reporting and retrieval system. To accomplish this purpose, this bill appropriates \$7,000.

The Ad Hoc Committee on Criminal Justice Information Systems which convened in 1983, identified as its first objective: the establishment of a formal representative organization. It is anticipated that it will be better able to promote and achieve implementation and maintenance of an integrated statewide computerized criminal justice information system than the advisory committee currently existing under present law.

Your Committee has amended this bill to clarify that the criminal justice data interagency board, created by this measure, will sunset on June 30, 1989, to allow an examination of the board's progress, after four years, by the Legislature.

Your Committee has further amended this bill by deleting the appropriation.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 459, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 459, S.D. 2.

Signed by all members of the Committee.

SCRep. 440                      Ways and Means on S.B. No. 460

The purpose of this bill is to specifically authorize the Hawaii criminal justice data center to use fingerprinting as part of their identification system currently in effect. The bill enlarges the class of persons to be included in this identification system by adding those persons to whom penal summons have been issued for a criminal offense and who have been convicted or granted a deferred acceptance of guilty or nolo contendere plea or a conditional discharge. It also requires the Hawaii criminal justice data center, in addition to collecting, to record and compile information relating to crime.

Your Committee has deleted the appropriation section of the bill and renumbered the remaining sections accordingly.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 460, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 460, S.D. 2.

Signed by all members of the Committee.

SCRep. 441                      Ways and Means on S.B. No. 463

The purpose of this bill is to appropriate an unspecified amount to satisfy claims for legislative relief, judgments against the State, settlements, and miscellaneous claims.

The bill lists twenty claims for payment and appropriates \$5,412,124.58 to satisfy them. It also (1) requires payment by warrants issued by the comptroller upon vouchers approved by the director of taxation for tax claims and by the attorney general for all other claims; (2) limits the period for accrual of interest on the claims.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 463, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 442                      Ways and Means on S.B. No. 1089

The purpose of this bill is to appropriate \$2,750,000 to pay for the settlement agreement reached in State of Hawaii vs. Goodfellow Bros., Inc., Civil No. 6635, Second Circuit Court of Hawaii.

The suit involves a contract awarded by the department of transportation to Goodfellow Bros., Inc., for the federally aided highway construction of the Piilani Highway on Maui. The original claim by Goodfellow Bros., Inc., totaled about \$12,000,000. Considering the estimated cost of defending the case and the potential cost of liability if the case proceeded to trial, your Committee finds that the payment of the settlement amount will be in the best interest of the State.

Your Committee specified the fiscal year for which the appropriation is to be made, and made a technical, nonsubstantive amendment to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1089, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1089, S.D. 2.

Signed by all members of the Committee.

SCRep. 443            Ways and Means on S.B. No. 1192

The purpose of this bill is to establish a Hawaii convention center authority to operate a publicly owned convention center.

Your Committee finds that the visitor industry is one of, if not the most important industry in Hawaii and generates the greatest amount of revenue for the state's economy. Your Committee further finds that establishing a convention center which offers quality facilities for conventions near major Waikiki hotels and an authority to operate and seek bookings for the convention center will bolster the visitor industry.

Your Committee has amended the bill by deleting sections 2, 3, and 4 of the bill, renumbering section 5, appropriating \$1 from the general fund for the purposes of the bill, to be expended by the department of planning and economic development, and changing the effective date to July 1, 1985. Your Committee has also made technical, nonsubstantive changes to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1192, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1192, S.D. 2.

Signed by all members of the Committee.

SCRep. 444            Ways and Means on S.B. No. 1288

The purpose of this bill is to allow the use of the tax dependency criteria to determine residency status for tuition purposes in the University of Hawaii system as it applies to students whose parents are divorced or separated.

The University's current practices in this area are guided by Act 106, Session Laws of Hawaii 1982, which created the existing tax dependency criteria and by subsequent advice from the department of the attorney general respecting application of these criteria to students whose parents are divorced or separated. Application of these criteria as presently constituted results in the classification of many students who otherwise meet residency criteria as nonresidents for tuition purposes solely because the student is claimed as a dependent by a parent who is no longer a resident of the State. Your Committee finds it appropriate that legislative action be taken to rectify this inequitable situation.

Your Committee has amended the bill to incorporate the language proposed by the University of Hawaii which accomplishes the purpose and intent of the bill in a more succinct manner. Your Committee has also amended the bill to correct typographical error.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1288, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1288, S.D. 1.

Signed by all members of the Committee.

SCRep. 445            Ways and Means on S.B. No. 1346

The purpose of this bill is to delete the time limitation on the one-half per cent yield tax rate applicable to trees cut on lands subject to any state forest lands management program. The tax would be allowed to remain at one-half per cent rather than being increased to two and one-half per cent.

Your Committee finds that the substitution of a yield tax in lieu of real property taxes for the planting of trees is fairly common in states where forestry is a larger part of the economy

than it is in Hawaii. Chapter 186, Hawaii Revised Statutes, "Tree Farms," is based on legislation passed in 1963 as an incentive for the development of forest resources by private landowners in Hawaii. The yield tax, in lieu of real property and applicable excise taxes, was set at five per cent. No tree farms have been developed in Hawaii under chapter 186. As an added inducement, the 1983 legislature amended section 186-9, Hawaii Revised Statutes, to lower the yield tax for trees cut on lands subject to a state forest lands management program to one-half per cent from July 1, 1983 to June 30, 1985, and then to increase it to two and one-half per cent from July 1, 1985.

The department of taxation testified that it did not object to a further extension of time on the one-half per cent tax rate but did not feel that the rate should be made permanent. The department of land and natural resources supported the position of the department of taxation and suggested that the bill be amended to extend the one-half per cent tax rate for five additional years. The department of land and natural resources stated that it will assess the effectiveness of this forest resource development inducement during that period.

Your Committee adopted the recommendation of the department of land and natural resources and amended the bill accordingly.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1346, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1346, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 446                      Ways and Means on S.B. No. 1408

The purpose of this bill is to amend the spouse abuse criminal statute to extend its protection to family and household members; to require a police officer to prepare a written report if there are reasonable grounds to believe that physical abuse exists; to require the abuser to vacate the home for twelve hours; to require the arrest of the abuser who refuses to comply with an order from the police; to require a person convicted under this section to serve a minimum jail sentence of forty-eight hours and to undergo domestic violence counseling and treatment; and to make an appropriation for such counseling and treatment services.

The bill broadens the applicability of the spouse abuse criminal statute to family and household members, defined in section 586-1, Hawaii Revised Statutes, as "spouses, former spouses, parents, children, persons related by consanguinity, and persons jointly residing or formerly residing in the same dwelling unit."

Your Committee amended the bill by deleting the appropriation section since it is considering the possibility of placing such appropriation in the executive budget.

Your Committee also made technical, nonsubstantive amendments to the bill for clarity and conformance to recommended drafting style.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1408, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1408, S.D. 2.

Signed by all members of the Committee.

SCRep. 447                      Agriculture on S.B. No. 15

The purpose of this bill is to remove cooked eggs in-shell from the provisions of Chapter 147, Part V, and to amend the procedures for imposing penalties to give alleged violators the option to waive the right to a formal hearing.

Presently, the grade standards for shell eggs are generally not applicable to cooked in-shell eggs. Your Committee received testimony from the Board of Agriculture stating that the Attorney General's Office has interpreted the statutes to apply to both uncooked and cooked chicken eggs in-shell. This amendment is therefore proposed to clarify the definition of eggs.

The testimony from the Board of Agriculture stated further that the amendment to allow the waiver of a hearing is proposed because there could be instances when the proposed penalty is minimal or the alleged violator will admit guilt, making a formal hearing unnecessary or not worth the cost.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 15 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 448

Agriculture on S.B. No. 351

The purpose of this bill is to provide the Department of Agriculture the power to impose a civil penalty for a violation of Chapter 148, Part I, Hawaii Revised Statutes.

Presently, any person in violation of this chapter must go through the criminal court process. Testimony received from the Board of Agriculture stated that the amendment is proposed because the Prosecutor's Office is unable to take on relatively minor cases due to a heavy workload and that these cases could better be handled administratively.

This bill provides the Chairman of the Board of Agriculture or his authorized agents to issue citations to anyone in violation of Chapter 148, Part I, Hawaii Revised Statutes. The person in violation, after notice and opportunity for hearing, shall be fined not less than \$50 nor more than \$500. This bill further provides that any action taken to impose or collect the penalty shall be considered a civil action.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 351 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 449

Agriculture on S.B. No. 935

The purpose of this bill is to permit aquaculturists to form aquaculture cooperative associations.

Presently, Chapter 421-1, Hawaii Revised Statutes, provides for the formation of cooperative associations for agricultural products, including floricultural, horticultural, viticultural, forestry, nut, coffee, dairy, livestock, poultry, bee, and any farm or plantation products. It does not, however, provide for aquaculture.

Your Committee received testimony from the Department of Land and Natural Resources stating that as a food production activity, aquaculture falls somewhere between agriculture and fisheries. In terms of product, aquaculture and fisheries products are almost indistinguishable and are often marketed through the same market channels. However, the production process is similar to agriculture because there is a grow-out period before the product can be harvested.

Your Committee finds that by permitting aquaculture cooperative associations, this bill conforms to the State policy of encouraging diversified agriculture and aquaculture.

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

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 935, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 935, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 450

Energy on S.B. No. 980

The purpose of this bill is to amend the laws of the State of Hawaii relating to the two level review and approval process for authorizing geothermal activities.

Your Committee has amended this short form bill to include the following substantive material:

1) A purpose section. Your Committee finds that there is a need to clarify that it is the intent of the legislature that geothermal resource subzones be designated by the Board of Land and Natural Resources through its rulemaking powers rather than through contested case hearings.

2) A substantive amendment to section 205-5.2(d), Hawaii Revised Statutes, to provide that once a proposal for potential designation of an area as a geothermal resource subzone is made, the Board shall conduct public hearings pursuant to section 205-5.2 and its rulemaking powers, without the necessity of a contested case hearing.

Sections 205-5.1 and 205-5.2, Hawaii Revised Statutes, establish a two level review and approval process for the regulation and control of geothermal resource development. The first level concerns the suitability of broad land areas for potential and non-specific future geothermal development, and is intended to be a long-range planning procedure for selecting

the most appropriate areas where potential geothermal activities may be considered for approval in the second level of the review process.

The second level of review concerns the consideration of land use permits for specific development proposals by particular developers or land owners within a broader geothermal resource subzone. Section 205-5.1 specifically provides that contested case proceedings be instituted by the reviewing agency upon appropriate request at this stage of review.

Your Committee finds that although it was the intent of the Legislature to require only rulemaking proceedings at the first level of review during geothermal resource subzone designations, such intent has not been carried out. This situation has created duplication and difficulty in the review procedure because the Department of Land and Natural Resources itself has been required to be an adversary party in the contested case proceedings at the first level of review. It is the intent of the Legislature that contested case proceedings should only be held at the second level of review where specific applicants and particular proposals for development are presented for permit approval.

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 980, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Readings.

Signed by all members of the Committee.

SCRep. 451      Tourism and Recreation on S.B. No. 651

The purpose of this bill is to include "heiau" in the definition of historic property, and to better clarify the responsibilities of the Department of Land and Natural Resources (DLNR) to regulate actions which might have detrimental effects upon historic properties.

Testimony submitted by the DLNR stated that heiaus, in comparison to other archeological sites, have a special meaning because of the role they play in the formal Hawaiian religion. This bill would allow "heiau" to be singled out for special attention within the historic preservation law by including it within the definition of historic property.

This bill would also clarify the DLNR's role in reviewing public undertakings that might impact significant historic properties, and protect historic properties located on private lands.

Your Committee has amended the bill by removing sections 2, 3, and 4.

The purpose of the amendment to the bill is that the phrase "or eligible for inclusion in" occurring in sections 2, 3, and 4, is too broad and may result in unnecessary project delays when there may be little chance for an item to be listed on the Hawaii register of historic places.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 651, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 651, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 452      Tourism and Recreation on S.B. No. 1216

The purpose of this bill is to mandate the Department of Land and Natural Resources (DLNR) to develop rules establishing minimum standards for archaeological work and other rules necessary for carrying out the purposes of Chapter 6E, Hawaii Revised Statutes.

Testimony received from the DLNR indicated the need to set forth minimum requirements for archaeological surveys. Currently, survey reports vary in quality and content. As such, they are not conducive toward an efficient staff evaluation and a consistent approach to statewide data collection and site recordation.

Your Committee finds that this bill would allow for the adoption of rules establishing standards for the performance of archaeological reconnaissance and intensive surveys, excavations and restorations.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1216 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. 453      Tourism and Recreation on S.B. No. 1220

The purpose of this bill is to require the Hawaii Historic Places Review Board to meet at least three times a year.

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

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1220, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1220, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 454            Health on S.B. No. 63

The purpose of this bill is to generally amend chapter 326, Hawaii Revised Statutes, by replacing words and phrases which connote outdated social conditions and gender references with words and terms which better reflect statutory intent and common parlance. In addition, the bill further restricts the conditions under which pictures may be taken of Hansen's disease patients, and increases the pool out of which the sheriff at Kalaupapa may be selected.

Your Committee heard testimony by the Department of Health supporting this bill, and finds that the proposed changes are consistent with the legislature's intent to amend statutory law to reflect contemporary times. Your Committee further finds that the restriction on picture taking and the relaxed criteria for selecting a sheriff are consistent with the best interests of Hansen's disease patients at state facilities.

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

Your Committee on Health is in accord with the intent and purpose of S.B. No. 63, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 63, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 455            Energy on S.B. No. 162

The purpose of this bill is to allow the Natural Energy Laboratory of Hawaii (NELH) to establish, manage, and operate natural energy research facilities at more than one site.

As presently written, section 227-1, Hawaii Revised Statutes, limits the NELH to the management and operation of a single outdoor research facility on a parcel of state-owned land at Ke-ahole Point on the Island of Hawaii. This bill would expand NELH's role to include the coordination and management of other natural energy related research facilities, such as in the Puna District on the Island of Hawaii where a geothermal research facility is planned. The amendment would allow the flexibility necessary to accommodate future expansion if and when it is appropriate.

Your Committee received testimony in support of this bill from the Department of Planning and Economic Development and the Natural Energy Laboratory of Hawaii and finds that this bill would allow the flexibility necessary to accommodate future expansion and development of natural energy related research facilities. Further, this bill would allow the present NELH managing board, executive director, and staff to manage and operate additional facilities, thus avoiding the necessity for establishing a new organization which would require additional moneys for staff and expenses.

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 162 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 456            Energy on S.B. No. 153

The purpose of this bill is to authorize the Board of Land and Natural Resources to fix royalty payments for the utilization of geothermal resources or waive royalty payments for any fixed period of time not exceeding eight years in order to encourage production.

Major geothermal programs were initiated in Hawaii in the late seventies and early eighties when oil price projections made geothermal appear economically attractive. Since more than ninety per cent of Hawaii's energy comes from imported oil, geothermal is a most promising alternate energy resource, the development of which is crucial to the economy of the State and to the achievement of the State Plan goal of energy self-sufficiency.



Your Committee heard testimony from the Board of Land and Natural Resources, the Department of Planning and Economic Development, Hawaiian Electric Company, the Chamber of Commerce of Hawaii, Mid-Pacific Geothermal, Inc., and Puna Geothermal Venture, and finds that this bill provides the Board of Land and Natural Resources the flexibility needed to positively impact upon geothermal development operations in each resource area. Your Committee further finds that this bill will promote public interest by encouraging exploration and development as well as the continued production of geothermal resources which would not otherwise have been undertaken because of prohibitive financial costs.

Upon further consideration, your Committee has amended the bill by providing that the Board shall submit a report of its geothermal royalty dispositions to the legislature in accordance with Section 171-29, Hawaii Revised Statutes. Your Committee believes that this will help assure that the State will receive the full measure of royalty payments to which it is entitled.

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 153, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 153, S.D. 1.

Signed by all members of the Committee.

SCRep. 457              Energy on S.B. No. 264

The purpose of this bill is to provide that appeals of contested case hearings relating to geothermal land use shall be made directly to the Supreme Court of the State of Hawaii.

Under present law, appeals of contested case hearings must initially be made to the circuit court, as provided under chapter 91, Hawaii Revised Statutes, before an appeal can reach the Hawaii Supreme Court for final determination in an administrative action. This appeal process could take as long as three years during which time geothermal projects are suspended until final determination can be made. Your Committee finds this process to be overly long, inefficient, repetitive and detrimental to pending geothermal activities.

Your Committee heard testimony from Hawaiian Electric Company, True Geothermal Energy Company, and Puna Geothermal Venture, and finds that directing the first appeal to the Hawaii Supreme Court would reduce the time and effort for a final judicial decision to be rendered on an administrative action.

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

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 264, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 264, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 458              Judiciary on S.B. No. 461

The purpose of this bill is to create shoplifter liability for payment of a civil penalty to a store owner in addition to actual damages suffered as a result of the theft of the merchandise. A shoplifter would be civilly liable to the store owner in the amount of the retail value of the merchandise not to exceed \$500 and an additional penalty of not less than \$100 nor more than \$250.

Currently, a store owner may sue in civil court only for actual damages, those damages representing the merchandise taken. This bill allows a store owner to recover not only the actual damages, but also any related damages that the retailer can prove, including punitive damages and reasonable attorney's fees and costs. If the shoplifter is a minor, the minor's parents become liable for the civil penalty.

Your Committee received testimony from the Office of the Attorney General, Retail Merchants of Hawaii, the Chamber of Commerce of Hawaii, the Hawaii Food Industry Association, and Longs Drug Store unanimously in favor of this bill. The testimony related that store owners will be better able to recover some of their losses to shoplifting and that the number of shoplifting occurrences will decrease. In addition, experience shows there should be fewer cases going to court since, in other jurisdictions with similar statutes, most cases are settled merely with a written demand for payment.

Your Committee amended the bill on page 2, lines 10-12, to remove the second level of civil penalty based on the retail value of the merchandise taken, up to \$500. Your Committee feels that actual damages (the actual value of merchandise) plus a civil penalty to recover expenses

and attorney's fees and costs of not less than \$50 nor more than \$500 (amended values) is more than enough to compensate the store owner for his loss. To assess the shoplifter with yet a rather level of civil penalty is punishment more properly addressed in a criminal statute.

Your Committee also made technical, nonsubstantive amendments for clarity.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 461, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 461, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 459            Education on S.B. No. 55

The purpose of this bill is to repeal Chapter 302, Hawaii Revised Statutes, relating to agents of private and correspondence schools.

Presently, there are six agents licensed by the Department of Education (DOE) pursuant to Chapter 302. Your Committee received testimony from the DOE which stated that the small number of agents being licensed does not warrant separate statutory regulations, and that repealing Chapter 302 would be in keeping with the intent of the Hawaii Regulatory Licensing Reform Act.

Although these agents would not be licensed by the DOE, complaints could still be filed with the Office of Consumer Protection.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 55 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 460            Health on S.B. No. 634

The purpose of this bill is to set a mandatory penalty of \$500 for littering or allow an offender to pick up litter from a public place for forty hours or do some other form of community services in lieu of the fine.

Currently, a person guilty of littering is subject to a fine of not more than \$250 or must pick up litter from a public place for up to eight hours for each offense, or both.

Your Committee heard supporting testimony by the Department of Health and the Honolulu Police Department and finds that a stiffer, mandatory penalty is needed to prevent littering and that this measure should provide the desired deterrent effect.

Your Committee has amended the bill by providing that an offender may be subject to both the mandatory fine and the forty hours of litter picking, in order to increase the deterrent capability, and 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. 634, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 634, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 461            (Majority) Consumer Protection and Commerce on S.B. No. 1329

The purpose of this bill is to delete the requirement for the police to furnish funeral escorts free of charge.

Testimony submitted by the Honolulu Police Department stated that escorting funerals consumes too many man-hours, leaving minimal time for regularly assigned police duties.

Testimony further indicated that during 1984, 1,430 officers were assigned to escort 1,188 funerals comprising a total of 1,710 man-hours, including 102 hours of overtime. Based on the average hour wage of \$9.71 for an SR-18 officer, plus the 20 percent hazardous pay of \$1.94 per hour, the total cost of man-hours expended was \$41,625.

Your Committee has amended the bill to allow the various counties' police department to charge mortuaries for the use of their services. The fees collected would be deposited in the general fund of the respective counties.

Your Committee finds that in view of the average funeral charge to families of \$3,000 to \$3,500, mortuaries should absorb the cost of providing police escort services.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1329, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1329, S.D. 2.

Signed by all members of the Committee.

Senators Cobb, B. Kobayashi and Kuroda did not concur.

SCRep. 462                      Judiciary on S.B. No. 331

The purpose of this bill is to propose a constitutional amendment to allow the Legislature to automatically reconvene after adjournment to review the Governor's objections to bills and to take appropriate action on them.

Your Committee finds that the Governor's veto of timely and necessary legislation after adjournment results in the legislation not being acted upon until the next session of the Legislature. The bill would give the Legislature an opportunity to reconvene after adjournment and determine whether to override the veto.

The bill increases the time in which the Governor must report to the Legislature that he intends to veto a bill and provides for a five-day special session to consider the bill.

Your Committee amended the bill to reinstate the mandatory five day recess which the bill originally eliminated.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 331, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 331, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and Toguchi.

SCRep. 463                      Judiciary on S.B. No. 74

The purpose of this bill, as received by your Committee, was to change the references to section numbers in H.R.S. §334-76 to conform with Act 188, 1984 Sessions Laws of Hawaii, which established newly numbered sections. Your Committee amended the purpose of the bill to allow the Family Court in involuntary commitment proceedings to appoint a guardian ad litem for the subject of the proceedings.

Your Committee addressed the concern regarding the renumbering of sections in section 334-76 in a comprehensive statutory revision bill, S.B. 434, which has already been moved from this Committee. A separate bill, therefore, is unnecessary.

The Family Court, however, brought to the Committee's attention a problem in the possible interpretation of section 334-60.5(c), permitting a temporary guardian to be appointed for the subject of an involuntary commitment hearing. It has been the practice of the Court to appoint a guardian ad litem for the subject, rather than a temporary guardian. The role of the guardian ad litem (GAL) is more limited than the temporary guardian's. The GAL need only be involved during the pendency of the commitment action, which usually consists of one or two hearings. The GAL's major objective is to determine and recommend to the Court the least restrictive placement for the subject. A temporary guardian serves for a period not to exceed ninety days pursuant to section 560:5-310. The temporary guardian also has the same duties provided by section 560:5-312 as a permanent guardian. Given the length of involvement and the many duties imposed by law, the appointment of a temporary guardian is not often necessary. Additionally, it is sometimes difficult to find people who are willing to serve as temporary guardians; more are willing to serve as GALs. For these reasons, your Committee finds that the present law needs to be clarified to authorize the Court to appoint GALs. Your Committee amended the bill accordingly.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 74, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 74, S.D. 2.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 464                      Judiciary on S.B. No. 1157

The purpose of this bill is to provide a clearer, more concise statement of the purposes of the Hawaii Youth Correctional Facility.

Your Committee finds that the existing statement of purpose in section 352-2, Hawaii Revised Statutes, does not accurately reflect the policies and purposes currently in effect at the Hawaii Youth Correctional Facility. This bill embodies a clearer statement of purpose for the Hawaii Youth Correctional Facility recommended by the Juvenile Justice Inter-Agency Board. The Department of Social Services and Housing testified that the bill better states the existing services already being provided and supports this bill.

Your Committee made technical, nonsubstantive amendments to conform to recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1157, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1157, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 465            Judiciary on S.B. No. 563

The purpose of this bill is to adopt in Hawaii a uniform state law drafted by the Commissioners on Uniform State Laws, which would codify a body of common law which has traditionally applied to trustees.

This bill supplements the provisions of Section 7 of the Uniform Probate Code (Chapter 560, H.R.S.) adopted in 1976, which deals with trusts in a very limited fashion. By explicitly setting forth various powers conferred on trustees, this bill will give clearer guidance to trustees in the administration of their duties and eliminate unnecessary litigation over ambiguities in the law.

The Uniform Act has been adopted in at least 12 other States. The bill would promote national uniformity in the duties and rights of trustees.

Your Committee amended the bill to delete provisions empowering the trustee (1) to retain assets in which the trustee may have a personal interest, page 3, lines 15-20, (2) to acquire an undivided interest in an asset in which the trust has an undivided interest, page 4, lines 5 and 6, and (3) to deposit any trust funds in a bank operated by the trustee, page 4, lines 11-12. Since the trustee holds a fiduciary duty, he or she should avoid all appearances of the impropriety of gaining a personal interest with trust funds or assets.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 563 and recommends that it pass Second Reading in the form attached hereto as S.B. No. 563, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and Toguchi.

SCRep. 466            Judiciary on S.B. No. 1095

The purpose of this bill is to amend the election statutes to improve the administration of elections in Hawaii.

This bill proposes the amendment of ten sections of election statutes. This bill also makes technical and non-substantive amendments throughout the respective sections.

Sections 11-18, 11-21 and 11-25. The proposed amendments to these sections are interrelated. The sections concern the change of voter registration both before and on election day. The amendments make it clear that when the registration of a voter is challenged on election day under section 11-25(b), the voter shall first be given the opportunity to make the relevant correction before the challenge is considered. Also, references have been added so it is clear that the challenges provided for by law are to be as provided in section 11-25.

Section 11-112. The proposed amendment deals with the contents of ballots. A new subsection (c) is added to allow for the consolidation on the ballots of candidates and of ballot questions (1) in the discretion of the chief election officer and (2) where consolidation is not expressly prohibited by the State Constitution.

The objective is to save costs involved in printing multiple ballots, but the two limitations assure a reasonable and understandable format for the electorate.

Section 11-119. The proposed amendment concerning the printing of ballots establishes a deadline for submitting the exact language to be printed on the ballot. Currently, no legal cut-off exists for ballot issues. Translation deadlines are needed to comply with the Voting Rights Act. The Federal Voting Assistance Program, involving federal elections, requests the mailing out of absentee ballots at least 35 days prior to each election. The amendment would

enable the development of a timely schedule which would meet the requirements of federal law and would set a clear fixed date for the submission of ballot language.

Section 11-139. The proposed amendment involving the assistance of disabled or illiterate voters at the polls would amend the current law to conform Hawaii's voting assistance statute to that of the Federal Voting Rights Act. In addition, the option under current law of receiving the assistance of two precinct officials not of the same political party would be preserved.

Section 12-3. The proposal would amend the contents of nomination papers to require the candidates to certify on the day of filing that the candidate is a qualified voter of the district from which the candidate seeks to be elected.

This amendment would conform the requirement of being a qualified voter to all other state offices. The express limitation on this requirement would be a specific state or federal constitutional prohibition. Then, all candidates would be required to have established district residency by the time of filing nomination papers. This would make for ease of administration as a clear fixed date would be statutorily set for all candidates for state office.

Section 12-42. The proposed amendment seeks to clarify the term of office of candidates running for state office in special or special primary elections who, after the close of filing nomination papers, find themselves unopposed. With this amendment then, the terms of other state offices are made to conform with the terms of the state legislature which is constitutionally provided in Article III, section 4 of the Hawaii State Constitution. Your Committee agrees that from an administration standpoint, a clear, set term which applies across the board makes sense.

The companion proposal seeks to set a uniform term of office for those state candidates running for office in a special general election and who were opposed only in the special primary election. The current law deems such a candidate to be duly elected after the special primary election. Again, the term of office, under this proposed change, would begin to run as of the day of the special general election.

Section 13D-3. The proposed amendment seeks to "grandfather" into the general county register those OHA only registered voters who are not currently registered to vote for other state offices. After the inception of OHA, separate voter registration affidavits were required: one for the regular elections and one for OHA. However, before the 1982 elections, the law was changed requiring any registration or re-registration of OHA voters to be reflected in the general county register. In other words, the OHA only category was eliminated from that time forward.

However, there are still some 600 OHA only voters statewide. Your Committee is in accord with the elimination of this category.

Section 15-9. The proposed amendment to section 15-9 would eliminate the requirement of the county clerks to time-stamp every return envelope containing an absentee ballot on election day. The new law would require time-stamping only for those absentee return envelopes which arrive after the close of the polls. Since time-stamping is the method of accountability used to determine the return envelopes containing absentee ballots which arrive too late to be counted, your Committee agrees that there is no need to time-stamp those return envelopes which arrive on time. This amendment would eliminate a very time consuming and burdensome requirement.

Your Committee made a technical, nonsubstantive amendment in the bill on page 8, line 23, to correct punctuation.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1095, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1095, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 467                      Economic Development on S.B. No. 92

The purpose of this bill is to amend current law regarding monthly reports submitted by commercial fish dealers and to clarify certain bookkeeping requirements.

Your Committee concurs with Department of Land and Natural Resources (DLNR) testimony supporting this measure and has adopted a DLNR recommendation that section 4 of the bill be amended to provide an effective date of July 1 following approval of the bill. This will conform the bill's provisions to the licensing system's fiscal year. Currently commercial fish dealers are required to submit monthly reports of their fish purchases. However, they are not required to give the license number of the commercial marine licensee from whom they purchased the fish.

It is difficult to verify what the dealer has bought with what was reported as sold. Your Committee finds that this amendment would greatly assist the Department of Land and Natural Resources (DLNR) in verifying what is purchased by a dealer with what has been reported as sold by the commercial fishermen.

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

Signed by all members of the Committee except Senators Holt and Soares.

SCRep. 468                      (Majority) Economic Development on S.B. No. 1224

The purpose of this bill is to allow the use of a bullpen trap up to 2,000 feet in length and to increase the time that a bullpen trap may be left fishing in the same place from 12 hours to 14 hours.

Your Committee has seriously considered testimony regarding this bill and supports increasing the allowable length of bullpen traps from 750 feet to 2000 feet and allowing bullpen traps to remain in place in excess of the twelve hours currently authorized.

Your Committee has amended subsection (c) of section 188-28.5, Hawaii Revised Statutes, to allow bullpen traps to remain in place for not more than sixteen hours and has inserted a new subsection (d) to prohibit the use of bullpen traps within 500 yards from shore between Kolo wharf and Kamalo harbor, Molokai, and within 200 yards from shore east of Kamalo harbor, Molokai.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1224, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1224, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Soares.  
Senator Kawasaki did not concur.

SCRep. 469                      Economic Development on S.B. No. 1377

The purpose of this bill is to legislatively establish the rate of purchase by a public utility and the "floor price" that a public utility shall pay to alternate energy producers until the Public Utilities Commission (PUC) adopts rules establishing the rates of purchase and floor price to be paid for alternate energy as provided by Act 243, Session Laws of Hawaii 1983.

Your Committee has received and considered testimony from both public utilities and alternate energy producers suggesting that this measure is not needed and is an abridgement of constitutional rights, or necessary for continued progress toward meeting the goal of reduced energy dependence on imported petroleum.

Your Committee has amended the bill in subsection (d) to provide that the floor price shall be equal to the public utility's avoided cost as determined by PUC rules and regulations on "Standard for Small Power Production and Co-Generation State of Hawaii" and that existing contracts between public utilities and suppliers of non-fossil fuel generated electricity shall not be affected. Subsection (e) has been amended to provide that the floor price for alternate energy producers shall be as provided by subsection (d) and that existing contracts between public utilities and suppliers of non-fossil fuel generated electricity shall not be affected.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1377, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1377, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Soares.

SCRep. 470                      Economic Development on S.B. No. 279

The purpose of this bill is to authorize the Chairperson of the Board of Land and Natural Resources to consent to the mortgaging of or creation of a security interest in, any lease, license, permit, or other instrument issued by the Board. Currently, the consent of the Board itself, rather than the Chairperson, is required.

Your Committee concurs with testimony supporting this measure by the Department of Land and Natural Resources (DLNR) that authorizing the Chairperson of the Board to act on consent to mortgage requests would facilitate this process since the Board only meets twice a month.

Authorizing the Chairperson to act could result in a saving of interest charges to the requesting parties, who number between eight and ten per month, without jeopardizing the public interest.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 279 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Soares.

SCRep. 471            Economic Development on S.B. No. 404

The purpose of this bill is to amend provisions in the Hawaiian Homes Commission Act relating to general leases, the minimal age of a lessee, and the one year mandatory time period for a homestead lessee to occupy or use a homestead lot.

This bill would require the Department of Hawaiian Home Lands (DHHL) to provide for withdrawal of leased land during a general lease made on or after July 1, 1985. A withdrawal clause provision was previously required when the general leases were administered by the Department of Land and Natural Resources. By requiring a withdrawal clause the DHHL could then reserve the right to terminate the lease in the future and recover those trust lands for the uses intended by the Hawaiian Homes Commission Act. The bill also proposes lowering the minimum age for an original homestead lessee from 21 to 18 years of age, the same minimum age for a person assuming a homestead lease by transfer, and allowing the DHHL greater flexibility in establishing a minimum time period for the occupation and use of a homestead lease, rather than the existing requirement that a homestead lease be occupied or used within one year from the time a homestead lease is made.

Your Committee supports this measure as providing timely amendments which further the goals of best utilizing DHHL resources for the benefit of eligible beneficiaries under the Hawaiian Homes Commission Act.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 404 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Soares.

SCRep. 472            Economic Development on S.B. No. 1485

The purpose of this bill is to appropriately amend the Hawaii Revised Statutes relating to land for the public good.

Your Committee has received and considered testimony from public and private agencies and private citizens supporting an amendment to section 171-43.1, Hawaii Revised Statutes, "Lease to eleemosynary organizations", which would authorize the Board of Land and Natural Resources to lease by direct negotiation and without recourse to public auction, public lands to a qualified eleemosynary organization for residential use for the elderly and handicapped.

Your Committee has amended this bill in its entirety to authorize the Board of Land and Natural Resources to lease by direct negotiation and without recourse to public auction, public lands to a qualified eleemosynary organization for residential use for the elderly and handicapped. Your Committee has also provided a new section 3 of the bill to preserve rights and duties that matured, penalties that were incurred, and proceedings that were begun before this measure becomes effective.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1485, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1485, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 473            Economic Development on S.B. No. 1223

The purpose of this bill is to clearly authorize the Department of Hawaiian Home Lands (DHHL) to hire any temporary staff exempt from Chapters 76, 77, and 78, Hawaii Revised Statutes, without specifying the occupational categories of such jobs.

Your Committee concurs with testimony supporting this measure from the Office of Hawaiian Affairs and supports DHHL policy of expeditiously filling temporary positions during current DHHL efforts to accelerate the distribution of land to homestead applicants on waiting lists.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1223 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. 474            Health on S.B. No. 906

The purpose of this bill is to prohibit the use of a pesticide after it has been detected in potable water by any agency of the State or the federal government.

Your Committee received testimony from the Department of Health, the Department of Agriculture, the Board of Water Supply, and others, and finds that the detection of a chemical in potable water is prima facie evidence of potentially adverse effects on the environment. This bill provides a measure of protection to the public and the authority to order discontinuation of pesticide use if public health is endangered.

Your Committee has amended the bill by providing that maximum contamination levels established by the State Drinking Water Regulations, or action levels set by the State or by federal agencies, shall be the criteria for prohibiting pesticide use. Your Committee has further amended the bill by deleting the amendment to section 149A-32, Hawaii Revised Statutes, relating to prima facie evidence of adverse effects of pesticides, because that concern is adequately expressed in the amendment to section 149A-31.

Your Committee has 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. 906, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 906, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 475            Ways and Means on S.B. No. 557

This bill authorizes the department of budget and finance to issue special purpose revenue bonds to assist not-for-profit corporations that provide health care facilities to the general public for financing or refinancing the acquisition of equipment related to and useful in their operation, in particular to Queen's Medical Center, Oahu (\$5 million); Wahiawa General Hospital, Oahu (\$3 million); and G.N. Wilcox Memorial Hospital, Kauai (\$3 million).

The interest on financing and refinancing necessary to provide for the continuing equipment needs of health care facilities is a significant factor in the cost of providing health care to the general public. Interest costs would be greatly reduced by using special purpose revenue bonds to finance hospital equipment needs, as is the case when they have been used to finance major hospital construction and renovation programs.

Authorization for the issuance of these special purpose revenue bonds for hospital equipment will result in an estimated savings of \$600,000 for Queen's Medical Center, \$350,000 for G.N. Wilcox Memorial Hospital, and \$225,000 for Wahiawa General Hospital.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 557 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 476            Economic Development on S.B. No. 93

The purpose of this administration bill is to clarify that every commercial marine licensee, unless exempted, shall furnish to the Department of Land and Natural Resources (DLNR) a report on the marine life taken and any live, fresh, or frozen bait used for each month regardless of whether the licensee did not sell, offer to sell, or profit from any sale of marine life. The bill also authorizes DLNR to enter into cooperative agreements with governmental agencies for the exchange and use of confidential fish catch data for the management of fisheries.

Your Committee concurs with DLNR testimony supporting this measure.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 93 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.



Signed by all members of the Committee except Senators Holt and Soares.

SCRep. 477            Economic Development on S.B. No. 469

The purpose of this bill is to allow the Department of Hawaiian Home Lands (DHHL) to pay, upon the death of a lessee, the net value of the improvements to the surviving spouse and children who are not qualified to succeed to the homestead lease.

Your Committee supports this measure and notes that this administration bill was passed by the 1984 Legislature only to be vetoed because of a legal technicality dealing with whether the provisions of another bill with a later effective date would invalidate the provisions of this measure. This bill contains a new section 3 which addresses the validity of any pending amendments before the United States Congress.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 469 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Soares.

SCRep. 478            Economic Development on S.B. No. 967

The purpose of this bill is to grant greater flexibility in utilizing certain public lands set aside by the Governor. The bill would eliminate the current requirement that the prior approval of the Board of Land and Natural Resources be obtained for the issuance of leases, easements, licenses, revocable permits, concessions or rights of entry governing lands set aside to State and County agencies.

Your Committee supports this measure as granting an appropriate degree of flexibility to State and County agencies which have lands set aside by the Governor without jeopardizing the public good.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 967, S.D. 1 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Soares.

SCRep. 479            Economic Development on S.B. No. 157

The purpose of this bill is to increase the potential for the High Technology Development Corporation to enter into project agreements with private developers for the construction of high technology parks by amending Section 206M-5, Hawaii Revised Statutes, to replace the requirement that the Corporation directly control and administer a park with the requirement that the Corporation monitor and ensure that the operation of a park complies with the pertinent development rules.

Under existing law, a private developer incurs all of the predevelopment costs of a park and is responsible for repayment of bonds for the development of a park within a timeframe specified in a project agreement for the park. With such a significant financial commitment, a private sector developer is not willing to surrender direct administration and control of the project to the Corporation, which presently operates with a staff of only three persons.

Your Committee supports the proposed amendment as the Corporation should monitor the various aspects of park operations and have the ability to intercede and cause corrective action to protect the public health and safety and the financial integrity of the project.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 157 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Soares.

SCRep. 480            Economic Development on S.B. No. 468

The purpose of this bill is to authorize the Department of Hawaiian Home Land (DHHL) to award pastoral lots of smaller sizes than currently permitted in order to accelerate homestead awards to eligible beneficiaries.

Section 207(a), Hawaii Revised Statutes, now requires DHHL to lease not less than the following minimum acreages: 100 acres of first class pastoral lands; 250 acres of second-class

pastoral lands; or 40 acres of irrigated pastoral lands. These minimum acreages would be eliminated as well as the no longer meaningful distinction between first-class and second-class pastoral lands.

Your Committee concurs with DHHL testimony supporting this measure because site improvement costs could be minimized; small acreages are needed for individual part-time ranch operations; intensive ranching techniques can now increase the carrying capacity of given acreages two or three times; and the corresponding capacity increases and livestock densities will allow the development of additional pastoral lots on available lands.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 468 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Soares.

SCRep. 481            Economic Development on S.B. No. 968

The purpose of this bill is to allocate to the State 75 percent of the cost of assessing available water supplies and developing water sources, and to allocate 25 percent of these costs to the respective county.

Your Committee concurs with testimony by the City and County of Honolulu Board of Water Supply supporting this measure.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 968, S.D. 1 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Soares

SCRep. 482            Economic Development on S.B. No. 96

The purpose of this administration bill is to consolidate provisions relating to wildlife in Chapters 183, 187, 191, and 192, Hawaii Revised Statutes, into a new Chapter 183D to improve the identification and accessibility of specific statutes. Existing statutory language has been amended to generally provide conformity among the wildlife provisions, particularly provisions relating to "Powers and Duties" (Section 183D-2) and "Rules" (Section 183D-3). The changes in Section 183D-2 and 183D-3 are made to more accurately represent a consolidated statement of existing Department of Land and Natural Resources (DLNR) responsibilities with regard to wildlife.

Your Committee concurs with DLNR's testimony in support of this measure and has made technical, nonsubstantive amendments to the bill recommended by the Department.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 96, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 96, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Soares.

SCRep. 483            Economic Development on S.B. No. 1231

The purpose of this bill is to permit that portion of the total cost of relocating the location of utility facilities in improvement districts as determined by the legislative body of the appropriate county to be equally apportioned among the utility companies, and to clarify that this equal apportionment applies to the relocation of facilities whether they are located above or below ground.

Your Committee recognizes that the costs of utility facility removal, relocation, replacement or reconstruction may not be the same for each utility company with affected facilities in an improvement district. Your Committee finds that this would be unfair to those utilities whose relocation costs are less than others. Therefore your Committee has amended page 2, lines 8 to 11 of the bill to delete the proposed amendment to equally apportion costs among the affected utilities. Your Committee supports the amended version of the bill as clarifying that regardless of whether required utility facilities are above or below ground, the legislative bodies of the counties shall determine the apportionment of the costs of installation, removal, relocation, replacement, or reconstruction of the facilities to be paid by the utility companies, the counties, and the properties especially benefited.

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

No. 1231, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1231, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Soares.

SCRep. 484            Judiciary on S.B. No. 399

The purpose of this bill is to charge the costs of an alcohol rehabilitation program to people ordered to go to counseling under the program as a condition of a drunk driving conviction. Presently, the State is responsible for the costs and shall continue to be responsible for indigent defendants.

Your Committee finds that those convicted of drunk driving and ordered to attend an alcohol rehabilitation program should be primarily responsible for the cost of that program.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 399, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 485            Judiciary on S.B. No. 73

The purpose of this bill is to enable the Family Court to order involuntary hospitalization for gravely disabled individuals.

Gravely disabled persons are those who, as a result of a mental disorder, are unable to care for themselves, are unable to communicate rational or responsible decisions regarding their personal welfare, and fail to recognize this inability. The bill would enable the Court to order these people to be hospitalized so they can receive the appropriate care and treatment. Under the current law, only persons who are a danger to themselves or others can be hospitalized involuntarily. Preventive care and treatment is not available to gravely disabled persons to keep them from reaching the critical stage of dangerousness.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 73, S.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 486            Judiciary on S.B. No. 746

The purpose of this bill is to indemnify health care providers who draw blood to determine a driver's blood alcohol level.

Your Committee finds that providing indemnification to health care providers will provide them financial protection in performing a service for the State. Civil liability has been a concern of such providers asked to draw blood and has inhibited them from working effectively with the police.

Your Committee amended the bill to eliminate the mobile intensive care technicians from the list of those indemnified. Testimony from the Department of Health indicated that these people are directly supervised by doctors. A mobile intensive care technician is not authorized to draw blood at the direction of a police officer. Therefore, they do not incur the same liability as the physician, laboratory technician, or registered nurse.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 746, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 746, S.D. 2.

Signed by all members of the Committee.

SCRep. 487            Judiciary on S.B. No. 843

The purpose of this bill is to 1) provide stronger penalties for those who have repeatedly refused to submit to a breath or blood test for intoxication, and 2) require the penalized person to see a substance abuse counselor.

This bill addresses the inconsistency in our laws relating to drinking under the influence of intoxicating liquor.

Presently, under section 294-4, Hawaii Revised Statutes, a person who consents to a breath or blood test and is found to be intoxicated will be charged for driving under the influence (DUI).

Repeat offenders face increasingly severe penalties including license suspension for a year or longer. However, those who refuse the breath or blood test have their licenses revoked for a period of one year, under section 286-155, Hawaii Revised Statutes, and repeat offenders are not subject to harsher penalties beyond another year's suspension.

According to the Department of the Prosecuting Attorney of the City and County of Honolulu, some repeat offenders are refusing to take the breath or blood tests knowing that the penalty will be less severe under section 286-155, Hawaii Revised Statutes. In these cases, the Prosecuting Attorney has attempted to at least have the second one-year revocation served consecutively. However, they have not always been successful in convincing the courts to accept this alternative.

Your Committee believes that this situation must be remedied. As a result, the bill mandates for repeat offenders subsequent license revocations of two to five years and requires them to see a substance abuse counselor for an assessment of alcoholic dependence. This is similar to provisions for those charged under section 291-4(c), Hawaii Revised Statutes.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 843 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 488                      Judiciary on S.B. No. 1409

The purpose of this bill is to establish and recognize the conveyance of conservation land easements to government bodies and private non-profit organizations for the purpose of preserving and protecting natural, scenic, forested or open space areas. Such easements shall be considered as interests in real property which may be perpetual in duration as well as freely transferable.

Your Committee heard supporting testimony from the Conservation Council for Hawaii, Department of Land and Natural Resources, Hawaii Audubon Society, Molokai Ranch, Nature Conservancy of Hawaii, and the Sierra Club. Testimony provided explained that thirty-three other states now have statutory provisions allowing conservation easements, a recent development in property law. Your Committee finds that Hawaii should also provide for enforcement of conservation easements and their perpetual status.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1409 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 489                      Judiciary on S.B. No. 1096

The purpose of this bill is to specify that spouse abuse may be considered as a factor in awarding custody.

Your Committee heard testimony from Victim/Witness Kokua Services, City and County of Honolulu, Child and Family Service, the Hawaii State Committee on Family Violence, the Military Family Abuse Shelter, and the Legal Aid Society of Hawaii on behalf of a client and an abused spouse. They overwhelmingly supported the bill. The Family Court and the Family Law Committee of the Hawaii State Bar Association voiced qualified support for the bill. They were concerned that the proposed provision is unnecessary because it would not add any new consideration to custody determinations and may result in spouse abuse becoming the overriding factor in such determinations.

Your Committee is concerned with effectively addressing and combatting family violence. The Police Department, City and County of Honolulu, in testifying previously before the Committee, reports that approximately 800 "domestic" incidents are received every month. Violence within the family can no longer be ignored as "no one else's business". The effects of family violence spread far beyond the confines of the family. Children who are the victims of or are witness to violence learn to view it as accepted and normal behavior and may perpetuate the violence as adults. This bill takes an important step in discrediting that notion and in mitigating family violence and its effect on the community by recognizing the harm of spouse abuse on the children and making explicit that it can be a factor in custody determinations.

Your Committee amended the bill to expand its coverage to both married and unmarried parents, by deleting reference to consideration of abuse only between spouses, and inserting reference to violence between the parents. Also, at the suggestion of the Family Court for a more exact definition of "abuse", it inserted the words "a history of violence between parties", to distinguish between one slap on the arm which causes no injuries or bruises, from a chronic

pattern of physically abusive behavior which causes bruises and injuries. The latter act should be considered in custody determinations; the former may not be as relevant.

Moreover, your Committee amended the bill to require the Family Court to consider violence as a factor in custody awards. What weight it is given in light of the other considerations that go into a custody determination is left to the discretion of the Court.

Finally, your Committee made technical, nonsubstantive amendments to the bill to conform with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1096, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1096, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 490            Economic Development on S.B. No. 1182

The purpose of this bill is to authorize the Chairperson of the Board of Land and Natural Resources to appoint a hearings officer for contested cases, and to authorize the officers to provide findings of facts and conclusions of law and to recommend decisions on contested cases which shall be reviewed and may be approved by the Board.

Your Committee finds that hearings have been taking a considerable amount of time. In order to maintain a quorum throughout the contested case hearing, Board members must take time off from their jobs to participate in the proceedings. Board members serve without compensation and find themselves burdened with participating in lengthy cases.

Your Committee concurs with testimony supporting this measure by the Department of Land and Natural Resources as providing needed continuity in contested case hearings.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1182, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1182, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Soares.

SCRep. 491            Higher Education on S.B. No. 1290

The purpose of this bill is to place the curriculum research and development function of the department of education under the management and control of the college of education of the University of Hawaii.

Testimony presented by the University and the department of education indicates that both agencies were supportive of the intent of the bill but disagreed with the language. The major concern expressed by both agencies was that the bill in its present form, appears to place the complete jurisdiction over all matters concerning curriculum research and development in the public schools, under the management and control of the college of education of the University of Hawaii.

Your Committee finds that there is much merit in the concerns expressed by the affected agencies and has amended the bill to alleviate these concerns while still preserving the original intent of the bill.

The purpose of the amendments is to more properly clarify the roles and responsibilities of the college of education and the department of education in relationship to curriculum research and development activities in the public school system. In light of this, the amendments basically reflects two guiding principals. One, the department of education has exclusive management and control over curriculum planning, development and implementation where public schools under its jurisdiction are affected. Second, the college of education, may as a result of their expertise and facilities, conduct certain curriculum research and development activities at the request of the department of education.

In keeping with the original intent of the bill, the amendments also recognized the special importance of the University Laboratory School in this matter. Your Committee notes that the role and functions of the Laboratory School were changed more than twenty years ago to shift the emphasis of the school from that of demonstration and teacher training for prospective teachers, to one of research and innovation focused on improvements to schools and in service teachers. This, along with certain other changes has made the college of education especially attractive to the department of education in fulfilling its responsibilities in the area of curriculum development for public schools.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1290, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1290, S.D. 1, and be placed on the Calendar for Third Reading.

Signed by all members of the Committee except Senators Yamasaki and Soares.

SCRep. 492            Consumer Protection and Commerce on S.B. No. 179

The purpose of this bill is to redefine the practice of nursing for registered and practical nurses.

Act 182, Session Laws of Hawaii, 1984, mandated the Board of Nursing to monitor and evaluate the scope of the practice of nursing in other states and to make appropriate recommendations to the Legislature regarding amendments to the definitions of registered and practical nurse.

Your Committee received testimony from the Board of Nursing, the Hawaii Nurses Association, and many nurses in support of this bill.

Your Committee finds that this bill would update the present law to accurately reflect the current state of nursing practice.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 179 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 493            Consumer Protection and Commerce on S.B. No. 191

The purpose of this bill is to have examination procedures for restorative technique examination deleted from the statutes and delineated in the rules based on current trends in dental education.

Your Committee received testimony from the Board of Dental Examiners stating that the law currently requires that the Board administer a restorative techniques examination in gold foil and amalgam to qualified applicants of foreign dental colleges. Since the procedure for gold foil restoration is no longer taught in many dental schools and rarely used in practice, more up-to-date, relevant and fair testing procedures are in order.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 191 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 494            Consumer Protection and Commerce on S.B. No. 192

The purpose of this bill is to define the different levels of supervision required of supervising dentists during the performance of a procedure by a dental auxiliary.

Currently, there is no definition for the terms "general supervision" and "direct supervision" which creates confusion and misinterpretation regarding the appropriate level of supervision for dental auxiliaries. Dentists use differing levels of supervision in the performance of a procedure or function by an auxiliary.

This bill provides definitions for four levels of supervision which are in conformity with supervision levels recognized by the American Dental Association.

Your Committee heard testimony from the Board of Dental Examiners and from the Hawaii Dental Association and finds that defining four levels of supervision enhances regulatory functions of the chapter.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 192 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.

SCRep. 495            Consumer Protection and Commerce on S.B. No. 193

The purpose of this bill is to establish time limitations for temporary licenses issued by the Board of Dental Examiners.

Presently, only licenses issued to dentists serving Hansen's disease patients are subject to a three year time limitation. All other temporary licenses issued to dentists specified under Section 448-12, Hawaii Revised Statutes, do not have time limitations.

This bill specifies the conditions under which temporary licenses may be issued and establishes a one year maximum time period for temporary licenses. The one year time period provides temporary licensees ample time to prepare for the examination to obtain permanent licenses and eliminates the current loophole which does not require temporary licensees to even take and pass the dental examination.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 193 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 496            Consumer Protection and Commerce on S.B. No. 194

The purpose of this bill is to specify the duration and conditions under which the Board of Dental Examiners may issue a temporary license to practice dental hygiene.

Your Committee received testimony from the Board of Dental Examiners stating that currently the law provides no time limitation for temporary license holders. Technically, these licensees could practice for an unlimited period without ever having to take or pass the dental hygiene examinations.

The bill specifies the conditions under which the license is issued and the time period for which it shall remain in force and establishes a one year maximum period for which a temporary license is valid.

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. 194, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 194, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.

SCRep. 497            Consumer Protection and Commerce on S.B. No. 196

The purpose of this bill is to ensure that every motor vehicle repair dealer is a motor vehicle mechanic or has a licensed motor vehicle mechanic under employ and to require that a motor vehicle mechanic who performs repairs is registered as a motor vehicle repair dealer or is employed by a motor vehicle repair dealer.

Your Committee heard testimony from the Motor Vehicle Repair Industry Board to the effect that under existing interpretations of the law, a licensed mechanic is allowed to operate a repair shop without obtaining a motor vehicle repair dealer's license. Currently, Section 437B-7, Hawaii Revised Statutes, prohibits motor vehicle repairs unless a person has a dealer or mechanics license. Consequently, if a person has either license, that person may engage in motor vehicle repairs.

Your Committee agrees with the Board that all repair facilities should have both a dealer and a mechanic license or at least a dealer's license with an employed licensed mechanic.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 196 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 498            Consumer Protection and Commerce on S.B. No. 560

The purposes of this bill are (1) to reverse the outflow of trust and financial services business from Hawaii's trust companies and trust departments to the mainland by broadening and expanding the types of services that trust companies may provide so that they may compete more equally with Mainland-based stock brokers and insurance companies; (2) to update

portions of existing Hawaii law regulating corporate trustees to make our law consistent with laws currently in effect in other states and with Federal laws and regulations; and (3) to encourage local trust companies and departments to accept smaller trust accounts by authorizing the use of negotiated fees which would be set by competition in the marketplace.

The purposes of this bill are accomplished as follows:

(1) Two new sections are added to Chapter 406, Hawaii Revised Statutes, to make clear that the Chapter applies only to corporate trustees and does not affect the rights, duties, and obligations of individual trustees, and to authorize trust companies to receive reasonable compensation and reimbursement of their expenses for administering trusts.

(2) Section 406-5(2) is amended to clarify the types of agency services which corporate trustees may perform, and to clarify that the term "estates" refers to either real property or personal property.

(3) Section 406-5(4) is amended by adding language incorporating by reference the provisions, purposes, and policies of the Uniform Probate Code (Chapter 560 Hawaii Revised Statutes), which will govern corporate trustees in the administration of trust and estates.

(4) Section 406-5 is further amended by adding two new provisions. The first provisions authorizes trust companies to allow clients to gain access to balances in their accounts by means of checks, drafts, credit cards, or debit cards, provided such access is processed through a commercial bank. This merely allows corporate trustees to offer a service currently offered by credit unions and stock brokers; it does not authorize trust companies to conduct a general banking business. The second provisions deletes the prohibitions against trust companies engaging in insurance or stock brokerage and allows them to engage in these activities to the same extent, if any, that banks subject to Federal regulation are being allowed to do so.

(5) Section 406-21 is amended by deleting the requirement that a corporate trustee mail client statements by registered mail and allows the use of ordinary mail as is allowed in other jurisdictions.

(6) Section 406-34 is amended to conform Hawaii law with the Federal Statutes and regulations governing Common Trust Funds. The amendment would permit Hawaii corporate trustees to receive compensation for managing common Trust Funds when and if banks subject to Federal regulation are allowed to do so. This will allow smaller trusts to invest in additional types of Common Trust Funds, requiring intensive asset management, such as a real estate fund or an international securities fund. At present, this is not economically feasible, since the existing statute prevents the trustee from being compensated for the extra time and expense involved in managing such funds.

(7) Section 406-36 is amended to update the rate of interest paid by a corporate trustee on uninvested cash balances and establishes as a standard the prime bank loan rate as published weekly by the Federal Reserve Bank of St. Louis. This amendment deletes the obsolete provision limiting the interest paid on uninvested balances to 3%. It also provides for corporate trustees to receive the same interest rate on funds they advance for the benefit of a trust or agency account.

(8) Various sections of the Chapter are amended by making non-substantive language amendments for purposes of clarity and by substituting the Director of Commerce and Consumer Affairs for the Director of Regulatory Agencies.

Your Committee has heard testimony from numerous individuals in favor of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 560, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 499

Consumer Protection and Commerce on S.B. No. 1114

The purpose of this bill is to amend Section 448-2, Hawaii Revised Statutes, to allow the title "Dr." to be appended to the name of any practitioner of dentistry or a dental surgeon with a valid, unrevoked license from the Board of Dental Examiners.

Your Committee received testimony from the Hawaii Dental Association stating that a dentist graduates with a doctorate degree from a University as Doctor of Dental Surgery (D.D.S.) or Doctor of Dental Medicine (D.M.D.). These dental graduates have earned the degree of Doctorate, warranting them the privilege and honor of using the title "Dr."



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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1114, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1114, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.

SCRep. 500 (Majority) Consumer Protection and Commerce on S.B. No. 1122

The purpose of this bill is to amend Section 423-1, Hawaii Revised Statutes, relating to Dental Service Corporations.

Presently, ownership of a dental practice is restricted to licensed dentists and corporations are prohibited from providing dental services.

Testimony given before your Committee indicated that children and adults of Hawaii are suffering from an epidemic of dental disease. Public health statistics indicate that by age 30, at least 50 percent of our population has gum diseases, and that by age 50 or 55, at least 50 percent of our population has lost some or all of their teeth. In addition, the statistics indicate that 40 percent of all children in Hawaii under the age of 15 have never seen a dentist professionally.

Testimony presented also indicated that a main cause of the dental disease is that hundreds of thousands of our Hawaii residents do not see a dentist on a regular basis. It is felt that the principal reason for the lack of dental health care is because residents cannot afford Hawaii's very high dental costs. Moreover, many residents are not eligible for group dental insurance because they are not employed by large business organizations or by unions. It is believed that over 40,000 persons in Hawaii are not covered by dental insurance.

Chapter 423, Hawaii Revised Statutes, which was enacted in 1961 appears to have been enacted for the principal benefit of a single dental insurance program, which does provide group dental services. A serious question has arisen as to whether the requirement that at least one-fourth of all licensed dentists and dental surgeons be members of a dental service corporation is anti-competitive and a defacto monopolistic practice. This concern is supported by the fact that since the enactment of Chapter 423 over twenty years ago, there is only one organization which has been formed and operating thereunder.

It is believed that the dental health of the community could be improved significantly if the State encourages the formation of dental service corporations offering prepaid dental plans by deleting the requirements from the present law that one-fourth of all licensed dentists and dental surgeons in this State be members thereof. By permitting the formation of more dental service corporations, a larger portion of the public could be covered by dental plans, and dental costs should be reduced.

Your Committee amended the bill by deleting the proposed changes to Sections 448-1 and 448-115, Hawaii Revised Statutes, such that the only change is the deletion of the requirement that at least one-fourth of all licensed dentists and dental surgeons in this State be members of a dental service corporation.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1122, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as S.B. No. 1122, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Cayetano.  
Senators Kuroda, Matsuura and A. Kobayashi did not concur.

SCRep. 501 (Majority) Consumer Protection and Commerce on S.B. No. 1126

The purpose of this bill is to permit dental hygienists to be hired by and operate in a hospital, medical clinic, convalescent care facility, geriatric or handicap center, and to ensure that licensed dental hygienists practice under either direct, indirect, or general supervision as prescribed by the supervising dentist.

Currently, the law permits a licensed dental hygienist to operate only in offices of a licensed dentist, or legally incorporated eleemosynary dental dispensary or infirmary, private school, or welfare center, or in state or county buildings under the direct or general supervision of a

licensed dentist. If the dental hygienist is employed by a dentist in the private practice of dentistry the hygienist is required to be under the direct supervision of a licensed dentist.

Your Committee heard many testimonies indicating that there is a problem with dental care in medical, geriatric, and handicap facilities. Those who acknowledged that this problem exists agreed that permitting hygienists to practice in these facilities will supplement the insufficient dental care that is currently being received.

Your Committee heard from the Board of Medical Examiners which opposed permitting dental hygienists to practice under general supervision because they believe that hygienists are not properly trained to act properly in an emergency situation. However, one licensed dental hygienist claimed that hygienists in Hawaii have an impeccable safety record. Also, the president of Hawaii's Dental Hygienists Association indicated that allowing dental hygienists to practice under general supervision will not lessen the quality of dental care, but, in fact, will offer better care to the public.

Your Committee believes it is in the best interest of the consumer to permit dental hygienists to practice under general supervision. Although general supervision allows a dental hygienist to perform duties in the absence of a dentist, your Committee emphasizes that the determination of the levels of supervision will be at the discretion of the supervising dentist.

Upon further consideration, your Committee has amended the bill by adding a new section 2 which amends Section 447-4, Hawaii Revised Statutes. The section currently provides for revocation of the license of any dentist who allows a dental hygienist to perform any dental operation other than that permitted by Chapter 447. The proposed change would add the element of knowledge and allow revocation if the dentist "knowingly" allowed a dental hygienist to perform unauthorized procedures. The section would be further amended by adding a provision authorizing revocation of a dental hygienist's license if the hygienist performs procedures without proper supervision.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1126, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1126, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

Senators Chang, Kuroda, Matsuura, Young and A. Kobayashi did not concur.

SCRep. 502

(Majority) Consumer Protection and Commerce on S.B. No. 1127

The purpose of this bill was to permit dental hygienists to take dental impressions for study casts and administer local anesthetics under the direct supervision of a dentist. Authorization to administer local anesthetics would be contingent upon the hygienist having passed a Board of Dental Examiners' program and being certified as competent to do the procedure.

Presently, if a local anesthetic is required, the dentist must interrupt work to administer it. This wastes time and causes an unnecessary break in the flow of treatment. This bill would allow treatment to be continuous as long as the hygienist is certified to administer local anesthetics.

Your Committee received testimony from the Hawaii Dental Association, the Board of Dental Examiners, the Hawaii Dental Hygienists' Association, and several practicing dentists, and finds that the main goal of dental hygiene is the prevention of dental disease, and that an integral component of periodontal treatment is deep scaling, root planting, and soft tissue curettage which may require a local anesthetic to provide patient comfort. This bill would permit certified dental hygienists to perform those functions and to better utilize their education and experience, to the benefit of the patients.

After further considering the testimony, your Committee has adopted recommendations made by the Board of Dental Examiners, and amended the bill by providing that certification shall be contingent upon successful completion of a course approved by the Board, rather than a program administered by the Board itself. Your Committee has further amended the bill by providing that no dental hygienist may establish or operate a separate care facility which exclusively renders dental hygiene services.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1127, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1127, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

Senator Matsuura did not concur.

SCRep. 503

Consumer Protection and Commerce on S.B. No. 1402

The purpose of this bill is to prohibit doctors from charging higher medical fees for persons insured under a no-fault policy, and to establish certain civil and administrative remedies to be imposed on providers guilty of such practices.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs, the Hawaii Insurers Council, and the Hawaii Academy of Plaintiffs' Attorneys in favor of this bill and finds the proposed remedies will discourage overcharging by physicians with respect to persons compensated or reimbursed by no-fault policy payments. The Department noted that the bill should be amended because the Insurance Commissioner has no statutory jurisdiction over providers of medical service and, therefore, cannot impose the administrative penalties.

Accordingly, your Committee has amended page 2, line 8 of the bill by deleting the word "commissioner" and substituting the words "board of medical examiners."

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1402, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1402, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 504

(Majority) Judiciary on S.B. No. 249

The purpose of this bill is to insure the confidentiality of adult probation records by amending section 806-73, Hawaii Revised Statutes.

There are two kinds of adult probation records originated by adult probation officers: (1) the case record which is a running log of events relative to the offender and includes internal notes and memoranda, and (2) the presentence report. The case record contains confidential information received concerning the offender which is needed by the adult probation officer to effectively monitor the offender. The presentence report contains detailed information including historical information, defendant's statements or lack of statements about his version of the crime, including his remorse or lack of remorse.

Records originated by adult probation officers pursuant to sections 806-72 and 806-73, Hawaii Revised Statutes, are not expressly confidential. The law is not clear as to their confidentiality and this fact sometimes hampers adult probation officers in the performance of their duties.

Your Committee amended this bill by deleting the language dealing with the prohibition of the defendant, defendant's counsel, or the prosecuting attorney from making any copies of presentence reports as well as requiring the return of any copies provided to them within a reasonable length of time after sentencing. The Prosecuting Attorney's Office testified that the information within the presentence report should be kept on file at the Prosecutor's Office for purposes of subsequent motions in the case as well as subsequent criminal charges. In these latter charges, the information may be relevant to bail hearings, sentencing, determination, and other future adjudications.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 249, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 249, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator George.  
Senators Abercrombie and Kawasaki did not concur.

SCRep. 505

Health on S.B. No. 1213

The purpose of this bill is to broaden the Department of Health's authority relating to substance abuse to provide that the accreditation of public as well as private providers is a prerequisite to receiving public funds.

Specifically, the bill amends section 321-198, Hawaii Revised Statutes, relating to certification of private agencies, to conform to the language of section 321-193(10) relating to adoption of rules for certification of program administrators and counselors, and accreditation of substance abuse programs. It also substitutes the words "substance abuse program" for "private substance abuse agency" and "public" for "state" funding.

Your Committee heard supporting testimony by the Department of Health and the Hawaii Substance Abuse Association and finds that this measure will help to promote quality substance abuse services and will make the certification process more equitable for both the private and

public sectors. Your Committee finds that this bill would ensure the application of more uniform standards in the providing of publicly funded substance abuse services.

Your Committee has amended the bill by deleting the provision that section 321-198 shall take effect on December 31, 1979. It is the intent of your Committee that this bill shall take effect upon its approval.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1213, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1213, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 506            Tourism and Recreation on S.B. No. 272

The purpose of this bill is to mandate the Department of Land and Natural Resources (DLNR) to prepare and periodically update a list of all public and private properties which are under consideration for entry into the Hawaii register of historic places. The bill would also require DLNR to prepare estimates of the present, future, and total yearly cost of renovation and maintenance for each property.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 272 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. 507            Tourism and Recreation on S.B. No. 1214

The purpose of this bill is to require an excavator to report the discovery of human bones and relics to the historic preservation officer and to prevent the damaging of Hawaiian burial grounds.

Presently, the Department of Land and Natural Resources (DLNR) recommends that the project applicant immediately stop work and contact the DLNR's historic site section whenever any previously unidentified sites or remains such as artifacts, shell, bone, or charcoal deposits, human burials, rock or coral alignments, parings, or walls are encountered. DLNR suspects, however, that there has been no uniform or consistent adherence to the DLNR recommendation.

This bill would provide an orderly reporting procedure when human remains are discovered in the course of construction on public and private lands. This bill would also create prohibitions against desecration of property and structures of religious significance to native Hawaiians.

Your Committee amended the bill by deleting paragraph 2 of Section 1 because of its broad and unclear language.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1214, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1214, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 508            Tourism and Recreation on S.B. No. 1218

The purpose of this bill is to allow the one percent of appropriations for State and County projects which have historic property to be used for the curation as well as for the investigation, recording, preservation and salvage of historic materials.

Testimony received from the Department of Land and Natural Resources stated that this bill would provide a means for agencies to cover, at least in part, the expense of curating archaeological artifacts and cultural remains uncovered in the course of their project.

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

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1218, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1218, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 509

Tourism and Recreation on S.B. No. 1310

The purpose of this bill is to limit the taking of sand from a public beach to one gallon and to provide for the replenishment of sand on all public beaches.

Currently, permits for the removal of sand are only allowed to replenish Hilo Bay, Waikiki, Ala Moana, and Kailua beaches. This bill would allow for the recovery of sand for replenishment on any public beach. Your Committee finds that by lifting restrictions which currently permit the taking of sand to replenish only certain beaches, all public Hawaii beaches can be beautified.

Currently, Section 205-33, Hawaii Revised Statutes, allows for "the taking from a public beach of such materials for reasonable, personal, noncommercial use." This bill would establish a limit to the taking of materials to not more than one gallon.

Your Committee has amended the bill to clarify that the redistribution of sand performed by the State or County for minor maintenance projects such as accumulation of sand around drainage pipes is not subject to the requirements of Chapter 343, Hawaii Revised Statutes. This amendment further clarifies that the redistribution of sand under this exception may be done only by the State or County and not by private interests.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1310, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1310, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 510

(Majority) Judiciary on S.B. No. 1151

The purpose of this bill is to amend the Hawaii State Constitution to require candidates for state legislative office to be a qualified voter in the district from which they are running at the time of the filing of nomination papers.

Under the present law, a prospective candidate for either the state Senate or House of Representatives must meet certain constitutional requirements for office by the day of the general election. These requirements include being a qualified voter of either the senatorial or representative district from which the person seeks to be elected. A qualified voter is one who has sworn under oath that he is a resident of a particular Hawaii address. Thus, under the present law a senatorial or representative candidate need not establish residency in a particular district until the day of the general election.

Senate Bill No. 1151 would require that a candidate for the State Senate or House of Representatives be a registered voter of the district from which he seeks to be elected at the time of filing nomination papers.

Enforcement of a clearly defined residency standard would be of great assistance from an administrative standpoint. All candidates would be required to establish residency in a particular district at the time of filing nomination papers. Thus, the electorate would be better able to understand the process, thereby instilling greater confidence in the system.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1151, as amended herein, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

Senators Cayetano, Abercrombie, Kawasaki, Toguchi and A. Kobayashi did not concur.

SCRep. 511

Judiciary on S.B. No. 1358

The purpose of this bill is to increase the number of items allowed to be recovered as costs by the prevailing party from a losing party in a lawsuit.

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 has become more advanced, litigation has become more complex and more expensive. Yet the items permitted to be taxed as costs against the losing party have not changed to meet the rising expenses. Parties have to make serious financial sacrifices to properly prepare for and litigate a case.

This bill provides for the recovery of costs for intra-state travel expenses for counsel and witnesses, deposition transcript originals and copies, and other incidental expenses, such as copying costs, intra-state 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, such as the economic status of the parties and the merits of the claim.

Your Committee amended the bill by requiring the court to consider equities of the situation, and leaving to the court's discretion the factors it should consider in weighing the equities of the case. It therefore deleted specifically having the court review the economic status of the parties and the merits of the claims in determining whether and what costs should be taxed.

Your Committee also made technical, nonsubstantive amendments to the bill to conform with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1358, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1358, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 512                      Judiciary on S.B. No. 156

The purpose of this bill is to continue and encourage private sector participation on the High Technology Development Corporation Board of Directors (Board), a state board, by statutorily providing Board members immunity from or indemnification for civil liability.

Testimony submitted by the executive director of the High Technology Development Corporation (Corporation) indicated that this measure would address a significant concern regarding the potential civil liability for Board members. The Board consists of six members from the private sector who serve on a voluntary basis and who are not currently provided immunity or indemnification from civil liability nor defense in civil actions as are State employees. The Corporation considered obtaining a private insurance policy to protect its Board members but found that this was not feasible because of the high expense and limited policy coverage.

The last legislative session enacted H.R.S. §26-35.5, which provides immunity from or indemnification for civil liability and defense of members of governmental boards. This same Act, however, specifically exempts board members with "land trust obligations" from such protection. As one of the primary functions of the Corporation is land development, it was unclear whether its Board would ever incur such obligations. The Attorney General's Office recommended that legislation be proposed to clarify the situation and to remove the exclusion in the case of this Board.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 156 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 513                      Judiciary on S.B. No. 663

The purpose of this bill was to modify, update, and clarify the Design Professional Conciliation Panel statutes; to require a claimant to certify that a design professional acknowledges that a legitimate negligence claim exists; to adopt permissive language regarding admission into evidence in a court adjudication of any panel results or determinations; and to provide that landscape architects are subject to Chapter 672, Hawaii Revised Statutes.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs, the Hawaii Academy of Plaintiffs Attorneys and design professionals. All agreed that the current statute needed substantial revision if it was to perform as originally intended by the Legislature.

Your Committee finds that the panel process is facing a substantial number of cases for which that process is clearly inappropriate. A case such as the Aloha Stadium steel litigation, as well as slip-and-fall and highway design cases are examples of matters which were never intended to go before these panels and the panel process has served merely to frustrate and delay such litigation. The bill provides that the parties may seek a determination from the circuit court that a case is unsuitable for handling by the panels. That provision should result in a substantial revision of the panel's current and future docket and permit the panel process to concentrate on cases which can be handled by an informal mechanism.

Your Committee heard testimony that the current form of the bill could present substantial additional problems for the panels and was asked by all parties to make a series of amendments to the current language. After reviewing those recommendations your Committee made the

following changes to the bill:

1. The amount to be paid to each panel member would be reduced from \$500.00 to \$300.00. While an increase in the fees seems appropriate, your Committee believes that a less substantial increase is in order until a need for a larger increase is proven;
2. The provisions permitting the panel result to be admitted in a subsequent court proceeding and requiring the posting of a bond by an unsuccessful claimant have been eliminated. Your Committee believes that the strength of the current panel process is its informality and that these two provisions would undermine the panel process by forcing the parties to treat the panel hearing much more formally;
3. A provision has been added which would terminate a proceeding before the panel if a decision is not reached within twelve months. This limit would prevent the panel process from unnecessarily delaying case and allow the parties to proceed to court when it was clear that the panel process would not yield any result; and
4. A technical change was also made which has no substantive effect.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 663, S.D. 1, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 663, S.D. 2.

Signed by all members of the Committee.

SCRep. 514            Ways and Means on S.B. No. 83

The purpose of this bill is to establish an agricultural park revolving fund within the department of land and natural resources.

Section 171-112, Hawaii Revised Statutes, currently authorizes the board of land and natural resources to lease private property for agricultural purposes. The revolving fund would be used to deposit rentals received from farmers who sublease privately owned lands leased by the State and to enable the State to make rental payments to the private landowners from the fund. In the absence of such a revolving fund, the department must rely solely on legislative appropriations for required funds to pay the private landowners, while receipts from subleases are deposited in the state general fund.

Your Committee has amended the bill to (1) correct a technical error by establishing the revolving fund in the state treasury rather than the department of land and natural resources, (2) state that the use of funds from the revolving fund for infrastructure improvements shall be only for those parks which have been selected by the department of land and natural resources, and (3) delete the requirement that the department designate each project by delineating the perimeter of each agricultural park including residential houselots.

Your Committee has deleted the appropriation section in this bill and has made technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 83, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 83, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 515            Ways and Means on S.B. No. 1397

The purpose of this bill is to extend the life of the State of Hawaii land evaluation and site assessment (LESA) commission which was established by Act 273, Session Laws of Hawaii 1983, with a termination date at the adjournment sine die of the regular session of 1985.

The LESA commission submitted a draft report to the legislature in February, 1985, which contained a "provisional" inventory of important agricultural lands, the method by which such lands have been designated and classified, and a process to further refine or adjust the classification to meet changing community needs, goals, and objectives. The commission, however, recommended that (1) the site assessment criteria be adopted only in principle in order to allow future testing and verification as to the validity of the criteria, (2) the important agricultural lands inventory not be adopted until each of the counties have had the opportunity to test and evaluate the inventory for a two-year period, and (3) the commission be authorized to continue its functions to coordinate the testing and evaluation of the LESA system.

Your Committee has amended the bill by deleting the reappropriation provisions of the appropriation section of the bill and by making technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1397, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1397, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 516            Ways and Means on S.B. No. 57

The purpose of this bill is to authorize the department of Hawaiian home lands the discretion to grant a person awarded a Hawaiian home lands homestead lease more than one year in which to occupy and begin use of a homestead lot.

Under the current provisions of section 208(3) of the Hawaiian Homes Commission Act, a lessee is required to occupy or begin use of a homestead within one year of the time when the lease is made. This requirement assumes that the homestead lot has been developed to the extent that a lessee can occupy it or begin to use it within such time frame.

Accelerating the distribution of land to more than 8,500 applicants on waiting lists is a major priority goal of the department. To achieve this goal, it is necessary that the department consider innovative means of making more homesteads available because there is no sufficient funding to develop and fully improve lands to accommodate all of the applicants for homesteads.

One of the approaches being considered is to award homestead leases for unimproved land or land with minimal improvements. Those who receive lots for which site improvements have not been provided will need more time to prepare the land before occupying or using it.

With the proposed amendment to section 208(3) of the Hawaiian Homes Commission Act, this bill would allow the department to give a lessee more time than the present year by which the lessee must occupy or use the homestead lot. The occupancy requirement would be addressed in the lease, and would vary, depending on the state of the land.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 57, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 517            Ways and Means on S.B. No. 82

The purpose of this bill is to provide greater financial support for the maintenance of lands under the control of the board of land and natural resources by increasing the maximum amount of expenditures from the special land and development fund for incidental maintenance from \$100,000 to \$200,000 annually.

Your Committee believes that the maximum amount should be increased from \$100,000 to \$200,000 annually, particularly for stream maintenance and other activities to reduce the likelihood of potential litigation.

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. 82, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 82, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 518            Ways and Means on S.B. No. 151

The purpose of this bill is to update and consolidate existing statutory provisions to clarify the process of state planning, economic development, and energy development and management as an executive function and to more clearly define the mission of the department of planning and economic development. Chapters 201, 203, and 213, Hawaii Revised Statutes, would be repealed and relevant provisions incorporated into a new chapter which clearly sets forth the mission, responsibilities, and powers of the department.

Your Committee has made technical, nonsubstantive amendments and has renumbered the sections in parts II through VII of chapter 201A to conform to the numbering system used in the Hawaii Revised Statutes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 151, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 151, S.D. 2.



Signed by all members of the Committee except Senator Soares.

SCRep. 519            Ways and Means on S.B. No. 470

The purpose of this bill is to allow a lessee of a Hawaiian home lands homestead to mortgage the lessee's interest in a homestead lease.

Section 208 of the Hawaiian Homes Commission Act (HCCA) does not permit a lessee to mortgage or pledge the lessee's interest in the homestead lease.

Mortgage lenders in Hawaii have been unwilling to make loans because of the non-alienation lease restriction in the HCCA, unless full guarantees are provided by the State. The absence of private financing restricts the ability of the department of Hawaiian home lands to accelerate awarding lands to qualified native Hawaiians. In light of the State's current fiscal constraints and the impact that loan guarantees may have on the State's debt ceiling, furnishing state funds for loans or guaranteeing loans presents a significant concern.

Recent amendments to federal law now allow the U.S. Department of Housing and Urban Development (HUD) to insure loans made on homestead leases. Representatives from the Washington offices of HUD, the local director of HUD, members of local lending institutions, and the department of Hawaiian home lands staff have been meeting over a number of months to ascertain how homesteaders may be able to obtain loans through the federal program.

This bill amends section 208 of the HHCA to allow a lessee to mortgage the lessee's interest in a homestead with a private bank, financial institution, or any other investor, provided the loan is insured or guaranteed by a federal agency, such as HUD.

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. 470, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 470, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 520            Ways and Means on S.B. No. 884

The purpose of this bill is to create an industrial development authority which would have the power to issue special purpose revenue bonds up to \$10,000,000 for industrial, processing, and manufacturing enterprises.

Under this bill the legislature would authorize an aggregate amount of special purpose revenue bonds which could be issued by the authority during a fiscal year. The authority would review the specific project proposals and issue the bonds needed to finance the particular project. The authority would not be allowed to issue any bonds in an amount greater than \$10,000,000. Any bond amounts greater than \$5,000,000 would require the passage of a resolution by the council of the county in which the project is to be located indicating its support prior to issuance.

Currently, Article VII, section 12, of the Constitution of the State of Hawaii requires the passage of a separate bill with two-thirds vote of each house of the legislature to issue revenue bonds for manufacturing, processing, or industrial enterprises in the public interest. Such a restriction limits the possibilities of those beginning new businesses or expanding existing small businesses from utilizing this form of financing.

According to testimony received by your Committee on this bill, there are twenty-one states that have established authorities similar to the one proposed by this bill as an inducement to stimulate business activity. Establishing this authority would allow Hawaii to compete more effectively with other states in attracting businesses. This is particularly important as the State is seeking to develop sites for high technology parks.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 884, 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 Soares.

SCRep. 521            Ways and Means on S.B. No. 1193

The purpose of this bill is to promote the health, safety, and welfare of the residents of depressed areas of the State which have not benefitted from economic growth by requiring the

department of planning and economic development to plan, develop, and administer projects within an enterprise zone to stimulate economic growth and employment, and by providing for the designation of enterprise zones.

The concept of enterprise zones refers to areas in which local, state, and federal incentives encourage economic activities which employ residents, strengthen our economy, and indirectly contribute to the State's tax base. This bill provides for the department of planning and economic development (DPED) to be the state agency responsible for administering and developing enterprise zones and to have all of the powers necessary for these activities including the power to sell bonds, to own or lease real, personal, or mixed property, to execute contracts, and to recommend to the governor areas for designation as enterprise zones. The governing body of any county may apply to DPED to have areas designated as enterprise zones, and must specify local government incentives to complement state and any federal incentives for enterprise zone activities.

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. 1193, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1193, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 522            Ways and Means on S.B. No. 1195

The purpose of this bill is to assist electricity consumers by reducing the costs of financing electric utility improvements through authorizing the issuance and refunding of special purpose revenue bonds in an amount not to exceed \$9.4 million for the Kauai Electric Division of Citizens Utilities Company.

Your Committee notes that the public utilities commission will annually report to the legislature of the progress, under this bill, in reducing electric utility financing costs.

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. 1195, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1195, S.D. 1.

Signed by all members of the Committee except Senator Soares.

SCRep. 523            Ways and Means on S.B. No. 913

The purpose of this bill is to require the state and county governments to promptly pay for goods and services received.

Currently, section 103-10, Hawaii Revised Statutes, prohibits agencies of the State or counties from paying for goods and services received until at least thirty days after a statement is received or delivery of the goods or performance of the services. This bill would require agencies to make payment no later than forty-five days after a statement is received or delivery of the goods or services.

This bill also requires state agencies receiving goods or services worth less than \$100 to pay for such goods or services from the petty cash fund of such agencies, and allows the comptroller to grant exceptions to this requirement and to establish a higher threshold for petty cash payments.

Your Committee finds that the government should promptly meet its obligations and that the amendments to the law proposed by this bill will help to ensure such promptness.

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. 913, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 913, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 524            Ways and Means on S.B. No. 1286

The purpose of this bill is to amend sections 304-4 and 304-17, Hawaii Revised Statutes, and

to repeal sections 304-15 and 304-16, Hawaii Revised Statutes, in order to consolidate state-sponsored tuition assistance programs at the University of Hawaii.

Your Committee finds that presently, there is no appreciable difference between tuition waivers and scholarships. Consequently, existing statutory treatment of each as a distinct type of financial aid is unnecessary.

Your Committee has amended the bill to allow the board of regents flexibility in waiving or reducing the tuition fees or any other fees for students who are well-qualified or in need of financial aid at the university. Your Committee has also made technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1286, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1286, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 525            Ways and Means on S.B. No. 1287

The purpose of this bill is to establish a Pacific area tourist industry research institute at the University of Hawaii.

In light of Hawaii's historical prominence in the tourism industry, your Committee finds it appropriate that the University should assume a major role in the development and dissemination of industry related information and training. While tourism research is a relatively new science, your Committee recognizes the growing appreciation of the need for additional theoretical and applied research in order to maintain the State's competitive position in the world tourism marketplace.

Your Committee has amended the bill by giving administrative responsibility for this research institute to the assistant dean of the school of travel industry management instead of to a director appointed by the president and by making technical, nonsubstantive amendments for style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1287, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1287, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 526            Ways and Means on S.B. No. 100

The purpose of this bill is to amend sections 237-29 and 359G-15, Hawaii Revised Statutes, to clarify the current general excise tax exemptions provided for persons and entities related to low and moderate income housing.

The intent of these provisions is to provide tax exemption incentives to attract competent private sector participation in the construction of new low and moderate income housing units.

The Hawaii housing authority, however, indicates that the current language of the statutes would allow certain existing government assisted projects financial gain without providing corresponding benefits to the project's present tenants nor to any governmental body.

This bill clarifies the intent of the general excise tax waiver and narrows its scope to (1) newly constructed or rehabilitated projects developed with Hawaii housing authority or county assistance; and (2) existing low and moderate income housing projects receiving government assistance in which rent and operations are controlled under a regulatory agreement with a governmental body, provided that such projects are approved and certified by the Hawaii housing authority on an annual basis.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 100 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 527            Ways and Means on S.B. No. 154

The purpose of this bill is to authorize the Hawaii community development authority (HCDA) to issue \$15 million of revenue bonds to finance the development of public facilities.

Under chapter 206E, Hawaii Revised Statutes, HCDA is required to plan, locate, and develop public facilities to support the development of the Kaka'ako community development district. Of immediate concern to the Authority is the development of public parking garages. These parking facilities would encourage a walk-to-work community and the development of smaller properties by private owners who are unable to provide the minimum amount of parking due to the size of their lots. Further, the provision of public parking will support major private development in the district and relieve the area of current hazardous conditions created by the lack of on-street parking.

Your Committee finds that HCDA lacks sufficient economic resources to provide public parking structures and other necessary facilities. By authorizing the use of revenue bonds for public facilities in general rather than specifying a particular facility, such as parking structures, HCDA is given the flexibility needed to structure revenue bond financing.

Your Committee has renumbered the new part to conform with the present numbering system used in Hawaii Revised Statutes, and made technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 154, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 154, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 528            Ways and Means on S.B. No. 155

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.

The legislature last year recognized tax increment financing as an innovative financing method that may be utilized by county redevelopment agencies or the Hawaii Community Development Authority and passed a bill similar to S.B. No. 155. The bill, however, was vetoed by the governor because of concerns that the bill could result in adverse financial impacts on the counties. Your Committee notes that this bill alleviates those concerns by: (1) requiring the submittal of the tax increment financing plan to the respective county departments of finance and budget for their review and comments on financial impacts; and (2) allowing the director of finance to establish an adjustment rate, or rates, to allocate the tax increment amounts to enable the counties to be compensated for inflationary increases and projected cost increases for servicing new developments in the tax increment district.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 155, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 529            Ways and Means on S.B. No. 1336

The purpose of this bill is to amend section 356-292, Hawaii Revised Statutes, to delete the provision that tax-exempt revenue bonds issued by the counties pursuant to the federal Mortgage Subsidy Bond Tax Act of 1980 be used solely for new construction projects.

This provision was enacted to prevent the duplication of housing assistance programs by the State (Hula Mae Loan Program) and the counties. However, the sunset provision of the federal act makes it imperative that full utilization of the federal subsidy be realized.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1336 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 530            Ways and Means on S.B. No. 36

The purpose of this bill is to appropriate money to pay victims and providers of services who were awarded compensation in 1984.

The sum appropriated shall be deposited in the Criminal Injuries Compensation Fund to be used for payments by the Criminal Injuries Compensation Commission.

Your Committee has amended the bill by placing therein the appropriate case numbers and dollar amounts. The money appropriated equals \$386,240.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 36, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 36, S.D. 1.

Signed by all members of the Committee except Senator Soares.

SCRep. 531            Ways and Means on S.B. No. 1432

The purposes of this bill are to subject adult family boarding homes and care homes which care for up to five residents, not more than two of whom are incapable of self-preservation because of age or physical limitation, to county inspections and to subject all adult family boarding homes and care homes to county fire inspections.

Your Committee has amended the bill by adding "or mental" after the word "age" on page 1, line 6, of the bill, as received. The amendment has been made on the recommendation of the department of social services and housing and department of health.

An amendment also has been made to clarify the expenditure of the appropriation.

In addition, other technical, nonsubstantive amendments have been made.

Your Committee finds that this bill will promote the public health by promoting safety in adult family boarding homes and care homes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1432, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1432, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 532            Ways and Means on S.B. No. 474

The purpose of this bill is to amend section 346-59, Hawaii Revised Statutes, by deleting those provisions which relate to the reimbursement mechanism for health care services.

This bill deletes all provisions relating to reimbursing providers of health care services in accordance with specific fee profiles and replaces them with provisions whereby providers of institutional health care services would be reimbursed through a prospective payment system and noninstitutional providers of health care would be reimbursed through a rate determined by the department of social services and housing (DSSH) but limited by medicare and the state legislature.

Your Committee received testimony from the DSSH stating that in the appropriations act of 1984, the DSSH was mandated to develop and implement prospective payment plans for institutional health care services. The plan for long-term institutional care has already been developed and a plan for hospital in-patient care payment is being developed for implementation in July 1985. The DSSH further testified that a plan to pay physicians and other practitioners on the basis of the Health Care Administration's procedure code system, rather than on the basis of individual fee profiles, is projected for implementation in July 1985.

Your Committee finds that the Hawaii prospective payment system is a facility-specific cost system based on each facility's actual audited cost experience trended forward and made applicable to today's cost. Your Committee further finds that prospective payment enables the State to control future expenditure growth, to some extent, and easily project for anticipated costs.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 474, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 533            Ways and Means on S.B. No. 1443

The purposes of this bill are to authorize participation by psychologists under the Medicaid program without the necessity of referral, direction, or prescription of service by another health care practitioner and to authorize a psychologist to certify the mental impairment necessary for a disabled person to receive general assistance.

Your Committee finds that the participation of psychologists without physician referral or supervision under the Medicaid program is not prohibited by federal law or regulation if the services are performed in accordance with state law. Your Committee also finds that

psychologists provide a valuable service in the health care spectrum and that most are qualified to engage in independent practice without the supervision of physicians. Thus, your Committee acts favorably on this bill. Your Committee also finds that the definition of "medical care" under section 346-1, Hawaii Revised Statutes, although remaining unamended, will not prohibit the payment of Medicaid funds for the services of psychologists when this bill is enacted.

Congress in the federal Deficit Reduction Act authorized health maintenance organizations participating in the Medicare program on a risk sharing basis to permit the services of psychologists without the direct supervision of a physician. Although psychologists are not afforded full independent status under Medicare, the action represents federal recognition of the value of the services of psychologists.

Your Committee has amended the bill to conform to accepted bill drafting style. Although the appearance of the bill, as amended, differs substantially from the appearance of the bill, as received, the amendments are intended to be technical and nonsubstantive.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1443, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1443, S.D. 1.

Signed by all members of the Committee except Senator Soares.

SCRep. 534            Ways and Means on S.B. No. 64

The purpose of this bill is to place all licensing functions relative to domiciliary care facilities, including independent group residences, with the department of health.

Under current law, care homes are licensed and regulated by the department of health. Adult family boarding homes and independent group residences are licensed and regulated by the department of social services and housing. The present division of responsibilities does not promote efficiency in state government operations.

This bill has been proposed by the administration. The intent is to have the department of health license and regulate adult residential care homes, which are to include those facilities now known as adult family boarding homes, family care homes, and residential care facilities.

The bill also proposes repeal of the law on licensure by the department of social services and housing of independent group residences, which are not considered domiciliary care facilities. Apparently, the administration desires independent group residences to be regulated as adult residential care homes, since the repeal of the law would not by itself fit under the title of the bill. Accordingly, your Committee has included a statement of this intent in the purpose of the bill.

Your Committee has made amendments to the bill. Among the major amendments are the following.

Page 5, line 5, of the bill, as received, has been amended to delete "freestanding birthing facilities". The bill, as received, proposed to give the department of health regulatory authority over the facilities. Your Committee has deleted the provision because it does not fit under the title of the bill.

Sections 7 and 8 of the bill, as received, which proposed amendments to definitions in section 346-1, Hawaii Revised Statutes, have been combined under section 7 of the bill, as amended. Your Committee has made the amendment to conform to accepted bill drafting style.

Section 346-64(d), Hawaii Revised Statutes, has been amended to conform to terminology used in the bill.

Your Committee also has made other technical amendments and deleted the appropriation contained in the bill.

Your Committee also finds that section 14 of the bill authorizes the transfer of personnel from the department of social services and housing to the department of health.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 64, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 64, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 535

Ways and Means on S.B. No. 702

The purpose of this bill is to extend Act 275, Session Laws of Hawaii 1984, for two years and to clarify certain of its provisions.

Act 275 designates the Office of Environmental Quality Control (OEQC) as lead agency in the areas of pesticide control and environmental quality in the State until June 30, 1985. This bill extends this authority until June 30, 1987 and appropriates \$390,000 for the fiscal biennium 1985-1987 to carry out the purposes of this Act. The bill also requires the OEQC to submit a report of its activities to the Regular Session of 1986.

The Office of Environmental Quality Control, the Environmental Council, Dole Hawaii Division, and the Department of Agriculture support this bill. Your Committee finds that there is continued need for the OEQC to provide statewide leadership in the areas of pesticide use and control and environmental quality. Your Committee, therefore, favors continuation of Act 275 for two years.

Your Committee has amended the bill by deleting references to chemical pollution; clarifying the expenditure of the appropriated funds between each fiscal year of the biennium; reinstating the provision authorizing the OEQC to coordinate and disseminate public information; deleting the provision authorizing the OEQC to take action to prevent, monitor, and mitigate pesticide contamination; and providing that the representative of the U.S. military shall be invited to serve on the advisory committee without the need for appointment by the governor.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 702, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 702, S.D. 2.

Signed by all members of the Committee.

SCRep. 536

Ways and Means on S.B. No. 1436

The purpose of this bill is to support the prevention of child abuse and neglect and family violence through the creation of a children's special trust fund within the department of health. The fund is to be financed by surcharges on marriage licenses and birth certificates. The bill also increases the membership of the child abuse and neglect prevention advisory committee from seven to thirteen members.

Your Committee finds that the intent of this measure is in the public welfare and interest. However, upon consideration, your Committee has amended this bill as follows:

- (1) References to family violence have been deleted throughout the bill.
- (2) In addition to the above change, section 2 of the bill has been amended as follows:
  - (A) The definition of "eligible project" has been amended so that it means a service project or program designed to prevent rather than reduce the incidence of child abuse and neglect.
  - (B) To provide that the non-federal moneys in the children's trust fund is to be used to seek qualification for federal matching funds authorized by Public Law 98-473.
  - (C) To provide that the moneys in the trust fund are to be disbursed solely for child abuse and neglect prevention activities.
  - (D) The new section -4 has been amended by: (i) adding the words "all non-federal" after "disburse"; (ii) deleting reference to the disbursement of moneys as directed by the council and in accordance with its policy guidelines; and (iii) providing that the council administer and award federal grants to eligible recipients as required by Public Law 98-473.
  - (E) The new section -7 has been amended by adding the words "in accordance with chapter 42" at the end of subsection (a).

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1436, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1436, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 537

Ways and Means on S.B. No. 427

The purpose of this bill is to establish a three-year job-sharing pilot project in the department of health.

The pilot project under this bill is patterned after the successful project established for certificated personnel, other than educational officers, of the department of education. The pilot project was so successful that the legislature established job-sharing as a permanent program for those personnel.

The bill contains a lengthy findings clause with which your Committee agrees. Your Committee wishes to emphasize that the intent of the pilot project is to test the concept in the department of health and examine the experience to determine if the project should be made permanent.

Your Committee notes that section 3(1) of the bill requires the director of health to announce the implementation of the pilot project to all full-time, regular employees of the department, excluding persons not actually engaged in the nursing profession. Nowhere does the bill, however, prohibit other personnel of the department from participation in the project.

Your Committee has amended the bill to make the pilot project effective only for two years for consistency with the fiscal biennium. In addition technical, nonsubstantive amendments have been made.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 427, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 427, S.D. 1.

Signed by all members of the Committee.

SCRep. 538

Ways and Means on S.B. No. 431

The purpose of this bill is to allow beneficiaries of Employees' Retirement System members who had selected Option Two or Three to receive the stated percentage of the total benefit being received by the retirant at the time of death, and to receive cumulative post retirement allowances and bonus payments authorized during the retiree's lifetime.

Your Committee has amended the bill by deleting all references to bonus payments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 431, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 431, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 539

Ways and Means on S.B. No. 558

The purpose of this bill is to exempt from the general excise tax, moneys received by employee benefit plans including contributions, dividends, interest, and other income, and amounts received by any entity established by such employee benefit plan or group of employee benefit plans to provide administrative services to employee benefit plans.

The exemptions provided in chapter 237, Hawaii Revised Statutes, do not presently include employee benefit plans and their related administrative services.

Your Committee has amended the bill by changing all references to chapter 244, Hawaii Revised Statutes, to chapter 244D.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 558, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 558, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 540

Ways and Means on S.B. No. 589

The purpose of this bill is to provide exclusive representatives of certain bargaining units an extension to negotiate a model conversion plan for reduction of salary range steps and to repeal the existing prohibition of resort to any impasse procedure during such negotiations.

Since July 1, 1976, the collective bargaining law has prohibited the granting of step increases



during any fiscal year when a negotiated pay increase takes effect. Currently, for bargaining units which have not negotiated a model conversion plan for reduction of salary range steps, there is a wide disparity in pay between the beginning rate and the maximum rate of pay within a salary range with many in-between steps. Certain employees who are performing the same work as other employees with substantially equivalent proficiency are being paid significantly less. Extending the time by which the exclusive bargaining representative may negotiate for the reduction of salary range steps will make it possible to eliminate such inequitable treatment.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 589, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 589, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 541            Ways and Means on S.B. No. 680

The purpose of this bill is to convert temporary and permanent employees of the Maui Intake Service Center to permanent civil service status.

Your Committee, after reviewing the program's activities and needs, finds that the added job security protection afforded to permanent civil service workers is necessary to insure that the level of services currently provided by the Maui Intake Service Center to various justice agencies will continue to be of high quality.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 680 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 542            Ways and Means on S.B. No. 1360

The purpose of this bill is to provide an appropriation for a reliever airport at Dillingham Field.

Your Committee believes that Dillingham Field is an acceptable existing site for the reliever airport. Facilities and site improvements were made in recent years to improve safety and to upgrade the site for general aviation activity.

Because the Department of Transportation must still make an assessment of what will be needed to upgrade the site for the needs of the general aviation community, your Committee believes that \$5 million for design and construction will be sufficient for the time being. Should additional funds be necessary, the Department may make a request after completing their assessments and plans.

Your Committee amended the means of financing with the following breakdown of sources for the \$5 million appropriation: \$4 million from "revenue bond funds" and \$1 million from "other federal funds".

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1360, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1360, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 543            Ways and Means on S.B. No. 115

The purpose of this bill is to conform the Hawaii income tax law with the amendments made to the federal Internal Revenue Code during the 1984 calendar year.

The contents of this bill were provided by the department of taxation after reviewing all of the federal legislation for the preceding year and as required by section 235-2.3, Hawaii Revised Statutes. Although the federal amendments during the calendar year 1984 were massive, with the main Act being the Tax Reform Act of 1984, Public Law 98-369, the result for Hawaii is not great as most of the amendments dealt with tightening of the Code and with administrative matters in taxation. In addition to adopting federal amendments, the department of taxation has amended the section by splitting it into three sections to facilitate future amendment.

The major amendments of interest to Hawaii are as follows:

1. The long-term capital gain holding period for capital assets acquired after June 22, 1984, and before January 1, 1988, is decreased from one year or more to six months or more.

2. The ability to make contributions to individual retirement accounts after the deadline for filing income taxes due to extensions is terminated. Henceforth, such contributions must be made by the legal date for filing taxes.

3. For tax years beginning January 1, 1985, and after, gross income includes fringe benefits, unless specifically exempted by statutory provisions such as qualified employee discounts and working condition fringes.

4. The new law makes any transfer of property between spouses during marriage or between former spouses incident to a divorce nontaxable and clarifies the taxation of and alimony exemptions between divorcees.

5. In addition, the Tax Reform Act tightens the rules relating to golden parachute payments in excess of a base established by the Internal Revenue Code and amends the partnership provisions to close loopholes in certain areas and to provide a more uniform method of correctly accounting for income, deductions, and transfer of partnership interests.

6. The child care credit is retitled as a credit for "expenses for household and dependent care services necessary for gainful employment" and by deleting the restriction that the amount of the credit cannot exceed the amount of income tax liability reduced by other credits.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 115, 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 Soares.

SCRep. 544            Ways and Means on S.B. No. 1077

The purpose of this bill is to provide an appropriation of sufficient funds to pay the salaries of the members of the Senate and the House of Representatives for the period from November 6, 1984 to June 30, 1986. This bill as amended is a housekeeping measure that is necessary due to constitutional amendments in 1978.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1077, 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 Soares.

SCRep. 545            Judiciary on S.B. No. 125

The purpose of this bill is to mandate a 90-day driver license suspension for the offense of driving under the influence of intoxicating liquor.

Act 193, Session Laws of Hawaii 1984, amended section 291-4, Hawaii Revised Statutes, to provide for a 90-day driver's license suspension for first-time offenders. The law established an absolute 30-day suspension and a 60-day restricted, provisional or conditional license at the discretion of the court. However, in practice, the law is sometimes interpreted to mean either a 30-day absolute suspension or a 60-day conditional license, or both.

Your Committee amended the bill to replace the term "nonrecreational" on page 2, line 8, as it applies to the allowable uses of the defendant's conditional driver's license during the last 60 days of the suspension. The bill now allows a person to only use a conditional driver's license for work-related purposes and to participate in alcoholism treatment programs.

Testimony in favor of the bill received from the Department of Transportation stated that this clarification and amendment of the bill will conform the law with the basic incentive grant criteria for the Federal Alcohol Traffic Safety Programs, section 408.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 125, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 125, S.D. 2.

Signed by all members of the Committee except Senators Aki, Kuroda and Toguchi.

SCRep. 546            Economic Development on S.B. No. 98

The purpose of this bill is to authorize the Department of Land and Natural Resources (DLNR) to retain and use confiscated items including equipment, aircraft, vehicles, vessels, or articles forfeited to the DLNR by a court under Section 701-119, Hawaii Revised Statutes, the Penal Code. The current statute only authorizes the court to forfeit confiscated material to the DLNR to be destroyed or sold at public auctions.

Your Committee supports the intent and purpose of this measure and concurs with the DLNR testimony that it be authorized to retain and use items which may assist the department in carrying out its operations more efficiently and effectively without the expenditure of public funds.

Your Committee has amended section 1, page 2, lines 5 and 6 of the bill to authorize other state agencies to also retain and utilize material seized and forfeited under Section 199-7, Hawaii Revised Statutes.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 98, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 98, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 547      Economic Development on S.B. No. 70

The purpose of this bill is to correct identified deficiencies in the preparation, review, and approval process for environmental impact statements and assessments by amending Chapter 143, Hawaii Revised Statutes. The proposed amendments:

- (1) Distinguish between "draft" and "final" environmental impact statements;
- (2) Incorporate a recent Hawaii Supreme Court ruling requiring the preparation of an environmental impact statement whenever conservation lands are involved in a project;
- (3) Correctly identify the new Waikiki Special Design district by its name;
- (4) Recognize that the counties of Hawaii, Maui, and Kauai use county general plans for land use designations while the City and County of Honolulu uses development plans;
- (5) Change the acceptance timetable for statements to start with the filing of the final statement and reduce the time period for acceptance from 60 days to 30 days and the applicants requested extension period from 30 days to 15 days;
- (6) Designate a 45 day public review period for public and private actions; and
- (7) Allow the statement rules and regulations to prescribe the procedure for preparation of an environmental assessment and for withdrawal of a statement.

Your Committee supports this measure as providing necessary amendments to conform the law with existing practices and has made the following changes for purposes of clarity:

- (1) Page 2, line 14: the word classification has been changed to reclassification;
- (2) Page 6, line 21: two sentences from page 7, lines 4-12 and two sentences on page 6, line 23 through page 7, line 4, have been inserted to reorder this section;
- (3) Page 6, lines 11-15: two sentences have been combined for clarification;
- (4) Page 8, line 13: (3) has been changed to read: "Prescribe procedures and contents for the preparation of an environmental assessment"; and
- (5) Page 4 (lines 17, 18, 23), page 5 (lines 3, 4, 13, 15), page 6 (lines 9, 10, 11, 16, 19, 20, 22, 24), page 7 (lines 3, 7, 16), page 8 (lines 19 and 21), and page 9 (lines 8 and 10): appropriate references to "final" and "draft" statements have been inserted as applicable.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 70, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 70, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 548      Economic Development on S.B. No. 94

The purpose of this bill is to consolidate the provisions of Section 187-1.2, 187-1.3, and 187-1.4, Hawaii Revised Statutes, relating to the Animal Species Advisory Commission and County Aquatic Life and Wildlife Advisory Committee into a new Chapter 197 to reflect organizational changes within the Department of Land and Natural Resources (DLNR) which separated fisheries and wildlife functions into the Divisions of Aquatic Resources, and Forestry and Wildlife.

Your Committee finds that this bill will facilitate referencing of provisions on aquatic and wildlife advisory boards.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 94 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. 549            Economic Development on S.B. No. 90

The purpose of this administration bill is to clarify that commercial fishing activity, which means the taking of fishing resources, requires a commercial fishing license.

Presently the law is not clear on whether a license is required for the commercial taking of marine life or only if the catch is sold or offered for sale. This bill amends section 189-2, Hawaii Revised Statutes, to clarify (1) that fishing vessel charter service in the State for the taking of marine life in or outside the State requires a commercial marine license; (2) that a commercial marine license is required for taking fish inside and outside of the State, for selling within the State, and for landing in the State for transshipment and sale elsewhere; and, (3) that a commercial marine license may be issued to a vessel with the fee determined by the number of persons on the vessel contributing to the taking of marine life for commercial purpose.

This bill also amends the definitions of "Commercial purpose" and "Commercial marine license" in section 187-1, Hawaii Revised Statutes, to conform with the proposed changes to section 189-2 and increases the commercial marine licenses from \$10 to \$25 for "residents" and from \$20 to \$50 for non-residents. The proposed fee increase would be the first increase since 1947.

Your Committee concurs with testimony of the Department of Land and Natural Resources (DLNR) and has amended the bill to make the effective date the first day of July following the approval of this bill to coincide with the fiscal year licensing system.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 90, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 90, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 550            Economic Development on S.B. No. 166

The purpose of this bill is to exempt State Functional Plan Advisory Committee members from the provisions of sections 26-34(a) and 78-4(a), Hawaii Revised Statutes.

Section 26-34(a) currently requires that board and commission members be nominated and appointed by the Governor with the advice and consent of the Senate. Section 78-4(a) prohibits a person from serving on more than one board or commission of a public character at the same time.

Your Committee finds that this amendment is a "housekeeping" measure to resolve the concern that State Functional Plan Advisory Committees could be interpreted as "boards" or "commissions" and be subject to the provisions of sections 26-34(a) and 78-4(a), Hawaii Revised Statutes. Your Committee recognizes that this amendment may not be required, and that it represents a prudent action to specifically exempt Advisory Committee members from the provisions of sections 26-34(a) and 78-4(a), Hawaii Revised Statutes.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 166 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. 551            Economic Development on S.B. No. 152

The purpose of this bill is to improve the efficiency of our present system of federal, state, and county permit administration by amending Chapter 201, Hawaii Revised Statutes, to add a new part which designates the Department of Planning and Economic Development (DPED) as the lead agency for facilitating, expediting, and coordinating State and inter-governmental permit processes for development projects. The bill also proposes voluntary consolidated application procedures for public agencies so that participating agencies can consolidate the review and disposition of permit applications.

Your Committee supports the intent and purpose of this measure which is one of the recommendations of a 1984 Governor's Task Force for Permit Simplification which invited the participation of the counties and the development industry to explore opportunities for improving the permit systems from an inter-governmental approach. Your Committee notes that this bill proposes voluntary participation on the part of public agencies other than DPED and does not diminish or limit the responsibilities or authority currently set forth for public agencies.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 152 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. 552            Economic Development on S.B. No. 280

The purpose of this bill is to require that the new lease rental rate for a lease of State land be determined nine months prior to the time of reopening and that the lessee be promptly notified of the determination. The current statute requires that the fair market rental be determined by an independent appraiser at the time of reopening.

Your Committee recognizes that the Department of Land and Natural Resources (DLNR) has taken steps to insure that lease reopening procedures are initiated on a timely basis, with a goal of at least six months prior to the time of reopening. Accordingly, your Committee has amended this measure to provide at least six months of lead time for appraisals and rental rate determinations be based on the fair market rental. This amendment will provide both DLNR and the lessee with at least six months time to resolve disagreements or concerns prior to the actual reopening.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 280, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 280, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 553            Economic Development on S.B. No. 1386

The purpose of this bill is to stiffen the penalty provisions for encroachment upon public lands by amending section 171-6(12), Hawaii Revised Statutes.

Any person causing an encroachment upon public land is currently subject to a fine of not more than \$500 per day and is liable for administrative costs incurred by the Department of Land and Natural Resources (DLNR) and for payment of damages.

This bill would make the fine of not more than \$500 per day applicable to a first offense, as well as requiring the violator to restore the land to its original condition and pay attendant costs. A fine of not less than \$500 per day nor more than \$2000 per day for a second or subsequent offense is proposed, as well as restoring and assuming the cost of returning the land to its original condition. Repeat violators would also be required to perform an amount of time at community service equivalent to the amount of time necessary to earn the amount of a fine working at the minimum wage.

Although your Committee supports the intent of this measure, your Committee has amended the bill by deleting the requirement of community service.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1386, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1386, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and Soares.

SCRep. 554            Economic Development on S.B. No. 95

The purpose of this bill is to consolidate and update those provisions of Chapters 187 and 188, Hawaii Revised Statutes, relating to aquatic resources under a new Chapter 187A and to repeal existing sections of Chapters 187 and 188 that are affected. The new Chapter 187A, Part I, incorporates the existing aquatic resource provisions of Chapter 187 and updates provisions relating to the identification and management of aquatic resources and the management of aquaculture programs under the Department of Land and Natural Resources (DLNR). Part II of the new Chapter 187A generally incorporates and updates the provisions of Chapter 188, Part I, "Fishing Rights".

Your Committee concurs with the DLNR testimony supporting this measure, as amending statutes to reflect organizational changes in DLNR in response to Act 85, Session Laws of Hawaii 1981, which separated fisheries and wildlife functions into the Divisions of Aquatic Resources, and Forestry and Wildlife respectively.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 95 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. 555          Economic Development on S.B. No. 86

The purpose of this bill is to provide aquaculture activities the same status currently provided agricultural activities as preferred economic development activities under the guidelines of the State Environmental Policy, chapter 344, Hawaii Revised Statutes.

Your Committee concurs with the testimony supporting this measure as a means of recognizing that aquaculture, as well as agriculture, should be promoted and fostered and that productive aquaculture lands should be preserved and conserved.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 86, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 556          (Majority) Judiciary on S.B. No. 1376

The purpose of this bill is to statutorily recognize the rights of native Hawaiians to bring suit in State courts to enforce the provisions of the Hawaiian Homes Commission Act, 1920, as amended, and the relevant trust provisions of the Admission Act.

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

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1376, S.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Cayetano, Abercrombie and Aki. Senator Cobb did not concur.

SCRep. 557          Ways and Means on S.B. No. 885

The purpose of this bill is to propose an amendment to Article VII, section 12, of the Constitution of the State of Hawaii, to allow the legislature to authorize an industrial development authority, an administrative agency, to issue special purpose revenue bonds. The authority would not be allowed to issue any bond in an amount greater than \$10,000,000 without legislative authority.

Your Committee amended the bill to clarify that the \$10,000,000 limit on the authority applies to a single project or multi-project program.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 885, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 885, S.D. 2 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 558          Housing and Community Development on S.B. No. 1196

The purpose of this bill is to provide the Department of Land and Natural Resources with

greater degree of flexibility when disposing or leasing of public lands in the Waimea district of Kauai for use in an urban renewal project.

The Department of Land and Natural Resources is generally required by statutes to set the sale price of public land or the price of any negotiated lease at fair market value, except when dealing with government agencies.

Your Committee amended the bill to include all state land and to further qualify the use of the land for historic preservation and restoration. This bill allows the Department of Land and Natural Resources to negotiate the sale or lease of state lands with private groups engaged in historic preservation or restoration of buildings.

Your Committee finds that there are small urban areas in the State that have vacant lands or buildings that are in a neglected state. To facilitate the revival of these areas, and to attract the private investment necessary for a revival, the Department of Land and Natural Resources is being granted the flexibility to dispose or lease of public lands without being limited by the stipulation of "fair market value."

The Department of Land and Natural Resources concurs with the proposed amendment to this bill and your Committee finds that this bill will contribute to the needed revival of our communities.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 1196, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1196, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 559      Consumer Protection and Commerce on S.B. No. 169

The purpose of this bill was to (1) expand the Commissioner of Securities' powers to include the ability to issue cease and desist orders, and to impose criminal as well as higher civil sanctions upon violators; (2) allow for more severe criminal penalties for securities fraud; and (3) extend the statute of limitations for civil actions brought under the Uniform Securities Act (Modified).

The bill authorizes the Commissioner to issue cease and desist orders when the Commissioner determines that such orders are necessary to preclude any violations of this chapter. It also raises the civil penalty for a violation from \$5,000 to \$10,000, and extends the statute of limitation from two years to either five years from the date of the sale or two years from the discovery of facts constituting the violation. In addition, the bill establishes class A, B, and C felonies which are dependent on the value involved in the violation.

Your Committee received favorable testimony from the Department of Commerce and Consumer Affairs and the Honolulu City Prosecutor's Office. The Department testified that the power to issue cease and desist orders would be used when clear-cut violations have taken place to prevent people from investing in questionable investments during the time period the violator is preparing for a hearing on the matter. The violator's due process and speedy hearing rights are carefully preserved.

The Department stated that securities violations are unique in that the actual problems with the investments are often not discovered for many years after the actual violation. Once discovered, it takes six to nine months to investigate the violation, and in complex cases, several years to sort out the necessary facts and evidence. Thus, the statute of limitations must be extended to accommodate these circumstances.

In addition, the Department believes that more severe civil and criminal penalties for investment fraud are necessary to reflect the serious nature of the crime which has been perpetrated upon the unsuspecting public.

Your Committee made numerous amendments to the bill to clarify and better effectuate the purposes of the measure. The major amendments are as follows:

- (1) Section 3 on page 4, line 18: deleted "\$10,000" and substitute "\$100,000".

Your Committee believes that a \$100,000 maximum limit is not unreasonable given the number and size of recent investment fraud cases.

- (2) Section 4 on page 5 and 6: deleted the whole section and replaced it with revised language which more effectively accomplishes its purpose and allows it to withstand judicial scrutiny.

- (3) Section 4 on page 7, lines 21 through 23: deleted the words "violation of" and "it" and replaced it with revised language for clarification.
- (4) Section 4 on page 8, lines 1 and 2: deleted the words "violation of" and replaced it with revised language for clarification and deleted the words "a" and "nevertheless".
- (5) Limited the extension of the statute of limitations for civil and criminal actions to a total of seven years.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 169, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 169, S.D 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.

SCRep. 560      Consumer Protection and Commerce on S.B. No. 171

The purpose of this bill is to amend Chapter 431, Hawaii Revised Statutes, by adding new sections to improve and refine provisions of the Hawaii Insurance Law relating to supervision, rehabilitation, and liquidation of domestic insurers.

Current statutory provisions relating to insurer rehabilitation and liquidation require the Insurance Commissioner to follow strict, formal proceedings which are also time consuming. The present procedure does not provide the needed flexibility in dealing with impaired insurers.

Your Committee received testimony from the Department of Commerce and Consumer Affairs and the Hawaii Independent Insurance Agents Association in support of this bill. The Department testified that the proposed amendments have been adopted by and are recommended as model legislation by the National Association of Insurance Commissioners. It is felt that these amendments will serve to better protect the interests of the insurance industry and the public generally.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 171 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 561      Consumer Protection and Commerce on S.B. No. 173

The purpose of this bill was to provide additional safeguards to individuals purchasing cemetery plots or pre-need funeral or mortuary services.

The bill effects the following changes to Chapter 441, Hawaii Revised Statutes:

- (1) Requires that all trust funds be placed in and managed by trust companies licensed by the State. These companies operate under strict statutory controls and would provide the best protection for consumer funds;
- (2) Provides for the automatic suspension of any license when the required bond is not maintained, with forfeiture of the license if the bond is not reinstated within sixty days;
- (3) Sets forth certain minimum provisions which must be in all written contracts with consumers and provides that copies of these contract forms be on file with the department;
- (4) Clarifies that the actuarial study, audited financial statements, and trust agreements which are filed with the department are available for public inspection. The bill further requires the consumer to be notified by the funeral authorities of the availability of these documents;
- (5) Adds provisions relating to the surrender of pre-need authority licenses and provides the department with the authority to audit a licensee when the department believes that to be necessary;
- (6) Restructures the laws so that the requirements are more clearly set forth both for licensees and for the public. The bill also makes a number of technical changes to the chapter; and
- (7) Provides that disciplinary action may be taken for the failure to file the actuarial study or audited financial statement, failure to maintain the required bond or failure to maintain



the trust funds as required by the chapter.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs in support of this bill. The Department stated that this bill will dramatically improve the quality and enforceability of funeral regulations in this State.

Your Committee also received testimony from the Hawaiian Trust Company, Ltd. pointing out that certain aspects of the bill need to be addressed from the perspective of trustee responsibilities and duties and has therefore amended the bill as follows:

- (1) On page 5, line 9: Added a semi-colon and the phrase "provided that this shall not apply to the designated trustee of the funds" after the word "profit" and before the period.

This change eliminates classifying trust companies as cemetery authorities and all the responsibilities of operating cemetery companies.

- (2) On page 7, line 20: Added a semi-colon and the phrase "provided that this shall not apply to the designated trustee of the funds" after the word "services" and before the period.

This change eliminates designated trust companies as pre-need funeral authorities with the attendant administrative responsibilities provided by this chapter.

- (3) On page 8: Amended the term "trustee" as follows:

(a) Line 14: Added the phrase "or a board of trustees appointed by the governing body of the cemetery and pre-need funeral authority," after the word "state" and deleted the word "and" which preceded the word "designated".

(b) Line 16 and 17: Deleted the phrase "a cemetery and pre-need funeral authority" and substituted the phrase "an authority. The board of trustees may consist of three or more members; provided that no member of the board shall be affiliated with the authority which appointed the board."

This change creates the concept of a trustee other than an institutional or corporate trustee which may manage funds.

- (4) On page 12, line 7 and 8: Deleted the phrase "trust agreement as required by section 441-37(a)" and substituted the phrase "documentation as required by either section 441-37(a) and (b) or section 441-37(a) and (c);".

This change provides a more precise filing requirement.

- (5) On page 29, line 18: Added a semi-colon and the phrase "or a board of trustees as defined in section 441-1" after the word "state" and before the period.

This change is to keep the various provisions consistent with one another in recognizing that an entity other than institutional or corporate trust companies may manage these trusts.

- (6) On page 30, line 7: Inserted a new subsection (c).

This change provides for disclosure of pertinent information by a Board of Trustees and provides for a bonding requirement of \$100,000. These changes assure that if the Board of Trustees do not carry out the fiduciary duties imposed upon them, any party damaged can recover his damages.

- (7) On page 34, line 12-17: Deleted all the language of item (b) and replaced it with new language.

The new language accomplishes the same purpose as the old language, but makes it more concise.

- (8) On page 34, lines 18-22: Deleted all the language in item (c) and replaced it with new language.

The change allows more flexibility to the trustee in the use of information provided by an annual audit and actuarial study in determining appropriate action to be taken in the management and safekeeping of funds.

- (9) On page 35, lines 4 and 5: Inserted an item "(a)" before the word "The" on line 4, thus

creating a subsection (a) for section 441-41; and added the phrase "by a bank or trust company appointed as trustee" after the word "trusts" on line 5.

This change is a clarification that the corporate trusts shall be governed by section 406-22 and not other trust administrators.

- (10) On page 35, lines 7-12: Bracketed the sentence "The [administrator] ... deems advisable." Replaced this sentence with new language labeled as subsection (b).

This change sets up the standards by which a Board of Trustees shall be governed. It provides for how funds may be invested, insurance requirements to maintain the safety of the investment, and disclosure and penalty provisions for not maintaining insurance for the investments.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 173, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 173, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.

SCRep. 562      Consumer Protection and Commerce on S.B. No. 175

The purpose of this bill is to amend the commercial employment agencies law by updating the current statutes and by requiring that employment agencies' branch offices and principal agents be licensed.

The present law dates back to the period when commercial employment agencies were under the jurisdiction of the Department of Labor and Industrial Relations. Currently, jurisdiction of commercial employment agencies is under the Department of Commerce and Consumer Affairs (DCCA). Under the present law, many of the statutes do not conform with other regulatory laws commonly found under DCCA's jurisdiction.

Currently, only employment agencies are licensed. This bill would:

- a) Require employment agencies' branch offices and principal agents also be licensed;
- b) Change the licensing period from annual to biennial;
- c) Authorize the director of DCCA to set application, examination, license, restoration, and renewal fees by rule;
- d) Define certain terms for clarity;
- e) Establish conditions for restoration of a forfeited license;
- f) Prohibit certain conduct by an employer;
- g) Establish requirements to maintain a license;
- h) Prohibit an employment agency from requiring an employer to withhold from an applicant's actual earnings any fee or service charge that has been negotiated by contract between the applicant and the employment agency unless specifically requested by the applicant; and
- i) Provide for an automatic suspension of an employment agency's license effective immediately upon the expiration or cancellation of the bond required.

Your Committee heard favorable testimony from the Department of Commerce and Consumer Affairs concerning this bill. The Department stated that this bill updates the statutes and places all businesses engaging in commercial employment agency-type activities under a statute which allows these type of activities to be effectively monitored.

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

- (1) Added a new section 7 that exempts providers of vocational rehabilitation services certified under section 386-25 from licensure as employment agencies.
- (2) Added a new section 8 that repeals section 373-9, Hawaii Revised Statutes. The amendments to the law under this bill makes that section unnecessary.

Your Committee has further amended the bill by making a language change for clarification.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 175, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 175, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 563            Consumer Protection and Commerce on S.B. No. 180

The purpose of this bill is to amend various laws relating to the optometric profession.

Section 1 of the bill provides for the replacement of the word "and" with "or" for clarity. Also, "employment" is replaced with "fitting or adaptation" to more clearly define the function being performed. "Ophthalmic" and "contact" are added to distinguish the types of lenses. "Anomalies" replaces "insufficiencies" which is an inappropriate term. "Unsuspending" is added because one should have "unsuspended" as well as "unrevoked" licenses. "Registration" is replaced by "license," as the Board of Examiners in Optometry prefers "license" to "registration," and "Physician" replaces "oculist" which is an obsolete term.

Section 2 of the bill prevents an unlicensed individual from using the post-title "O.D." without first obtaining a license. "Contact lenses" is added to designate another type of lens besides "ophthalmic" lens.

Section 3 increases the number of years from one to five an optometrist named to the board must have been actually engaged in the practice of optometry.

Section 4 changes the name of the officers of the board from president to chairman and from vice-president to vice-chairman. The office of secretary-treasurer is deleted because the Department of Commerce and Consumer Affairs (DCCA) now provides secretarial and accounting services. The provision for furnishing copies of rules free of charge is deleted and the description of the board's functions is added.

Section 5 reflects the proper name of the Department (DCCA) which is responsible for the preservation of all records of the board.

Section 6 deletes the provision which requires that board examinations be given on a specific week of the month of July which is too restrictive. It also increases from 30 to 45 days the notice time for board examinations which provides the board with more flexibility.

Section 7: Deletes the minimum age (18) and high school graduation requirements needed to qualify for an optometry license, any one graduating from an optometry school would have reached the age of 18 and graduated from high school; requires applicants to have graduated from optometry college or school accredited by a regional or professional accreditation organization and recognized by the council on post-secondary accreditation or by the United States Office of Education; adds the word "executive" to identify the executive secretary of the DCCA who provides staff services to the board; extends the application deadline from 30 to 45 days prior to the examination to provide the staff ample time to process applications; clarifies the size of an applicant's photograph attached to an application; deletes the passing score of 70 percent which will be provided in the board's rules; clarifies: the conditions under which applicants may be examined, the biennial renewal requirement (continuing education) and the deadline for license renewals; and corrects contradictory provisions on license renewals, "Odd-numbered year" is used in one instance and "even-numbered year" is used in another instance.

Section 8 establishes the types of examinations an applicant must pass to qualify for a license. It distinguishes two groups—those taking the test prior to January 1, 1987 and those taking it after.

Section 9 specifies the action available to the Board in response to violations under Section 459-9; clarifies certain violations; and includes the violation of chapter 459 or board rules as a basis for board action.

Section 10 specifies information to be included in advertisements by optometrist.

Section 11 subjects violators of board rules to the penalty section, (459-14) and specifies that penalties shall apply to each separate violation.

Section 12 repeals Section 459-9.5 which was replaced by 459-10 regarding the contents of advertisements by optometrist.

Your Committee has amended the bill by requiring optometrists to provide their patients with a copy of the patient's spectacle prescription immediately following the patient's eye

examination. Although the Federal Trade Commission already has this requirement, many optometrists have not been following this practice. This provision will encourage the board to take positive action to enforce this violation.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 180, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 180, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.

SCRep. 564

Consumer Protection and Commerce on S.B. No. 182

The purpose of this bill is to amend Section 514E-10, Hawaii Revised Statutes, which sets forth the registration requirement for time share companies in the State, by 1) deleting the present \$10,000 bonding requirement for time share acquisition agents and plan managers and instead authorizing the Director to adopt rules establishing a more adequate bonding requirement for these time share operators; 2) extending the requirement to cover the activities of time share acquisition agents as well; 3) specifying that this bonding requirement is to be separately applicable to each time share plan with which an acquisition agent, plan manager or exchange agent is registered; and 4) clarifying the Department's registration procedures in requiring that a separate application be submitted for each time share plan with which an acquisition agent, sales agent, plan manager or exchange agent is affiliated.

Your Committee received testimony from the Department of Commerce and Consumer Affairs in support of this bill. Although the bonding requirement imposed by Section 514E-10, Hawaii Revised Statutes, is intended to cover any violation or default of an acquisition agent or plan manager or any of their employees of the duties and responsibilities under each position, it has been the experience of the Department that the present \$10,000 bond required is insufficient to provide adequate protection to purchasers who may suffer loss as a result of any potential violation, particularly where a substantial number of purchasers is involved. Additionally, as presently worded the statute does not clearly impose this requirement for each time share plan with which the acquisition agent or plan manager is registered. Thus, a plan manager providing management services for several time share plans would only be required to post a single \$10,000 bond to cover its activities with respect to each of these plans. In the event the plan manager is found to have committed any wrongful or criminal act or omission affecting one or more of these plans, the \$10,000 amount of the bond may very well prove to be inadequate to afford purchasers under each plan the relief which they may request. The Department feels, therefore, that the Director should be permitted to determine the nature of the bond required, as well as the amount of the bond, so as to provide reasonable, and, to every extent possible, adequate protection to time share purchasers.

The Department further testified that in light of testimony received at a recent public hearing on the proposed amendments to the time share rules, the Department recommends that the bill be amended to delete the requirement that exchange companies register separately for each time share plan with which they are affiliated, as well as the requirement that these companies be bonded in the same manner as acquisition agents and plan managers. The exchange companies to which the registration requirement would be applicable may be distinguished from the acquisition agents and plan managers currently registered with the Department in that these companies deal with time share plans on a nationwide level and may offer exchange services for hundreds of different plans. The Department feels that to impose a separate registration and bonding requirement on these companies would prove to be onerous and could result in these companies discontinuing exchange services for Hawaii plans or bypassing the registration requirement.

Upon full consideration of the testimony presented by the Department, your Committee has amended this bill by deleting the proposed language on page 4, lines 21 and 22, and on page 5, lines 1 through 5.

In the interest of time and economy, your Committee has further amended this bill by consolidating its provisions with the provisions of S.B. No. 1135, which extends the period for cancellation of a time share contract by either party from five to fifteen calendar days, and expressly provides that notice to cancel a time share contract is effective upon mailing or delivery of the notice of cancellation to the other party.

Your Committee heard testimony from the Office of Consumer Protection and the Waikiki Improvement Association in support of this bill. The Office of Consumer Protection notes that the Regulated Industries Complaints Office ("RICO") within the Department has received a significant number of consumer complaints against time share developers or sales agents

alleging the failure of these companies to make refunds to consumers after receiving valid notices of cancellation. These complaints suggest that the five-day mutual cancellation period presently required by Section 514E-8, HRS, may be inadequate, particularly as time share sales solicitations appear to be primarily directed toward visitors. These visitors are unlikely to review voluminous disclosure and sales materials describing the time share interests being offered for sale by the developers or sales agents during their visit here. Even if a visitor promptly reviewed the disclosure statement and sales contract upon the visitor's return home, the five calendar days may have already passed. The problem of an inadequate cancellation period is compounded when the consumer is not verbally informed of the right to rescind the contract at the time the consumer signs the contract, as alleged in some consumer complaints received by RICO, and the extension of the cancellation period from five to fifteen calendar days may alleviate this concern.

Consumer complaints received by RICO also allege that developers and sales agents failed to make refunds to consumers when notices of cancellation were received outside the five-day period, although the consumer properly mailed the notice within five calendar days. Other complaints allege the failure to make refunds when the consumer attempted to deliver the cancellation notice to the developer's or sales agent's office within the five-day period but was unable to find anyone who would accept delivery of the notice at that time. This bill would alleviate the above-described problem by expressly providing that a notice to cancel a time share contract is effective upon mailing or delivery of the notice of cancellation to the other party at the address specified on the contract.

Various industry groups offered testimony in opposition to this bill, arguing primarily that the proposed fifteen day cancellation period is an unreasonable extension of the present five day period and would be unduly burdensome given the general nature of the industry's sales programs.

In light of the testimony and information received, your Committee has provided for a seven calendar day cancellation period rather than the proposed fifteen day period. Your Committee feels that this seven day period would alleviate the problems described by the Office of Consumer Protection and at the same time address the concerns raised by the industry groups.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 182, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 182, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.

SCRep. 565            Consumer Protection and Commerce on S.B. No. 190

The purpose of this bill is to clarify the Office of Consumer Protection's function to provide a central clearinghouse of information on consumer complaints and injuries.

Presently, the Office accommodates requests from the public to review consumer complaints after work on the files is completed, with some exceptions. This bill expressly provides that consumer complaints are available for public inspection and eliminates potential conflicts with the restrictions placed upon the release of personal records under Chapter 92E, Hawaii Revised Statutes. The exceptions arise when the Office is investigating, reviewing, or taking legal action based on the complaints or when the complaint has been referred to another state agency, and are intended to protect the respondent until the investigation is completed as well as to acknowledge the authority of other state agencies.

Your Committee heard testimony by the Director of the Office of Consumer Protection to the effect that the bill, as written, may be unclear as to the kinds of information the Office may provide while actively reviewing a case or conducting an investigation. Your Committee concurs, and clarifies that the exceptions are not intended to preclude the Office from informing the public as to the number of or specific targets of the complaints it receives. The exceptions will, however, preclude the Office from offering the written complaints themselves for public inspection.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 190 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 566            Consumer Protection and Commerce on S.B. No. 201

The purpose of this bill was to amend the statutes relating to the practice of psychology.

Under current law, the board which regulates the practice of psychology in the State is known as the Board of Certification for Practicing Psychologists. Under this bill, the title would be changed to the Board of Psychology, which is simpler and more contemporary.

Present law also provides that psychologists shall be certified. However, Chapter 465, Hawaii Revised Statutes, is a licensing law which regulates activities of psychologists and does not merely certify as to their status. Two years ago, the Legislature amended certain sections of the law by substituting "license" for "certificate"; however, through oversight, these changes were not made to other related statutes. This bill would amend Sections 26-9, 26H-4, and 481B-11 to be consistent with the previously declared intent of the Legislature.

Section 465-3(a)(1) provides that university personnel can claim exemption from licensure by virtue of their position and then engage in private practice as psychologists. This bill clarifies that university personnel are exempt only as long as their activities are performed within the scope of their employment.

Section 465-3(a)(2) and 465-3(a)(4) currently exempt persons working under the direction of a licensed psychologist or training to be a psychologist from licensing requirements, but are silent with regard to prohibited representations made by such persons to the public. This bill clarifies that such persons may not represent or imply to others that they are psychologists or licensed to practice psychology.

Section 465-3(a)(5) provides that any person who holds a license to practice medicine and surgery in this State is exempt from licensing as a psychologist. However, since Chapter 453 already provides for licensed physicians, it is redundant to exempt such persons under Section 465-3(5) and therefore the section is repealed.

Your Committee heard supporting testimony by the Board of Certification for Practicing Psychologists and the Hawaii Psychological Association and finds that the measures proposed in this bill are necessary to modernize and strengthen the laws regulating the practice of psychology in the State and are therefore in the public interest.

Your Committee has amended the bill by deleting the provision on page 5, lines 20 and 21, that a person may not use the title of industrial/organizational psychologist and practice psychology at the same time even though the person may be qualified in both areas. Your Committee can find no rationale or justification for such an exclusion.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 201, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 201, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.

SCRep. 567

Consumer Protection and Commerce on S.B. No. 327

The purpose of this bill was to provide that expenses paid to or accrued by a person injured in a motor vehicle accident should be conclusively presumed to be reasonable and necessary in establishing the medical-rehabilitation limit.

Your Committee heard testimony by the Department of Commerce and Consumer Affairs, the Hawaii Independent Insurance Agents Association, the Hawaii Insurer's Council, and the Hawaii Academy of Plaintiff's Attorneys, and finds that the purpose of the current law is to limit an injured party's ability to sue in tort in all but the most serious cases in return for a sure and expeditious source of payment through no-fault insurance. However, a conclusive presumption that medical-rehabilitative expenses are reasonable and necessary may result in the fraudulent padding of less serious claims in an effort to reach the threshold.

After considering all the testimony, your Committee finds that the ability of insurance companies to inquire into the reasonableness and necessity of medical-rehabilitative treatments helps deter fraud and reduce costs and should be preserved. Therefore, your Committee has amended the bill by deleting the words "or accrued" from page 2, line 8 of the bill. It is the intent of your Committee that the conclusive presumption shall apply only to the establishment of the threshold and that it may be rebutted on the matter of damages if it comes to trial.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and

purpose of S.B. No. 327, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 327, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Matsuura.

SCRep. 568            Consumer Protection and Commerce on S.B. No. 449

The purpose of this bill is to require any seller, lessor, broker or sales agent to provide timely notification to a prospective buyer, lessee, or tenant prior to any sale, lease or transfer of property situated in certain designated areas.

The designated areas include:

1. the boundaries of a special flood hazard area as officially designated on Flood Insurance Administration (FIA) maps;
2. the boundaries of the Airport Noise Control and Land Use Compatibility (ANCLUC) maps of any public airport;
3. the boundaries of the Air Installation Compatibility Use Zone (AICUZ) of any military airport, as officially designated by military authorities; and
4. the anticipated inundation areas designated on the Department of Defense's Civil Defense Tsunami Inundation Maps.

Your Committee finds that, as important as these designations are when considering the purchase of real property, such information has not been readily available to the consumer. Your Committee further finds that consumers will be better informed and better protected against deceptive sales practices.

The bill also exempts property rented or leased for one year or less and provides enforcement provisions under the Office of Consumer Protection.

Your Committee has amended the bill by:

- (1) allowing instead of mandating the enforcement of this chapter by the Office of Consumer Protection;
- (2) changing the effective date from "upon approval" to "January 1, 1986", and
- (3) requiring the respective counties to prepare and provide to the public, a map which includes the four designated areas.

Your Committee also made technical nonsubstantive changes to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 449, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 449, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.

SCRep. 569            Consumer Protection and Commerce on S.B. No. 454

The purpose of this bill was to require arbitration for disputes between an owner and a condominium association's Board of Directors, managing agent, or another apartment owner regarding the interpretation, application, or enforcement of the association's declaration, bylaws, or house rules.

Your Committee heard testimony from the President of the Waikiki Shores Board of Directors, and other interested apartment owners and attorneys representing condominium associations. Concern was expressed that the bill deletes current exemptions which creates a hardship on condominium associations. Involuntary arbitration proceedings instigated at any complainant's whim could be time-consuming and costly. Also, eliminating the equitable relief provision would, for example, preclude associations from obtaining restraining orders to prohibit violent persons from coming upon the premises, or to enjoin dangerous activities of residents or their guest.

Opposite concerns were expressed regarding expensive judicial processes to resolve minor disputes and misunderstandings.

Your Committee is cognizant of the delicate balance that must be maintained in a

condominium apartment complex regarding interpersonal, day-to-day relationships between various apartment owners and tenants living in the complex. Your Committee believes that we must not destroy the efficacy of the democratic selection and management process which are determined by the owners themselves. At the same time, an open-ended equitable relief provision allows management a great tool to make individual owners succumb to their wishes by using an expensive and sometimes slow process.

Accordingly, your Committee has amended the bill to delete all the new proposed language, and has amended paragraph (4) by deleting the semi-colon and adding the phrase "involving threatened property damage or the health, safety, or welfare of apartment owners or any other person;". This amendment limits to some degree the extent to which associations may resort to using the equitable relief provision against individual apartment owners who may have a legitimate claim or dispute.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 454, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 454, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.

SCRep. 570                      Consumer Protection and Commerce on S.B. No. 456

The purpose of this bill is to amend Chapter 439, Hawaii Revised Statutes, on beauty culture. The bill does the following: (1) deletes the junior operator registration requirement; (2) requires an applicant, who has failed the examination three consecutive times, to complete at least 200 hours of formal schooling; and (3) increases the number of hours of beauty schooling from 1,800 hours to 2,500 hours. This bill also deletes the term "junior operator" from the definition section.

Your Committee heard several testimonies in favor of the bill. However, the Board of Cosmetology is not in favor of increasing the minimum number of hours required in the curriculum of a beauty school from 1,800 hours to 2,500 hours. The board suggests that the number of hours be increased to 2,000 hours, instead. The additional 200 hours is adequate to cover the new subjects taught in schools and to produce better trained students.

Your Committee has adopted the Board's recommendation and has amended the bill on page 9, line 2, by changing the word "twenty-five" to "two thousand" and bracketing for deletion the words "eighteen hundred."

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 456, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 456, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Matsuura.

SCRep. 571                      Consumer Protection and Commerce on S.B. No. 588

The purpose of this bill was to permit leasehold apartment owners to combine their rent payments with their monthly maintenance fees.

Currently, the law prohibits commingling lease rent with the owner's maintenance fees and with the condominium association's operating account. This requires the association to keep a separate accounting and collection procedure for collecting the lease rent if the declarations of Horizontal Property Regimes and by-laws require them to do so on behalf of the lessor.

Your Committee heard testimony from the Real Estate Commission supporting this bill and adopted the Commission's suggestion to allow associations the option at its annual meetings to vote on what system of payment they prefer.

Your Committee earlier heard testimony on discrimination of pet ownership in a condominium apartment wherein owners of apartments were allowed to keep pets but tenants were disallowed the same privilege even if his lessor permitted him to have such pets.

Your Committee has taken provisions from S.B. No. 205 and has included them in this bill to effectuate a non-discriminatory policy regarding pet ownership within condominium apartments.

Accordingly, the bill has been amended as follows:

(1) Section 1 has been changed to include an additional purpose regarding pet ownership in condominium apartments.

(2) Section 2 on page 2, line 23 has been changed by deleting the word "required" and



substituting the word "allowed".

(3) Section 2 on page 3, line 2 has been changed by deleting the phrase "and provided further."

(4) Section 2 on page 3, line 5 has been changed by deleting the period after the word "lessor" and substituting a semi-colon, and adding the phrase "; and that the continuance or discontinuance of collection and payment is voted on at the annual meeting of the association of apartment owners."

(5) Added a new section 3 which adds a new section to chapter 514A, Hawaii Revised Statutes, regarding pet ownership discrimination in condominium apartments.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 588, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 588, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.

SCRep. 572      Consumer Protection and Commerce on S.B. No. 661

The purpose of this bill was to allow associations of small business employers to be formed for the purpose of purchasing workers' compensation insurance.

Your Committee received testimony from the Hawaii Independent Insurance Agents Association and from Small Business Hawaii and finds that workers compensation rates have increased tremendously over the last ten years and the impact on small businesses, who have better accident and safety records than large businesses, has been disproportionate to their safety record. By allowing small businesses to band together in an association, greater cost savings can be effectuated by group purchases.

Your Committee has amended the bill to place the new program under chapter 431, Hawaii Revised Statutes, the Hawaii Insurance Law. Your Committee has also amended the bill as follows:

(1) Page 2, line 13: deleted the phrase "determined by the association" and substituted the clause "in accordance with section 431-447 or section 431-643(9)(D)".

(2) Page 3, line 21 and 22: deleted the words "the same as" after the word "means"; deleted the phrase "as defined under chapter 210"; and added the clause "with twenty or less employees" after the word "concern".

(3) Page 3, line 23: added a new item (c) which requires an association to be diversified and not all the same types of businesses or trades.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 661, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 661, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.

SCRep. 573      Consumer Protection and Commerce on S.B. No. 668

The purpose of this bill is to clarify the effect of Act 167, Sessions Laws of Hawaii 1983, entitled the Hawaii Business Corporation Act (The "Act"), on existing articles of incorporation and bylaws of Hawaii corporations.

Currently, the Act expressly states the intention of the legislation not to impair any valid right or action of the Act, but is unclear as to whether presently valid provisions of articles of incorporation or bylaws are preserved if such provisions conflict with provisions of the Act.

Your Committee on Consumer Protection and Commerce finds that the bill should clarify the intended effect of the Act.

Your Committee heard favorable testimony from the Corporation and Securities Administrator of the Department of Commerce and Consumer Affairs, State of Hawaii, and representatives of Amfac, Inc. and Pacific Resources, Inc.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 668 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 Matsuura.

SCRep. 574 Consumer Protection and Commerce on S.B. No. 662

The purpose of this bill is to amend Chapter 453, Hawaii Revised Statutes, to substitute current nomenclature for outdated language, and to clarify that accreditation is given to programs that are offered by schools, colleges, and hospitals and not to the institutions themselves.

Your Committee heard favorable testimony from the Board of Medical Examiners to the effect that the accreditation organizations have undergone name and organizational changes, and that programs, not institutions themselves should carry accreditation.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 662, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Matsuura.

SCRep. 575 (Majority) Consumer Protection and Commerce on S.B. No. 669

The purpose of this bill is to replace the existing Hawaii corporate takeover law with takeover legislation patterned after the Minnesota Takeover Act.

Currently, persons seeking to acquire ten percent or more of the shares of a Hawaii corporation must first register their offer with the State Commissioner of Securities, even if the buyer and seller of the shares are non-Hawaii residents. Your Committee finds that the existing takeover law may be unconstitutional in view of the United States Supreme court decision of Edgar v. MITE Corporation. In particular, your Committee finds that the Edgar decision may render the following aspects of the existing takeover law constitutionally suspect: (a) the existing law regulates the purchase of shares nationwide rather than being limited to transactions involving Hawaii shareholders; (b) takeover bids may be delayed for 60 days or more; and (c) the Commissioner of Securities has broad discretion to deny registration.

This bill would require persons to register their offers to acquire ten percent or more of the shares of a publicly traded corporation, if the corporation is either incorporated in Hawaii or is at least 20 percent owned by Hawaii residents, and under either of these circumstances has substantial assets in Hawaii. Among other things, the bill provides that registration of the offer is required only if the seller of the share is a Hawaii resident, registration must be approved by the Commissioner of Securities no later than 19 days after the filing of the registration application and the Commissioner may not deny registration on the ground of unfairness. All substantive provisions of this bill were contained in the Minnesota Takeover Act which was designed to comply with the requirements of the Edgar decision. The United States Court of Appeals for the Eighth Circuit has ruled that the Minnesota Takeover Act is constitutional under the Edgar decision.

Your Committee amended this bill by adding a severability clause. To be consistent with the existing Hawaii takeover law, your Committee further amended the bill by deleting the exclusion for insurance companies, financial institutions and public utilities. In addition, your Committee made technical, nonsubstantive amendments to this bill.

Your Committee notes that the legislature determined ten years ago that the existing takeover law serves a legitimate and desirable public purpose. To ensure that a constitutionally valid takeover law will continue to exist, your Committee finds that the Minnesota Takeover Act version of a takeover law should replace the existing Hawaii takeover law.

Your Committee heard favorable testimony from the Corporation and Securities Administrator of the Department of Commerce and Consumer Affairs, State of Hawaii, and from representatives of Amfac, Inc.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 669, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 669, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Matsuura.  
Senator Kawasaki did not concur.

SCRep. 576 Consumer Protection and Commerce on S.B. No. 926

The purpose of this bill was to require manufacturers of petroleum products to separate themselves from the management of their retail outlet and sell their products only through

their franchisees and independent dealer-owned stations.

Your Committee has amended the purpose of this bill to require retail dispensers of gasoline to post the per gallon price of gasoline on each pump. Your Committee believes that a posting of the per gallon price of gasoline in numbers at least two inches in height should be conspicuously located on the pump so that consumers have a measure of the cost they pay for fuel. And, for any outside sign away from the pump, your Committee added language which would have any sign which indicates the price per liter shall also indicate the price per gallon in numerals and letters of comparable size. The price per liter designation for many people cannot be understood as readily as the price per gallon.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 926, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 926, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.

SCRep. 577 (Majority) Consumer Protection and Commerce on S.B. No. 730

The purpose of this bill is to allow service corporations to charge interest and other charges at the same rate as that charged by industrial loan companies under chapter 408, Hawaii Revised Statutes.

A service corporation is a special type of subsidiary of a savings and loan association and was originally established to handle an association's real estate investments. The subsequent deregulation of the banking industry, led the Federal Home Loan Bank Board (the overseer of savings and loan associations) to permit service corporations to enter into more diverse and varied investments including the making of commercial loans.

Currently, banks and industrial loan companies in the State are allowed to charge up to 24% on commercial loans. State laws, however, do not reflect the deregulations made in federal banking procedures. Consequently, service corporations do not enjoy the higher interest rates charged by industrial loan companies on commercial loans.

This bill remedies this problem by providing uniform commercial loan interest rates for all financial institutions allowed to transact commercial loans under the law.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 730, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 730, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Matsuura.  
Senator Kawasaki did not concur.

SCRep. 578 Consumer Protection and Commerce on S.B. No. 932

The purpose of this bill is to amend Sections 501-101.5 and 502-85, Hawaii Revised Statutes, to provide that the claims or liens upon real estate covered by the agreement of sale shall automatically transfer to the proceeds from the satisfaction of the agreement of sale, in the same priority with respect to other transferred claims or liens and with respect to other claims or liens on such proceeds.

Under current statute, any claim or lien arising out of a conveyance or judgement against the vendor, that is filed or recorded after the filing or recordation of the agreement of sale, attaches to the real estate covered by the agreement of sale. This situation has delayed and even prevented vendees in some cases from obtaining clear title to the real estate after satisfying the agreement of sale.

Your Committee received testimony from Title Guaranty Escrow Services, Inc. and the Escrow Association of Hawaii in support of this bill, noting that this amendment will allow title to pass to the vendee free and clear of all liens recorded subsequent to the agreement of sale, and will enable lienors to have the opportunity to work out the distribution of proceeds after the closing has taken place. Your Committee also received supportive testimony from the Hawaii Financial Services Association and the Hawaii Association of Realtors.

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. 932, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 932, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Matsuura.

SCRep. 579 (Majority) Consumer Protection and Commerce on S.B. No. 961

The purpose of this bill is to close a "loophole" in the interpretation by the Comptroller of the Currency of the definition of a traditional bank and prohibit all in-state and out-of-state bank holding companies and other holding companies from acquiring or controlling nonbank financial corporations.

Your Committee heard from the Department of Commerce and Consumer Affairs and the Hawaii League of Savings Institutions in support of this bill. The Department noted that the Conference of State Bank Supervisors upholds the right of states under the dual banking system to determine the structure of banking institutions within their territorial jurisdiction and to regulate the activities of holding companies which control such institutions.

Currently, there are some holding companies and nonbank financial corporations which claim that institutions chartered and operated as banks are, nevertheless, not banks under the federal Bank Holding Company Act if they either do not accept demand deposits or do not make commercial loans. These companies are seeking to acquire and operate hundreds of chartered banks throughout the country without regard to the prudential limitations contained in Sections 3 and 4 of the Act — including the prohibition in the Douglas Amendment (Section 3(d) of the Act) against interstate acquisitions of banks without authorization. Unless the expansion of nonbank financial corporations is halted, there can be little doubt that the fundamental policies of the Act, which are to prevent the undue concentration of banking resources and commercial activities and to control the interstate expansion of banking institutions, will be severely eroded or destroyed.

Your Committee agrees that the State should oversee and regulate the structure and make-up of its financial institutions and the activities they engage in within the State.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 961, 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 Matsuura.  
Senator Kawasaki did not concur.

SCRep. 580 (Majority) Consumer Protection and Commerce on S.B. No. 1124

The purpose of this bill is to give publicly held companies incorporated in Hawaii the flexibility to restrict or eliminate cumulative voting for the election of directors.

Currently, cumulative voting for directors is mandated for all companies incorporated in Hawaii, and may not be restricted or eliminated by provisions of the articles of incorporation or bylaws. Under cumulative voting, a stockholder has a number of votes equal to the number of shares owned times the number of directors to be elected, but need not cast the votes evenly among the candidates. A single stockholder owning a relatively small percentage of the outstanding stock may cast all of his votes for a single candidate.

One practical effect of the existing cumulative voting requirement with respect to publicly held corporations is that an extremely wealthy stockholder or group of stockholders can cast all votes to elect a director or directors representing that stockholder's or stockholders' special interests rather than the interests of all stockholders. In this way, cumulative voting tends to undermine stockholder democracy in publicly held corporations. In addition, cumulative voting can be used as a tactical device by which an undesired director may be forced upon a board thereby impeding governance of the publicly held corporation.

Another result of cumulative voting not foreseen in 1945 when the existing law was adopted is that hostile takeover bids and greenmail are facilitated by the use of this device. In view of this, a number of Hawaii corporations have been considering reincorporating in states that permit restrictions on cumulative voting. A large number of corporations in recent years have reincorporated in Delaware and other states in order to avoid mandatory cumulative voting requirements. In fact, in 1984, Aloha Airlines incorporated its holding company under the laws of Delaware to avoid cumulative voting as part of an anti-takeover bid strategy. This bill would permit corporations to restrict or eliminate cumulative voting by so providing in their articles of incorporation and/or bylaws.

Your Committee amended this bill to permit restriction or elimination of cumulative voting by only those Hawaii corporations having equity securities registered pursuant to the Securities Exchange Act of 1934, as amended, which are listed on a national securities exchange or traded over-the-counter on the National Market of the National Association of Securities Dealers, Inc. Automated Quotation System. The amendment would clarify which corporations would be subject to this bill.

Your Committee finds that such publicly held Hawaii corporations should be permitted to restrict or eliminate cumulative voting by provision in their articles of incorporation and/or bylaws, to encourage the election of directors who would represent all stockholders in their deliberations, and to discourage the election of a director or directors who would exclusively represent the special interests of only one stockholder or a small group of stockholders rather than the interests of all stockholders.

Your Committee heard favorable testimonies from the Corporation and Securities Administrator of the Department of Commerce and Consumer Affairs, State of Hawaii, and representatives of Amfac, Inc. and Pacific Resources, Inc.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1124, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1124, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Matsuura.  
Senators Kawasaki and McMurdo did not concur.

SCRep. 581      Consumer Protection and Commerce on S.B. No. 1136

The purpose of this bill is to add another ground for the revocation and suspension of a real estate license and to allow the Commission to exercise disciplinary measures against a licensee who violates the chapter while acting on his behalf.

Your Committee received testimony from the Real Estate Commission in support of this bill. This bill provides that a licensee's conversion to his own use of other people's moneys, left in trust with him, shall be grounds for revocation and suspension of the licensee's license. Your Committee finds that if the Commission leaves the prosecution of conversion by licenses to the State, the remedial purpose of existing laws would lose its effect because of the higher burden of proof required in criminal cases as compared to an administrative disciplinary action. In addition, this bill grants disciplinary powers to the Commission to administratively handle problems and violations that come before the Commission whether the licensee is acting in his capacity as a real estate broker, salesman, or on his own behalf. These provisions grant additional authority to protect the general public from the effects of detrimental conversion and maintain the public confidence in the profession.

Your Committee also received favorable testimony from the Hawaii Association of Realtors.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1136 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 582      Consumer Protection and Commerce on S.B. No. 1138

The purpose of this bill is to exempt employees of an investment advisor from the criteria for registration which is required of the investment advisor and to increase the bond requirement from \$10,000 to \$50,000.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs and the International Association for Financial Planning, Inc. in support of this bill. In implementing Act 281, Session Laws of Hawaii 1984, the Department encountered unresolved issues that caused some implementation problems. An attorney general's opinion was obtained by the Department which stated that all persons engaged in giving investment advice must be registered and meet the requirements of bonding, insurance, certified financial statements, net worth and other requirements as laid out in Act 281. This placed a severe hardship on the investment companies, thus, this bill creates a new category of registration similar to salesmen for broker/dealer relationships.

The Department believes the \$10,000 bond requirement is too low, and that a \$50,000 bond for those persons who have custody or discretionary authority over client funds or securities would be more appropriate.

Your Committee adopted the Department's recommendation and has amended page 24, line 17 by deleting the period after the word "advisor" and adding the clause "who have custody of or discretionary authority over client money, securities, or other assets."

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1138, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1138, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.

SCRep. 583      Consumer Protection and Commerce on S.B. No. 1178

The purpose of this bill is to amend Chapter 467, Hawaii Revised Statutes, to provide an exemption to the statutory requirement that a person have a real estate broker or salesmen license when managing, renting, or operating a hotel.

A Committee, comprised of representatives from the Hawaii Association of Realtors, the Hawaii Hotel Association, the American Society of Travel Agents, the Institute of Real Estate Management, and others, concluded that the licensing of sole proprietors, partnerships, and corporations, operating, managing, or renting condominiums/hotel units minimizes any damage caused by such business' mismanagement or mishandling. They found that the injured condominium owner or consumer could be compensated for his damages through other means such as the Real Estate Recovery Fund or the bond required by this bill.

With the exception of the Consumer Housing Task Force, there was general support of the bill from the Real Estate Commission, the Hawaii Association of Realtors, and the Hawaii Hotel Association. However, the Hawaii Hotel Association expressed concerns that the language in the present bill is unclear and recommended an amendment.

Your Committee agreed to changes as recommended by the Hawaii Hotel Association which are as follows:

- (1) Page 1, line 10, change "and" to "or"; and
- (2) Page 3, line 12, change "and" to "or".

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 S.B. No. 1178, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1178, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 584      Judiciary on S.B. No. 7

The purpose of this bill is: (1) to clarify that only those born in the State need report the order to the Registrar of Births, (2) to remove the time limit for such reporting, and (3) to increase the filing fee which accompanies a petition for a name change and make this filing fee non-refundable.

Your Committee received testimony from the Office of the Lieutenant Governor of Hawaii and the Department of Health in support of this bill. Under present law, all petitioners, regardless of the petitioner's place of birth, are required to record the name change order with the Bureau of Conveyances and report it to the Registrar of Births within 60 days after the signing of the order. Consequently, the Department of Health is inundated with orders of persons born outside the State's jurisdiction. However, the Registrar is empowered to only issue new birth certificates for those born in Hawaii. Unnecessary labor is created for the department's staff by the present law.

Your Committee finds that an increase in the filing fee from \$5 to \$10 will reflect the current costs incurred in the processing of name change documents by the Lieutenant Governor's Office. By making the fee non-refundable, the Office of the Lieutenant Governor will not have to reimburse petitioners after processing is completed, should the petitioner have a change of mind.

Your Committee amended the bill to correctly refer to the Department of Health's office which handles these documents as the "State Registrar" and not the "Registrar of Births." Your

Committee also revised the bill to correct an error in drafting which would not have imposed a time limit on reporting the name change to the State Registrar. Finally, it made technical, nonsubstantive amendments to the bill for clarity.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 7, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 7, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Abercrombie and Aki.

SCRep. 585            Judiciary on S.B. No. 688

The purpose of this bill is to amend Chapter 507, Hawaii Revised Statutes, allowing an architect or engineer to file and claim a lien on a property when no visible commencement of operation occurs subsequent to the rendering of professional services for the improvement of the property.

This bill requires that a notice of presentation of plans or documents be published and filed not less than 120 days nor more than 190 days after the actual presentation of the plans or documents to the county building department. After the publication and filing of the notice of presentation of plans or documents with the office of the clerk of the circuit court where the property involved is situated, the architect or engineer has forty five days to file his application for a mechanic's lien.

Single family detached residences are specifically exempted from the provisions of this bill relating to the filing of mechanic's lien prior to the visible commencement of activity on the improvement site.

Your Committee received testimony from the Hawaii Society of the American Institute of Architects, Dennis Toyomura (F.A.I.A.), E.D. "Red" Phillips (A.I.A.), and Arthur A. Kohara (A.I.A.) in support of this bill. Testimony indicated that this bill would provide a measure of equality and recourse for the architect or engineer for services performed through design plans and documentation. Presently design professionals are excluded from the protection of the mechanic's and materialman's lien laws.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. 688 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 and Aki.

SCRep. 586            (Majority) Labor and Employment on S.B. No. 1171

The purpose of this bill is to provide that the construction, interpretation, and administration of the civil service and compensation statutes shall be uniform among the State and the various counties. The bill also provides that an opinion by the attorney general takes precedence over any county attorney's or corporation counsel's opinion.

Currently, the statutes provide that uniform interpretation is the intent of the legislature, and that a question raised by a county may be submitted to the circuit court for a declaratory judgment at the request of the county attorney, corporation counsel, or the attorney general. This bill would make uniform interpretation mandatory and establish the attorney general's opinion as controlling.

Your Committee heard testimony by the Director of Personnel Services and the Hawaii Government Employees Association and finds that this bill would have several beneficial effects which would be in the public interest.

First, uniform rules and interpretations would facilitate the development of consistent provisions and reduce inconsistent application thereof. Second, uniform effective dates of rules would reduce the current lag time between adoption of a rule from one jurisdiction to another. The current lag averages from a few months to a year. Third, uniform rules would lead to a uniform format which would aid in locating common rules rather than requiring a complete search of each jurisdiction's personnel manual to assure consistent language and method of application. Finally, uniform rules could result in cost savings, if each jurisdiction shared the cost of publishing the new personnel rules and regulations and subsequent amendments thereto.

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

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 1171, as amended herein, and recommends that it pass Second Reading in the form attached

hereto as S.B. No. 1171, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.  
Senator Abercrombie did not concur.

SCRep. 587      Labor and Employment on S.B. No. 78

The purpose of this bill is to repeal Part II of Chapter 378, Hawaii Revised Statutes, and to add a new Part II permitting the use of various lie detector tests under certain conditions.

Currently, Part II 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 and provides for a fine of not more than \$1,000 or imprisonment of not more than one year, or both; however, fines are assessed only in the event of criminal prosecution. This bill provides a remedy for the aggrieved party and for civil and criminal penalties for each violation, and authorizes the Attorney General or the county prosecutors to take civil and criminal actions.

Your Committee heard testimony by the Department of Labor and Industrial Relations, the Honolulu Police Department, ILWU Local 142, the Hawaii Food Industry Association, the Hawaii Automotive and Retail Gas Dealers Association, and several businesses and polygraph examiners, and finds that though there is serious doubt as to the accuracy of lie detectors, an employee's or applicant's job prospects, continued employment, or even reputation is dependent on test results if such a test is administered. This bill would provide the safeguards necessary to protect the public from indiscriminate or illegal use of such tests.

After further considering the testimony presented by the Honolulu Police Department, your Committee has amended the bill by excepting psychological tests administered to a candidate for law enforcement employment from the provisions of the statute. Your Committee has also made technical amendments which have no substantive effect.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 78, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 78, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 588      Labor and Employment on S.B. No. 484

The purpose of this bill is to amend various portions of Chapters 76, 80, and 83, Hawaii Revised Statutes, in order to clarify existing statutes, keep statutes current, and provide reasonable flexibility in making non-policy changes on a timely basis.

Specific amendments are as follows:

- (1) Section 76-23 is amended to clarify that methods of comparing or rating applicants, such as written tests, may be used by the appointing authority in a non-competitive promotion.
- (2) The provisions of Section 76-40 are consolidated into Section 76-25, and Section 76-25 is amended to provide candidates who are on a reemployment list with benefits similar to those on a recall list.
- (3) Section 76-30 is repealed, and the provisions therein relating to resignations are incorporated into Section 76-28.
- (4) Section 76-36 is amended by deleting references to exchanges of employees between governments because Chapter 83, Hawaii Revised Statutes, addresses this subject. Proposed amendments to Section 83-1 are intended to accomplish consolidation of similar statutes.
- (5) Amendments are made to Section 76-41 to enhance flexibility and reflect current conditions, and Section 76-40 relating to reallocation of incumbent positions is repealed.
- (6) Section 80-4 is updated and amended by substituting more concise language for the purpose of clarification. The first change is to clarify that the limitation to overtime for those in the Excluded Managerial Compensation Plan is to be the same as those in the white-collar pay plan. The second change adds clearer language regarding the pay and leave status of employees when a holiday falls on Saturday or Sunday. The last change to Section 80-4 relates to the maximum number of hours of work for firefighting employees.

Your Committee heard testimony by the Director of Personnel Services and finds that the



proposals in this bill are necessary to clarify and update the statutes to reflect current conditions and procedures and to allow flexibility without having to resort to substantive policy changes.

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

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 484, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 484, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 589            Labor and Employment on S.B. No. 489

The purpose of this bill is to delete the term "excluded" from chapter 89C and section 77-13.5, Hawaii Revised Statutes, and substitute therefor the word "non-bargaining".

According to testimony presented by the Director of Personnel Services, a positive group identification among employees who are outside the scope of bargaining unit membership will balance the strong emphasis that chapter 89 gives to collective bargaining. A large and important segment of this group represents the employer as managers and administrators, or is part of the management team by virtue of the confidential and integral nature of the support it provides to the management process. Moreover, in the private sector the terms "bargaining" and "non-bargaining" have already been adopted and appear to be strengthening the sense of team membership and identification among management and management support employees.

After considering the facts and testimony, your Committee finds that non-bargaining employees are part of the management team and should have a positive attitude towards their roles. This bill represents an important step towards heightening team awareness among managers and their support staff, which in turn should serve the public interest by facilitating the business of public government.

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

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 489, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 489, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 590            Labor and Employment on S.B. No. 653

The purpose of this bill is to provide for noncharging of base period employer accounts for unemployment insurance benefits when a claimant had more than one base period employer and an employer is not responsible for the claimant's unemployment. Employers, other than the most recent, would not be charged if the claimant left work voluntarily without good cause, was discharged for misconduct connected with work, or left work voluntarily for good cause not attributable to the employer.

Under the current law, all base period employers' reserve accounts are charged for any benefits paid regardless of the reasons for separation. Claimant's benefits are based on wages paid by base period employers, and all employers in the base period share in the benefit cost in proportion to the wages paid. This bill proposes to return to the pre-1976 status of non-charging benefits depending on the reasons for separation.

Your Committee heard testimony by the Department of Labor and Industrial Relations, the Hawaii Business League, unions, and businesses, and finds that the current method of charging all base period employers, regardless of the claimant's reason for separation, places an arbitrary financial obligation on those employers who were innocent of the claimant's unemployment. This bill protects such employers from having to absorb an additional financial burden merely because of an employee's frivolous, capricious, or irresponsible attitude towards the employer-employee relationship.

After further considering the testimony of the Department of Labor and Industrial Relations, your Committee finds that the current method of charging all base period employers regardless of the claimant's reason for separation was necessitated by a severe drain on the reserve fund in the middle 1970's caused by the then current practice of not charging employers from whom the claimant was separated for disqualifying reasons. Therefore, with the intent to preserve the integrity of the fund and at the same time protect good faith employers from onerous

charges, your Committee has amended the bill to provide that the method of charging and noncharging contained therein shall only apply to those years in which the reserve balance is at or above the adequate reserve level, as determined by the Department.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 653, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 653, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 591            Labor and Employment on S.B. No. 861

The purpose of this bill is to exempt services performed by outside salesmen from the employee benefits provided by the wage and hour law, the employment security law, the workers' compensation law, and temporary disability insurance. An outside salesman is defined as a salesman who is customarily and regularly engaged away from his employer's place or places of business and whose hours of work of a nature other than outside sales do not exceed forty percent of the hours worked in the workweek by non-exempt employees of the employer.

Your Committee considered the testimony presented by the Department of Labor and Industrial Relations, the Hawaii Association of Realtors, the Hawaii Business League, and others, and finds that outside salesmen, as provided in this bill, are independent contractors. These people are presently exempted from the wage and hour law, but not from the employment security law, workers' compensation, or temporary disability insurance. This bill would provide a measure of consistency under the employer-employee statutes by exempting outside salespersons from employee benefits in accordance with their functions as independent contractors.

After full consideration of the facts and testimony, your Committee has amended the bill by adding service performed by mortgage solicitors to the exclusions under the employment security law and temporary disability insurance and by deleting the section relating to the wage and hour law and workers' compensation. Your Committee finds that mortgage solicitors, like real estate and other outside salespersons, are independent contractors and should fall under the exclusion provided by this bill, and that outside salespersons are already excluded from the wage and hour law.

Your Committee has further amended the bill by providing that an outside salesman must be remunerated solely by way of commissions in order to come under the exclusives, in order to be consistent with current provisions relating to insurance, real estate, and vacuum cleaner salespeople, and travel agents.

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

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 861, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 861, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 592            Labor and Employment on S.B. No. 882

The purpose of this bill is to provide that tips and gratuities paid to an employee, as well as wages, be included in calculating the employee's weekly wages to determine unemployment compensation benefits.

Currently, tips and gratuities which are paid directly by a customer to a worker are considered wages for unemployment purposes only if they are reported to the employer to meet minimum wage standards. Tips reported to an employer for federal tax reporting purposes are excluded in computing the individual's entitlement to benefits.

Your Committee finds that this bill is in accord with the basic objective of the unemployment insurance program to provide benefits to qualified unemployed individuals based on all remuneration for services rendered.

Your Committee has amended the bill by providing for an effective date of January 1, 1986 to conform to the Federal Unemployment Tax Act (FUTA) which will include tip income reported to the employer for purposes of FUTA effective that date. The bill has been further amended to make technical changes which have no substantive effect.

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

No. 882, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 882, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 593            Labor and Employment on S.B. No. 1101

The purpose of this bill is to statutorily provide a definition of the term "accident" in relation to claims for service-connected total or occupational disability retirement under the Employees' Retirement System.

Under current practice, the Employees' Retirement System requires that an "accident" causing injury must be a result of an unusual strain or effort or unusual conditions in order for a disability claim to be approved. This bill provides that the term "accident" means an unlooked for mishap or untoward event which is not expected or designed. No showing of unusual strain or effort or unusual conditions would be required.

Your Committee finds that the Retirement System's interpretation of the word "accident" was not intended by the Legislature in enacting sections 88-77 and 88-79, Hawaii Revised Statutes. This bill would protect the disability retirement rights of accidentally injured members and reflect the true intent of the disability legislation.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 1101 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 594            Labor and Employment on S.B. No. 1102

The purpose of this bill is to provide that appeals from decisions made by the Board of Trustees of the Employees' Retirement System on a disability retirement application shall be heard by the Labor and Industrial Relations Appeals Board.

Current law provides for an appeal of decisions of the Board of Trustees to the circuit court. This bill would allow employees who are not satisfied with the decision of the Board to appeal a decision to the Labor and Industrial Relations Appeals Board rather than to circuit court and make it a de novo appeal.

Your Committee received testimony by the Secretary of the Employees' Retirement System, the Hawaii Government Employees Association, the Department of Civil Service of the City and County of Honolulu, and James A. King, a private attorney, and finds that this bill will place disability retirement appeals before a board which is well qualified to do such work and, to a significant extent, will reduce the workload of the circuit courts. Your Committee further finds that under this bill an appeal from the Labor and Industrial Relations Appeals Board will go directly to the Supreme Court, thus attaining judicial efficiency as well as equity and fairness to members of the System.

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

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 1102, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1102, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 595            Labor and Employment on S.B. No. 1335

The purpose of this bill is to allow police officers to retire under a service-connected occupational disability in the event of incapacitation due to smoke inhalation and related injuries.

Act 191, Session Laws Hawaii 1976, provided that in the case of fire fighters and sewer workers, the effects of the inhalation of smoke, toxic gases, chemical fumes, and other toxic vapors on the heart, lungs, and respiratory system shall, for the purpose of determining occupational disability retirement, be construed as an injury received or disease contracted while in the performance of duty and as the result of some occupational hazard.

However, Act 191 inadvertently omitted police officers. This bill would correct this unintentional error and afford police officers the same benefits as fire fighters and sewer

workers.

Your Committee heard testimony by the Secretary of the Employees' Retirement System, the Honolulu Police Department, and the State of Hawaii Organization of Police Officers, and finds that police officers are usually the first to arrive at the scene of such emergencies and are often exposed to injury resulting from smoke inhalation, toxic gases, chemical fumes, and other toxic vapor. Your Committee finds that police files indicate that in the past ten years, sixty-seven officers were decorated by the Chief of Police for entering burning buildings to save victims overcome by smoke inhalation, and exposing themselves to the same dangers. This bill would correct an inequity in the law at either low or minimal cost or no cost to the Employees' Retirement System.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 1335 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 596            Consumer Protection and Commerce on S.B. No. 195

The purpose of this bill is to amend Section 464-8, Hawaii Revised Statutes, on the qualification for registration of professional engineers and architects.

This bill requires a graduate of a 4-year engineering curriculum to have 4 years of full-time experience instead of 3 years to qualify for registration; allows a graduate of a 4-year engineering technology curriculum with 8 years of full-time engineering experience to qualify for registration; deletes passing of the qualifying written examination as a requirement for architect registration; and makes several technical changes which have no substantive effect.

Your Committee finds that Hawaii is presently one of two states which require a graduate of a 4-year engineering degree to have only 3 years of full-time experience to be eligible for registration. The increase from 3 to 4 years of experience would conform with the experience requirements of other states.

Your Committee notes that currently, registration for professional engineers requires that a person either have an engineering degree and 3 years of full-time experience, or instead of the degree, 12 years of full-time experience. A graduate with an engineering technology degree is, therefore, ineligible for registration until he has fulfilled the 12 years full-time experience requirement. This bill will allow a person with an engineering technology degree and 8 years of full-time experience to apply for registration as a professional engineer.

Your Committee received testimony from the Board of Registration of Professional Engineers, Architects, Surveyors, and Landscape Architects, which stated that for a number of years the Board used the uniform national architect examination prepared by the National Council of Architectural Registration Boards (NCARB) as its basis for registration of architects. In June 1983, the NCARB changed the examination format by eliminating the qualifying examination and implementing a new single professional examination called the Architectural Registration Examination (ARE). All states currently use the uniform ARE for registration of architects.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 195 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Matsuura, Henderson and A. Kobayashi.

SCRep. 597            Consumer Protection and Commerce on S.B. No. 197

The purpose of this bill is to remove the requirement that the executive secretary for the Motor Vehicle Repair Industry Board have knowledge of and experience in the repair of motor vehicles.

In 1983, functions of the regulatory boards in the Department of Commerce and Consumer Affairs went through a major change. The complaint-screening, resolution, and investigative duties of the executive secretaries were transferred to the department's Regulated Industries Complaint Office (RICO). Consequently, executive secretaries have been re-assigned to additional boards. Under this new complaint-handling procedure, the executive secretary will have knowledge of a complaint only after a case is heard by a hearings officer and the hearings officer presents the findings and recommendations to the board.

Because the executive secretary serving the Motor Vehicle Repair Industry Board no longer

investigates complaints, the Board feels that it is not essential for the executive secretary to have knowledge and experience in repairing motor vehicles. There are three industry members with mechanic backgrounds who can contribute to the Board's deliberations on technical matters and an executive secretary with a good administrative background can serve the board effectively.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs' Professional and Vocational Licensing Division and the Motor Vehicle Repair Industry Board in support of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 197 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 Kawasaki, Matsuura, Henderson and A. Kobayashi.

SCRep. 598            Consumer Protection and Commerce on S.B. No. 202

The purpose of this bill is to provide the Director of Commerce and Consumer Affairs with the authority to set fees collected by the Board of Medical Examiners.

Currently, all fees collected by the Board are set by statute.

This bill provides the Board, via rules adopted by the Director, the flexibility to set fees at levels sufficient to cover expenditures. The bill also allows separate application, examination, and license fees, as well as separate fees for licensure by endorsement and limited and temporary licenses.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 202 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 Kawasaki, Matsuura, Henderson and A. Kobayashi.

SCRep. 599            Consumer Protection and Commerce on S.B. No. 1175

The purpose of this bill is to preclude the continuous refinancing of balloon payments on terms no less favorable to the buyer than terms contained in the original credit sale contract.

Your Committee heard favorable testimony from the Office of Consumer Protection and Commerce. However, the Department stressed concern that the bill permits the seller to shorten the time for payment of the amount refinanced to a term which is significantly less than the time for payment allowed in the original contract.

Your Committee worked out a compromise amendment acceptable to the Office of Consumer Protection and Commerce, and amended the bill by adding the phrase "which shall not be less than the term of the original contract." after the word "refinanced," on page 2, line 2.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1175, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1175, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.

SCRep. 600            Consumer Protection and Commerce on S.B. No. 1239

The purpose of this bill is to allow the Department of Commerce and Consumer Affairs' Division of Consumer Advocacy to retain legal counsel without the prior approval of the Attorney General.

Presently, the Division is not precluded from hiring its own attorneys, although the Attorney General must approve expenditures for outside legal counsel not exempted in section 103-3, Hawaii Revised Statutes. The Division is staffed by two deputy attorneys general assigned by the Attorney General. Historically, the turnover rate among the Division's Attorneys has been high resulting in a relatively inexperienced staff.

This bill provides the Division with the flexibility to not only attract more qualified staff attorneys, but to also provide the incentive for them to continue with the Division. This bill

will also serve to better inform Public Utilities Commissioners on the pertinent issues and problems facing the commission and to assist them in their decision-making process.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1239 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 601            Consumer Protection and Commerce on S.B. No. 1270

The purpose of this bill is to require disclosure of the agency relationship of a real estate broker to the buyer and seller in a real estate transaction.

Presently, there is confusion and misunderstanding among the users of real estate brokerage services about the agency relationship and the duties of brokers to their principal and to other parties.

This bill would eliminate consumer misunderstanding by requiring disclosure of the agency relationship to both seller and buyer.

Your Committee finds that confusion among users of real estate brokerage services as well as among licensees regarding agency relationships could lead to great customer dissatisfaction, misunderstanding, and legal dispute. Your Committee further finds that there is a need to clarify the agency relationships since buyers and sellers can suffer liability and damages caused by the acts of their agents even though the agency relationship was not understood.

Your Committee has adopted recommended changes offered by the Real Estate Commission by amending the bill as follows:

- (1) On page 1, line 9: changed "July 1, 1987" to "January 1, 1988";
- (2) On page 4, line 9: item (12) language completely rewritten; and
- (3) On page 5, line 13: changed the effective date to January 1, 1988.

These amendments provide for a grace period before imposing sanctions to educate licensees and to develop forms to accommodate the disclosures. The language of the amendment was also changed to make it more precise.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1270, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1270, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 602            Consumer Protection and Commerce on S.B. No. 1271

The purpose of this bill is to require owner-builders or lessees who build on or improve their property and qualify for an exemption under Section 444-2, Hawaii Revised Statutes, to register for the exemption.

In recent years, especially on the neighbor islands, there has been an increase in the number of homes being constructed by "homeowner-builders". The homeowner in these cases, is aware that the home was self-built and must suffer the consequences for any defects or deficiencies in construction due to his own actions.

Many homeowner-builders who are not contractors construct several homes over a period of time, selling their home while building another. The purchaser of these homes is usually not aware that the home was built by a homeowner acting as his own contractor, and if defects arise, the purchaser may not have any means of obtaining remedies. Even more serious would be a situation where the purchaser or his guest is injured because of defective workmanship or use of inappropriate material.

This bill would not therefore take away the right of a homeowner to act as his own contractor, but merely require the homeowner to register for the building exemption.

The bill also requires the counties to maintain a list of all owner-builders in their jurisdiction registered for the exemption. This list would assist government agencies in tracking down owner-builders that circumvent the intent of the exemption, as well as serve as a means by

which a potential buyer may obtain information as to whether the house he intends to purchase was built by an owner-builder.

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. 1271, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1271, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 603 (Majority) Consumer Protection and Commerce on S.B. No. 1274

The purpose of this bill is to provide the Real Estate Commission (REC) with the flexibility and the means to carry out its educational mandate under Section 467-19, Hawaii Revised Statutes, by amending Chapter 467, Hawaii Revised Statutes, in the following manner: reallocation of the amount deposited in the Real Estate Education Fund from \$5 to \$20 for each original license issued by the Department of Commerce and Consumer Affairs (DCCA) and from \$10 to \$20 for each biennial renewal of a real estate license, and providing for a temporary moratorium on such renewal contributions and a commission review of licensee contributions if the Real Estate Education Fund balance exceeds \$1,200,000 at the end of any given fiscal biennium.

Testimony submitted by the REC summarized the findings and recommendations of its research consultants contracted to review the real estate regulatory and educational functions in response to Senate Resolution 158 (1984) and House Resolution 389, H.D. 1 (1984). Both resolutions directed the REC to consider the need for increasing support for the REC's Five Year Education Plan and/or the establishment of a Hawaii Real Estate Research and Education Center. Both activities were in direct response to the result of a 1980 mail-out survey that indicated that a major concern of licensees were for more educational and information services.

Your Committee received testimony from the REC that it developed a 5-year Education Plan in 1981-82 for the State's 22,000 real estate licensees expanding the scope of its educational and informational activities as evidenced by the Real Estate Education Fund expenditure rising from \$113,717 in fiscal year 1981-82 to \$347,765. In August 1984, the REC testified that it had approved a creation of a Hawaii Real Estate Research and Education Center that would be delegated many of the educational functions now performed by the REC. The REC further testified that the Real Estate Education Fund, with the creation of such a center would reach an estimated annual fund expenditure of \$483,000.

Your Committee duly noted the REC's testimony that with a continual annual projected expenditure of \$483,000 within 4 years the fund balance would decline from \$1,000,000 to \$63,478 resulting in the REC being unable to fund an education program for licensee and consumers as mandated by Section 467-19, Hawaii Revised Statutes. The REC explained that the projected erosion of the education fund is due primarily to the discrepancy between the value of the education services received by licensees which is \$21.68/licensee in contrast to the proportionate amount of license fees that is presently allocated to the real estate education fund amount.

The present allocation of the education fund is \$5 of the initial total \$50 license fee deposited in the Real Estate Education Fund; and \$10 of the total \$50 fee for each biennial renewal deposited in the education fund. Thus, your Committee agrees with the REC that the reallocation of revenue as proposed by the bill will enable the education fund balance to be maintained at a level for the REC to carry out its statutory educational mandate while providing a procedural safeguard against the accumulation of unnecessary large sums in the Real Estate Education Fund.

Your Committee also received testimony from the Hawaii Association of Realtors in support of this bill.

Your Committee agrees with the method proposed as a direct means of generating the additional revenues needed to support the REC's educational activities while ensuring that the Real Estate Education Fund balance does not exceed the level required for those purposes. Your Committee has amended the bill to conform to the amount specified in the testimony and report submitted in response to the 1984 Senate and House resolution. Thus, items (1) and (2) of Section 467-11 on page 1 have been changed by deleting "\$10" and substituting "\$20".

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1274, as amended herein, and recommends that it pass Second Reading in

the form attached hereto as S.B. No. 1274, 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. 604            Consumer Protection and Commerce on S.B. No. 1366

The purpose of this bill was to amend the statutes regulating dentists and doctors to provide immediate, automatic, and permanent revocation of a license to practice if the licensee is convicted, whether by nolo contendere or otherwise, of any violation of Section 346-43.5, Hawaii Revised Statutes, relating to medical assistance fraud or of 42 U.S. Code Section 1395nn or Section 1396h of the federal Social Security Act relating to Medicare or Medicaid fraud.

Your Committee received testimony from the Department of the Attorney General that the present law does not allow the Boards of Dental or Medical Examiners to utilize the conviction of Medicaid fraud as a ground to either suspend or revoke the license of the convicted licensee. The Board of Dental Examiners, for instance, may use Section 448-17(10) which provides suspension or revocation for "false or fraudulent representations, obtaining or seeking to obtain practice or money or any other thing of value", to institute proceedings against the licensee. Thus, a re-litigation must take place at an administrative hearing after a "beyond a reasonable doubt" conviction has already taken place. This is costly and duplicative. The Department noted that this bill should apply to other health care providers, and not be limited to dentists and medical doctors.

Your Committee has adopted the Attorney General's recommendation and has added the penalty provisions to the following chapters regarding health care providers: chiropractic, naturopathy, dispensing opticians, optometry, osteopathy, pharmacy, podiatry, and psychology.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1366, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1366, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.

SCRep. 605            Agriculture on S.B. No. 344

The purpose of this bill is to amend the procedures for imposing penalties to give alleged violators of Chapter 147, Part I, Hawaii Revised Statutes, and rules adopted pursuant thereto, the option to waive the right to a formal hearing.

Presently, a hearing is required before administrative penalties can be imposed for violation of Part I of Chapter 147, Hawaii Revised Statutes, and any rules adopted pursuant thereto. Your Committee received testimony from the Board of Agriculture favoring the proposed amendment because there may be instances when the proposed penalty is minimal or the alleged violator will admit guilt, making a formal hearing unnecessary or not worth the cost.

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

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 344, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 344, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 606            Agriculture on S.B. No. 14

The purpose of this bill is to strengthen the Plant and Non-Domestic Animal Quarantine law, Chapter 150A, Hawaii Revised Statutes, by making possession of prohibited plants and animals, in addition to the importation thereof, unlawful; to clarify the enforcement authority of plant quarantine inspectors; and to make technical changes which have no substantive effect.

Your Committee received testimony from the Board of Agriculture stating that the number of prohibited plants and animals being brought into the State has been ever increasing. This is partly attributable to a lax and unclear law. Presently, the law does not adequately address illegal possession of plants and animals. This bill will address these concerns.

The testimony from the Board of Agriculture further stated that this bill will clarify the enforcement provisions, which are obscure or inadequately covered in the current law. This bill



will amend Chapter 150A by providing for the enforcement authority of plant quarantine inspectors to issue citations and summons; provide a penalty for violation of certain sections of the law; and provide a penalty for failure to obey a summons issued by an inspector.

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

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 14, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 14, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 607 (Majority) Labor and Employment on S.B. No. 292

The purpose of this bill is to prohibit discrimination in public employment on the basis of a person's sexual orientation. Sexual orientation is defined as the choice of a sexual partner or partners of either the same or different sex as that of the person making the choice.

Your Committee heard testimony from many sources including the Department of Labor and Industrial Relations, the Department of Education, the Office of Affirmative Action, the Sexual Identity Center, the American Civil Liberties Union, ministers, and private citizens, and finds that arbitrary discrimination against any group, class, or individual on the basis of sexual preference is a threat to the basic American principles of civil liberty and freedom of choice and should be prohibited. This bill represents a positive step toward eradicating sexual discrimination.

Your Committee wishes to note a concern expressed by the Department of Education that the language of the bill may interfere with the Department's ability to discipline a teacher who attempts to induce a student towards a particular sexual orientation, in violation of the Board of Education's policy requiring equal presentation on issues. This bill is not intended to intrude upon the Board's authority to enforce its own policies.

Your Committee has amended the bill by deleting the definition of sex, which is already adequately defined in state rules. Your Committee has also amended the bill by deleting gender references and making technical changes which have no substantive effect.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 292, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 292, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.  
Senator Cobb did not concur.

SCRep. 608 Education on S.B. No. 732

The purpose of this bill is to specifically include the services of licensed psychologists within the health related services provided to exceptional children in public schools under Section 301-27, Hawaii Revised Statutes.

Although "mental health services" are presently included in the health related services available under Section 301-27, your Committee finds that the specific inclusion of the services of a licensed psychologist are needed to address the concerns expressed by the educational community.

This bill reaffirms your Committee's concerns and commitment to address the mental health problems of exceptional children and to encourage and support all efforts by both Departments of Education and Health to assist our exceptional children as necessary. Therefore, your Committee has amended the bill by amending Section 321-74 to insure the services of a licensed psychologist are included in the screening of children in need of professional mental health services.

Your Committee has also 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. 732, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 732, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 609

Health on S.B. No. 775

The purpose of this bill is to provide that anyone who disposes of litter in a public place or on private property must do so with the written consent of the property owner in order to avoid conviction for criminal littering under the penal code.

Various courts have construed the present law as imposing the burden on the prosecution to establish that there was no consent by having the property owner testify. Testimony submitted by the City Prosecutor's office stated that this creates an insurmountable task. Your Committee finds that no competent property owner would intentionally allow the property to be littered, and that the intent of this bill is to avoid the necessity of requiring an owner's testimony in court to prove lack of consent.

Upon further consideration and upon the advice of the City Prosecutor's Office, your Committee finds that merely adding the word "written" to modify the word "consent" under section 339-4, Hawaii Revised Statutes, will not solve the problem because the prosecution would then have to prove that there was no written consent. Therefore, your Committee has amended the bill by deleting the substance and inserting an amendment to section 708-829, Hawaii Revised Statutes, making the owner's permission an affirmative defense to the charge of criminal littering.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 775, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 775, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 610

Government Operations on S.B. No. 1118

The purpose of this bill is to allow liquor license fees collected or received by any liquor commission to be used for education programs, such as those relating to the enforcement of liquor and liquor-related laws, alcohol education and rehabilitation, and the prevention of crimes involving the use of alcohol.

Your Committee finds that consumption of alcohol burdens the community and government. The cost to individuals and to society are staggering when measured in terms of injuries and deaths resulting from drunk driving, reduced productivity in business and industry due to alcoholism, spouse and child abuse related to intoxication and teenage alienation, aimlessness and delinquency connected with drinking. Such concerns could be minimized by providing a comprehensive prevention program funded by liquor license fees.

Your Committee finds that it is no longer sufficient to directly control and regulate the sale of liquor, which is the main and present purpose of our liquor commissions. Control needs to be exerted also through effective substance abuse education in the schools, rehabilitation programs which help individuals to control their consumption, and by law enforcement that provides disincentives to alcohol overconsumption. Because these kinds of programs supplement and complement the existing functions of the liquor commissions, enabling the liquor commissions to support or provide such programs is appropriate.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1118 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 Kuroda and Soares.

SCRep. 611

Government Operations on S.B. No. 1337

The purpose of this bill is to provide that the mayor shall be the deputy director of civil defense in his respective county and to clarify the language on the management and leadership of civil defense and local organizations for civil defense.

Currently, the law does not provide for the appointment of a mayor of a county as a deputy director. Your Committee finds that the mayor has access to county resources in the event of an emergency and would be best able to fill the position of a deputy director. This bill changes the appointment system of the Governor's Civil Defense Advisory Council and provides that the director of civil defense or deputy director shall be authorized to delegate the powers to any agency or person to whom the governor could delegate these powers. Your Committee finds that by allowing the mayors to appoint their own council members, the mayors insure that their respective members will be involved in county civil defense matters and problems.

Your Committee finds that the proposed amendments clarify the existing language with

respect to civil defense and the management and leadership of civil defense and local organizations for civil defense, and are necessary for an effective civil defense.

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

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1337, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1337, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kuroda and Soares.

SCRep. 612      Government Operations on S.B. No. 160

The purpose of this bill is to amend existing statutes relating to interdepartmental committees to provide for agency participation through "designated representatives."

Currently, there is no provision for a designated representative in the event a statutory designated committee member cannot be present at a meeting. Testimony submitted by the Governor's Agricultural Coordinating Committee, the Department of Land and Natural Resources, and the Department of Planning and Economic Development indicated that the proposed amendment will provide for continued participation by the member agencies in the absence of primary committee members (directors, chairpersons, etc.) through the use of designated representatives. This bill will allow the primary members to determine, on a case-by-case basis, the most efficient use of their staff and time.

Your Committee finds that in some instances designated representatives would be able to add more technical knowledge to a particular subject area. Therefore, primary committee members would still have a clear, relevant and informed picture of the activities of the "committees" even if they are unable to attend each meeting.

Your Committee has amended the bill by inserting the titles of the permitted designees and clarifying that the designees for the Hawaii Fisheries Coordinating Council like the Council members shall not change.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 160, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 160, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kuroda and Soares.

SCRep. 613      Government Operations on S.B. No. 9

The purpose of this bill is to permit the Director of Finance of the various counties the authority to approve the payment for goods and services earlier than thirty days after receipt of the billing. The bill also provides that the requirement that interest be paid on all bills paid after forty-five days of receipt of the statement shall not apply when the interest is less than \$5 or when payments are made from a petty cash fund.

Currently, only the State Comptroller is authorized to approve payments prior to expiration of the thirty day limit set by statute, although the limitation applies to all counties as well as the State. Your Committee finds that it is inappropriate and impracticable to expect the Comptroller to be granting exceptions for payment of county expenditures. Therefore, your Committee believes the authority to grant exceptions to the thirty day rule should be granted to the Finance Director of the counties as well as the State Comptroller.

Your Committee also finds it expensive and burdensome for the State and counties to be required to pay interest on all late payments regardless of the amount of interest paid. Therefore, your Committee approves the provision to eliminate interest on late payments if the interest to be paid is less than \$5.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 9 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 Kuroda and Soares.

SCRep. 614      Government Operations on S.B. No. 1179

The purpose of this bill is to amend Section 93-12, Hawaii Revised Statutes, to give the Governor the authority to waive annual report requirements and to eliminate duplication of

information in annual reports wherever such duplication exists.

Presently, the law does not allow any waiver or consolidation of annual reports prepared for state agencies.

This bill enables the Governor to exercise some discretion in administering Executive Branch annual report requirements, waive annual report requirements in instances when other acceptable reports are available or when reports are no longer pertinent for program reporting purposes, and consolidate annual reports when feasible.

Your Committee finds that the proposed amendments would cut down the number of annual reports published and the duplication of information in these reports would be less repetitive. Your Committee believes that this information can be provided in a more cost effective manner, to improve the management of paperwork in the State government system.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1179 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. 615            Government Operations on S.B. No. 1299

The purpose of this bill is to expand the functions of the County Liquor Commissions so that they may enlist the liquor industry to participate in education programs for licensees, financed by them, to complement existing educational programs offered by public and private agencies.

Your Committee finds that most education programs offered by public and private agencies are aimed at the users and potential users of alcohol. None of the programs are aimed at the licensees, their employees, the retail store operator, the restaurant manager, the bartender, the waitresses and hostesses and others who actually sell and serve alcoholic beverages.

This bill would enable the County Liquor Commissions to enlist the assistance of the liquor beverage industry in the educational effort to reduce the problem of alcohol misuse and alcoholism by controlling liquor at the point of sale and consumption.

Your Committee has amended the bill by providing that any educational programs for licensees and their employees be financed through money collected from the assessment of fines against licensees. In this way, those licensees needing the education will be financing the programs.

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

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1299, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1299, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 616            Government Operations on S.B. No. 1381

The purpose of this bill is to require the Comptroller to adopt rules to regulate the selection of outdoor artwork purchased by the State under section 103-8, Hawaii Revised Statutes.

Your Committee recognizes Hawaii as a leader in the encouragement of culture and the arts, which is an important objective for socio-cultural advancement. Presently, the law does not require State purchased artwork, which is displayed outdoors, to meet any standards for durability or weather resistance. Unless artwork is physically suitable for outdoor display, Hawaii's climate causes the deterioration and defacement of artwork.

This bill remedies this problem by requiring the Comptroller to adopt rules to insure the durability of outdoor artwork. The bill also requires the seller of outdoor artwork to refund to the State the purchase price of any artwork which fails to withstand the elements and causes the artwork's deterioration or defacement.

Your Committee has amended the bill by excluding artwork purchased before the effective date of this Act from the provisions of the bill, and by making clarifying language changes which have no substantive effect.

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

No. 1381, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1381, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 617            Government Operations on S.B. No. 131

The purpose of this bill is to eliminate the bidding requirements for all vending machines, including insurance machines, to be installed on public property.

Currently, section 102-2(b)(4), Hawaii Revised Statutes, exempts "coin-operated" vending machines from the bidding requirements for concessions on public property and specifically excludes insurance vending machines from the exemption. This bill deletes the words "coin-operated" from the statute because many modern vending machines accept paper money and there is no reason to limit the exemption to only coin-operated machines. This bill also allows insurance vending machines to be installed on public property without bids. The Department of Transportation submitted testimony which stated that among the services provided by vending machines are flight insurance policies and that insurance companies are not interested in bidding for concessions because of the low volume of business. Allowing insurance vending machines without bid will fill the need of travelers who desire to purchase flight insurance.

Your Committee has amended the bill to correct a typographical error and by making technical changes which have no substantive effect.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 131, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 131, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 618            Government Operations on S.B. No. 1304

The purpose of this bill is to develop an alternative approach to discourage zoning violations.

Your Committee received testimony from the Department of Land Utilization of the City and County of Honolulu stating that presently, zoning violations are classified by State law as misdemeanors. After notices of violation have been issued and ignored, the only recourse for the city is to go to court.

This bill provides for a process similar to a "traffic ticket" process whereby administrative fines, corrective actions, and litigation are part of the enforcement process. The violator, at various stages in the process, can choose among different alternative actions.

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

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1304, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1304, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 619            (Majority) Government Operations on S.B. No. 1423

The purpose of this bill is to place the level of compensation of the Vice-Director of Civil Defense in parity with other first assistants and deputies of heads of departments.

Presently, the Vice-Director's compensation is established under chapter 77, Hawaii Revised Statutes, which deals with positions within the civil service system.

Testimony submitted by the Director of Personnel Services and the Public Employees Management Association of Hawaii stated that the Vice-Director of Civil Defense is in charge of the Division of Civil Defense of the Hawaii Department of Defense and is subordinate to the head of the department, who serves as Adjutant General and Director of Civil Defense.

Your Committee believes that the Vice-Director is equivalent to the Deputy Adjutant General who assumes full authority in military matters and whose compensation should therefore be in line with a first deputy of a department head.

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

No. 1423 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 Hee did not concur.

SCRep. 620            Government Operations on S.B. No. 568

The purpose of this bill is to make it unlawful for any caterer to promote, encourage, aid, or permit the consumption of liquor except during the hours in which licensed premises of dispensers are permitted to be open for business.

Currently, the statute provides that a licensed caterer can lawfully promote, encourage, aid, or permit liquor consumption except during business hours. Your Committee finds that existing language in Section 281-31, Hawaii Revised Statutes, does not accurately reflect the intent of the Legislature.

Your Committee has amended the bill to clarify that certain actions by the licensed caterer to promote liquor consumption on the premises is unlawful except during business hours.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 568, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 568, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators McMurdo and Soares.

SCRep. 621            Government Operations on S.B. No. 298

The purpose of this bill is to prohibit the expenditure of federal and state funds for the development or implementation of crisis relocation planning whose primary or exclusive purpose is related to the mass evacuation of the State's population in the event of the threat of nuclear war.

Your Committee finds that emergencies of natural origin warrants the need for voluntary population relocation and temporary shelters, and any such planning for natural disasters is of practical value and for the benefit of the general population. Under this bill, pre-planned evacuation is encouraged because such plans will not be predicated upon conditions which presume the effects of a nuclear blast.

Your Committee has amended the bill by making language changes for the purpose of clarity which do not affect the intent and substance of the measure.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 298, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 298, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators McMurdo and Soares.

SCRep. 622            (Majority) Government Operations on S.B. No. 891

The purpose of this bill is to allow the liquor commission of the various counties to prohibit nude or unclothed entertainment in establishments licensed under section 281-31(e)(2), Hawaii Revised Statutes.

Presently, the law is silent as to whether liquor commissions have the authority to prohibit liquor licensees from providing nude or unclothed entertainment.

This bill provides that authority to liquor commissions, so that they may, at their discretion, allow or disallow liquor licensees from providing nude or unclothed entertainment. Your Committee heard favorable testimony from the Waikiki Improvement Association and the Waikiki Residents Association.

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

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 891, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 891, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.  
Senators Hee and Kuroda did not concur.

SCRep. 623

Government Operations on S.B. No. 1132

The purpose of this bill is to allow local liquor commissions to grant liquor licenses to applicants who have been convicted of a felony in those cases where the applicant can demonstrate, to the satisfaction of the Commission, that a prior conviction should not be held as an absolute bar to the granting of a license.

Your Committee received testimony from the Liquor Commission of the City and County of Honolulu stating that presently, the law imposes an absolute bar to any application of a liquor license in the event of a prior felony conviction, personal or corporate. There are some circumstances in which this can be unduly harsh. The proposed amendment to allow the Liquor Commission to make a determination after weighing all the facts is a more equitable and just course of action.

Your Committee also received testimony from the Retail Liquor Dealers Association, The Southland Corporation, and the Wholesale Liquor Dealers Association in support of this bill.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1132 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. 624

Government Operations on S.B. No. 12

The purpose of this bill is to permit the Department of Accounting and General Services (DAGS) to adopt rules for the proper use and management of state buildings.

Testimony submitted by the DAGS stated that it has had problems with persons bathing, sleeping, and misusing facilities in state buildings and on state grounds, or living in automobiles abandoned in the parking lots.

Your Committee finds that this bill gives the Comptroller the authority to adopt rules necessary to control these situations.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 12 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. 625

Economic Development on S.B. No. 1221

The purpose of this bill is to provide the Board of Trustees of the Office of Hawaiian Affairs with greater control over the length of office served by its chairperson and vice-chairperson.

Presently, section 10-8, Hawaii Revised Statutes, requires a chairperson and vice-chairperson to serve a term of two years without any provisions for their removal before the expiration of that two year term. With the proposed replacement of the words "a term of two years" with the words "at the pleasure of the board.", it is the intent of this bill to render to the Board of Trustees greater control over its officers' terms of office.

Your Committee has considered written and verbal testimony on this bill representing opposing views. In speaking against this bill, one witness testified:

"[T]here are times when a chairperson is compelled to take unpopular positions or act in a manner which displeases other members of the body. There always will be differences of opinion, but such differences cannot be construed as sufficient cause to declare a presiding officer unfit to hold office."

Favoring the bill, another witness stated:

"[T]he Board which has a right to elect its officers should also have the right to remove its officers. Of course, we are always concerned about any unwise removal of an officer, but by the same token, the Board should not be stuck with an unwise initial selection of an officer. We must also consider that in view of the changing circumstances and conditions, an officer once selected may not be the best person to continue to guide the Office of Hawaiian Affairs because of changed conditions. The Board should have the option of making changes as it deems appropriate.

"[I]n considering this Bill, one should not look at the present personalities which occupy

various positions with the Office of Hawaiian Affairs, but consider the long range importance of giving to the Board as much self control as possible to aid the Board in fulfilling its expectations of independently addressing issues of Hawaiian affairs."

Your Committee recognizes the content of Standing Committee Report 59 of the Constitutional Convention of 1978 which favorably reported the establishment of the Office of Hawaiian Affairs. That report is replete with the concept that this newly created office be independent, with power to govern itself through a board of trustees, so the office could have maximum control over its budget, assets and personnel. (Proceedings of the Constitutional Convention of Hawaii of 1978 V. 1 part 644-646). The Committee of the Whole Report No. 13 of that Convention adopted the same general intent of independence for the Office of Hawaiian Affairs. That report states in relevant part:

"Your Committee found that the Office of Hawaiian Affairs is appropriately modelled after that of the University of Hawaii so as to give it maximum independence. The most important aspect of this model is the power to govern itself.

". . . If one looks to the precedent of other native peoples, one finds that they have traditionally enjoyed self-determination and self-government. They have power to make their own substantive rules in internal matters. . . . The establishment of the Office of Hawaiian Affairs is intended to grant similar rights to Hawaiians. (underline added) (Ibid at pages 1018-1019)

Your Committee supports this bill as providing the Office of Hawaiian Affairs' Board of Trustees with the necessary degree of independence and control in addressing the manner in which it controls its own affairs. One of the basic attributes of self-government is the power to structure the manner in which decisions are made, even if interested and affected parties believe that a particular decision may be unwise. Whether or not an OHA officer is wisely or unwisely removed by the Board in the exercise of its control over its officers, is not a matter for the State Legislature to decide.

Furthermore, we note that both the Board of Regents of the University of Hawaii and the Board of Education may freely remove their chairpersons at the pleasure of a majority of the members of those Boards; a procedure similar to the process of appointing or removing the Speaker of the House of Representatives and the President of Senate. There has not been convincing analyses that the Office of Hawaiian Affairs' Board of Trustees should be treated any differently. In supporting this bill, your Committee feels that a necessary degree of self-government is being granted to the Office of Hawaiian Affairs, which is consistent with the intent of the Constitutional Convention of 1978.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1221 and recommends that it pass Second Reading and be placed on the Calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 626

Judiciary on S.B. No. 613

The purpose of this bill is to insure the public more reasonable access to government records. As it came to your Committee, it proposed substantial additions to Chapter 92E, Hawaii Revised Statutes. Your Committee amended the bill to incorporate its major provision in Chapter 92, Hawaii Revised Statutes.

The bill attempts to balance two related but often competing interests: the right to know and the right to privacy. The present law on confidentiality has been increasingly interpreted by agencies to restrict the review of government records and to expand the types of personal records to be protected from disclosure.

The most important aspect of the bill is its establishment of one standard by which disclosure can be determined. It states that no personal record can be disclosed unless the disclosure will not be a clearly unwarranted invasion of personal privacy. While the standard may be imprecise, it is preferable to a statute which enumerates every possible type of record which should not be disclosed.

Your Committee made the following amendments to the bill:

- (1) It decided not to amend Chapter 92E, Hawaii Revised Statutes, and instead added relevant provisions to sections 92-50, 92-51, 92-52, Hawaii Revised Statutes.
- (2) It declined to adopt provisions regarding disclosure of individually identifiable records.



- (3) It revised section 92-50, Hawaii Revised Statutes, to include as a public record information stored by electronic means. It also expressly excluded from the definition of "public record", records containing information which, if disclosed, would constitute a clearly unwarranted invasion of personal privacy. It enumerated such records, originally categorized in the former draft of the bill "as information in which the individual has a significant privacy interest", pages 6 and 7 of S.B. No. 688.
- (4) It prohibited from disclosure the same information which shall not be released under federal and other state law.
- (5) It allowed the disclosure of nonpublic records if the public interest outweighs the privacy interest.
- (6) It makes explicit that information regarding the name, compensation, job title, business address, business telephone, and job description can be described.
- (7) It allows the release of a reasonably segregable portion of public records after the deletion of portions which are deemed nonpublic record.
- (8) It amended section 92-51, Hawaii Revised Statutes, to prohibit a public official from requiring a stated reason for an individual to examine public records.
- (9) It amended section 92-52, Hawaii Revised Statutes, to allow the Court to award reasonable attorneys fees to a plaintiff who brought a successful challenge for any violation of the section.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 613, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 613, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Aki and George.

SCRep. 627            Judiciary on S.B. No. 592

The purpose of this bill is to require a person who enters into a contract with a person convicted of a crime or found not guilty under chapter 704, Hawaii Revised Statutes, for information about the crime committed to pay all moneys earned or owed to the Criminal Injuries Compensation Commission.

Your Committee intends that all contracts compensating a person or the person's representatives dealing in any way with a crime committed by that person be subject to this section regardless of the mode, method or medium selected. The money deposited on account for the person with the Criminal Injuries Commission will be used to pay an award of any amount or reimbursement for expenses to those persons eligible under chapter 351, Hawaii Revised Statutes. Any excess moneys on account will be returned at the end of a statutory period.

Your Committee received testimony stating that criminals convicted or acquitted of a crime under chapter 704, Hawaii Revised Statutes, should not profit from their illegal acts without first taking care of the victims of his crime. Currently, the State is responsible, under chapter 351, to compensate victims through the Criminal Injuries Compensation Commission. However, recovery under chapter 351 is limited to \$10,000. If the criminal makes a profit on committing crime, at least the victim should be made whole by the criminal's profits notwithstanding the \$10,000 limit on awards made solely by the State through the Criminal Injuries Compensation Commission.

Your Committee amended the bill to change references of persons found not guilty to "acquitted" persons under chapter 704. The bill is also amended to require that the claimant shall have at least five years to bring a claim in a civil suit under this section.

Your Committee made other technical, nonsubstantive amendments to the bill for clarity.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 592, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 592, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Aki and George.

SCRep. 628            Judiciary on S.B. No. 807

The purpose of this bill is to increase the interest rate payable on amounts due after final

judgment in eminent domain proceedings pursuant to section 101-25, Hawaii Revised Statutes.

Currently, if the government condemns property and does not pay for it within thirty days after judgment of value is entered, the government must pay a statutory rate of interest to the landowner as provided by law. The rate of interest applicable under current law is five per cent.

The interest rate applicable to unpaid judgments in civil suits is currently ten per cent. Your Committee, however, feels that judgments in civil suits are not the same as a judgment in an eminent domain proceeding and therefore not entitled to the same interest rate.

Your Committee amended the bill to increase the interest rate from five per cent to six and one-half per cent to follow more closely current passbook interest rates currently in effect for a secure investment such as a passbook account.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 807, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 807, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Aki and George.

SCRep. 629            Judiciary on S.B. No. 291

The purpose of this bill is to allow the adoption of unrelated adults provided that the adult and the adult's spouse consent to the adoption.

Presently, section 578-1.5, Hawaii Revised Statutes, permits the adoption of an adult niece, nephew, or stepchild.

Your Committee finds that this bill will bring our state adoption statute into conformity with the revised Uniform Adoption Act, as amended in 1971, and numerous other states' statutes. Your Committee takes note of the traditional custom of diverse ethnic groups in Hawaii of adopting unrelated adults. The Hawaiian practice of "hanai", the Japanese practice of "moriago", and the similar practices of numerous other racial groups will be legitimized if this bill is approved.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 291 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 Aki and George.

SCRep. 630            Human Services on S.B. No. 29

The purpose of this bill is to eliminate the existing statutory provision authorizing regular members of the Advisory Council for Children and Youth to designate substitutes to attend meetings in their place.

Currently, the law provides that ex officio and regular members must designate a substitute in the event they are unable to attend a meeting.

Your Committee heard testimony from the Office of Children and Youth and finds that the proposed bill would bring the Advisory Council for Children and Youth into conformity with other state boards and commissions whose regular members are not authorized by law to designate substitutes.

Your Committee on Human Resources is in accord with the intent and purpose of S.B. No. 29 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 631            Human Services on S.B. No. 99

The purpose of this bill is to clarify the State's authority to make payments for burial and funeral expenses and to permit decedent's relatives to make burial or cremation arrangements.

Currently, the Department of Social Services and Housing may bear the burial cost of "indigent persons." This bill clarifies the authority of the Department by replacing the term "indigent persons" with the words "deceased public assistance recipients or unclaimed corpses."

Existing law requires the Department to establish a list of certified providers or mortuaries and crematory services under contract with the Department. This requirement entails the process of competitive bidding on a regular basis. For the past several years, the Department

has been unsuccessful in obtaining an acceptable bid from mortuaries under contract. All bids exceeded the statutory maximum of \$400 for mortuary and \$400 for a crematory/burial services. The proposed bill will exempt the Department from the current bidding process and allow it to pay any licensed provider of mortuarial and crematory services up to the current statutory limit.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 99 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 632      Human Services on S.B. No. 102

The purpose of this bill is to discontinue general assistance payments to children living in licensed foster family homes and child care institutions.

Testimony submitted by the Department of Social Services and Housing (DSSH) stated that financial assistance to children in foster homes or child care institutions is being provided by the DSSH through the Department's child welfare program. Part of the funding for the child welfare program is provided by the federal government under the foster care provisions of the Social Security Act.

Your Committee finds that this is a housekeeping bill which deletes the provision for general assistance payment for children living in licensed family homes or institutions as these children are provided for in the child welfare foster care program.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 102 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 633      Human Services on S.B. No. 1240

The purpose of this bill is to require mandatory reporters to submit additional information relating to an alleged child abuse incident to the Department of Social Services and Housing (DSSH) and the City and County of Honolulu Police Department upon demand.

Testimony submitted by the DSSH and the Police Department stated that medical records are normally released with the written consent of the injured party. However, in child abuse cases, the parent or guardian of the minor victim is usually the perpetrator and will not consent to the release of the records.

Your Committee finds that although mandated reporters currently report in good faith and cooperate to the best of their ability, this bill will make it easier for the mandated reporter to provide additional information to the DSSH and Police without concern about breach of confidentiality.

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

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1240, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1240, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 634      Human Services on S.B. No. 1354

The purpose of this bill is to make exclusions relating to day care centers.

Your Committee has amended the bill by changing the purpose of the bill to allow Hawaii to join the Interstate Compact on the Placement of Children (ICPC).

Testimony submitted by the Department of Social Services and Housing (DSSH) stated that the ICPC protects children when families move, when children are abandoned or "left behind," and when children are moved without legal authority. ICPC protects children in adoptions, foster care, and institutional placements.

Your Committee finds that some of the advantages of belonging to ICPC includes providing for the legal rights of the child, courtesy monitoring and supervision, spelling out the State's financial obligations and responsibilities, and requiring a notice of intent to placement and

determination of suitability of place.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1354, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1354, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 635            Human Services on S.B. No. 1361

The purpose of this bill is to redefine child care facilities according to whether a fee is charged for services.

Testimony submitted by the Department of Social Services and Housing, the Hawaii State Commission on the Status of Women, and a teacher trainer at Honolulu Community College indicated that young children are entitled to the protection of child care facilities licensing standards and procedures regardless of whether a fee is charged for child care services. Your Community finds that the need to provide safety and to promote children's overall development is not determined by whether child care services are free or not.

Your Committee has amended section 1 of the bill by redefining "child care facility" by increasing the minimum number of children being cared for from 2 to 3 and providing that child care facilities are subject to the bill's provisions regardless of whether a fee is charged. Section 2 of the bill was amended by limiting the exclusion of child care provided by a neighbor or friend to "no more than two children." In section 3, your Committee raised the maximum fine for violators of sections 346-18 to 346-21, Hawaii Revised Statutes, to \$500.

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

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1361, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1361, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 636            Human Services on S.B. No. 1434

The purpose of this bill is to provide indemnification for employees of the Department of Social Services and Housing from civil liabilities when in the performance of duties and functions according to established departmental procedures.

Your Committee heard testimony from the Department of Social Services and Housing and finds that over the past few years, public and private social service agencies, and their staff members have been subject to legal actions brought against them as a direct result of their duties. This is especially true in the child protective service area where, because of the nature of the service, workers must "intrude" in an area which is held sacred from all forms of outside interference...the family. When government must enter into a family's life uninvited, as do protective service workers, it must be done only to ensure the safety of a family member within the parameters set by statute and formal guidelines. When services are provided involuntarily to a family by government, government and its employees must be held accountable to the family and the public for the results of its services. Your Committee finds that when the public, through legislative mandate, demands that such services be provided there must be assurance that those involved in carrying out these services are shielded from liability.

The proposed bill does not seek to provide blanket indemnity for all agency employees. Rather, it requires that a standard measure of accountability and responsibility be met before indemnity is considered. Your Committee finds that the public has a right to expect its employees to act in a responsible manner and be accountable for their actions.

Your Committee has amended the bill by deleting from page 1, lines 5 through 7, "prior to January 1, 1986, shall adopt rules pursuant to chapter 91 to" and inserting "shall incorporate under this part rules already established pursuant to chapter 91 which" to conform to existing rules and regulations. Your Committee has further amended the bill for purposes of clarification.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1434 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1434, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 637      Transportation on S.B. No. 133

The purpose of this bill is to authorize the Department of Transportation to promulgate rules and regulations for registering certain aircraft and to charge an annual fee of \$25 dollars for such registration.

The Department of Transportation testified that aircraft registration is needed to provide an accurate record of the numbers and owners of aircraft that use state airport facilities. Currently, no state records exist.

The Department further stated that such registration information can be used to provide data as a basis for planning airport improvements and for soliciting the views of those registered on the State's general aviation program.

Your Committee has reduced the registration fee from \$25 to \$15. According to the Department, this amount is sufficient to cover the costs of administering this aircraft registration program.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 133, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 133, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb, Hagino and Soares.

SCRep. 638      Transportation on S.B. No. 379

The purpose of this bill is to amend section 286-209, Hawaii Revised Statutes, by increasing the fee charged for commercial motor carriers safety inspection from \$7 to \$16.50.

Your Committee heard testimony that there has been no increase in commercial inspection fees since 1976. As a result, the present \$7 fee is not adequate to cover the cost of inspection by trained personnel at authorized inspection stations.

In reviewing this matter, your Committee believes that an increase in the fee is justified. However, your Committee is concerned about the impact that a substantial increase will have on the trucking industry and on ground passenger carriers. Your Committee received testimony from the Hawaii Transportation Association which estimated that the annual cost of the \$16.50 fee would be an additional \$223,877. Your Committee set the inspection fee at \$12.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 379, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 379, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 639      Transportation on S.B. No. 826

The purpose of this bill is to amend Chapter 291C, Hawaii Revised Statutes, by requiring that pedicabs be subjected to the Statewide Traffic Code.

Testimony by the Honolulu police department indicates that pedicabs have become a major source of traffic-related problems for the police in Waikiki and in other areas. Though few in number, the Honolulu police department cites numerous instances where road rules are not followed by these vehicles. Such cases include executing a U-turn on a two-lane highway and travelling the wrong way on a side street in Waikiki. In view of this concern, your Committee believes that to include pedicabs in Chapter 291C, Hawaii Revised Statutes, will aid in regulating and controlling the pedicabs on our roads.

In addition, your Committee has made several amendments to this bill: First, your Committee recommends on page 7, line 10, the deletion of the unnecessary phrase "hooded or unhooded" to the definition of pedicabs. Second, your Committee has also amended on page 7, line 12, to change the phrase "two wheels pulled" to "one or more wheels pulled" to include all pedicabs. Present wording excludes many pedicabs that fall into the physical description of pedicabs that are pulled by only one wheel.

Your Committee made technical, nonsubstantive amendments to the bill.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 826, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 826, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 640            Transportation on S.B. No. 1155

The purpose of this bill is to clarify the definition of "moped" under sections 249-1, 286-2, and 291C-1, Hawaii Revised Statutes.

The bill defines "moped" as a motorized device having, among other features, horsepower of one and one-half or less, and foot pedals.

Your Committee heard favorable testimony from the department of the prosecuting attorney, city and county of Honolulu. According to the department, a clear definition of "moped" is needed to allow Hawaii's courts to make distinctions between mopeds and vehicles such as motorcycles, motor scooters, and bicycles.

Your Committee also heard testimony from Bill Bright, President of City Bike, a moped service center, and Al Montgomery of Montgomery Motors, Ltd. Their testimony stated that the use of "foot pedals" in the definition is inaccurate. They state that the majority of mopeds used in Hawaii do not have foot pedals.

Based on the above testimony, your Committee amended the definition by allowing a moped to be a motorized device with or without foot pedals.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1155, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1155, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 641            Transportation on S.B. No. 1312

The purpose of this bill is to allow the county director of finance to allow for the removal of abandoned or derelict vehicles by those with an unrecorded interest in the vehicle.

The bill requires that such an individual produce affidavits describing how the vehicle came into the person's possession, attesting that the vehicle is in fact to be junked, and releasing the director of finance from any losses to the individual by the removal of the vehicle.

Your Committee is aware of the problems faced by the counties because of abandoned vehicles. Your Committee believes this measure will assist the counties in their efforts to remove such vehicles.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1312, 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. 642            Transportation on S.B. No. 377

The purpose of this bill is to amend sections 290-12 and 290-45, Hawaii Revised Statutes, to increase the penalty for leaving abandoned or derelict vehicles on public and private property.

Your Committee has received testimony from the department of the prosecuting attorney of the city and county of Honolulu ("prosecuting attorney") strongly supporting this bill.

However, in a prepared statement, the prosecuting attorney noted that the state of mind required for violators of section 290-12—intentional and knowing—is confusing since they are distinct states of mind and the intentional state is the highest one required to be proved for any violation of law.

Accordingly, your Committee has amended the bill to delete "and knowingly" after "Whoever intentionally" in section 290-12, Hawaii Revised Statutes.

Upon consideration, your Committee has also amended the bill by:

(1) Reinstating the petty misdemeanor penalty for violators of section 290-12, Hawaii Revised Statutes, who under the bill would have been charged with a misdemeanor;

(2) Increasing the minimum fine in section 290-45, Hawaii Revised Statutes, to \$150 instead of the \$250 originally contained in the bill; and

(3) Making a technical, nonsubstantive amendment.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 377, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 377, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Machida and Soares.

SCRep. 643            Transportation on S.B. No. 251

The purpose of this bill is to provide an optional alternative means of punishing traffic offenders who have relatively clean driving records.

Under this bill, a defendant who is charged with the violation of a state or county traffic law who stipulates to or pleads guilty prior to trial, who has a valid driver's license, and who has not forfeited bail for or found guilty of a traffic offense for at least three years, would be allowed to have the proceedings deferred for up to one hundred twenty days in order for the defendant to complete a driver retraining course which would be ordered by the court.

If the defendant satisfactorily completes the course and other conditions imposed by the court within the one hundred twenty day period, the charges would be dismissed and stricken from the defendant's driving record. Only the fact of completion of the retraining course would be recorded. The discharge and dismissal under this section would not constitute a conviction or civil admission of guilt.

Your Committee has amended this bill to:

- (1) Prevent this optional system from applying to persons charged with driving under the influence of drugs or intoxicating liquor, or any other offense which is punishable as a felony; and
- (2) By requiring the court to order the defendant to pay a specified amount not to exceed \$100.

Your Committee has also made technical, nonsubstantive amendments.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 251, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 251, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Machida and Soares.

SCRep. 644            Transportation on S.B. No. 909

The purpose of this bill is to allow any bus with a valid safety inspection to be able to satisfy any age limit specification in securing a school bus contract.

Your Committee received testimony that the department of accounting and general services incorporates a 10-year age limitation on buses in all school bus contracts. According to the department, this requirement is necessary because of concerns over the safety of these older buses.

However, your Committee heard no testimony supporting the department's contention that age should be a controlling factor in determining the safety of a bus. On the contrary, the department of transportation, in response to questions from your Committee, stated that an older vehicle, properly maintained on a regular basis, could pass the department's safety inspection and transport students safely.

Further, your Committee heard testimony that 10-year old buses, which previously transported students to and from school, are now being used by high schools for school-related activities. Allowing such use clearly contradicts the department of accounting and general service's contention that such older vehicles are not safe to transport students.

As a result of its findings, your Committee believes that pupil safety is not furthered by the department's incorporation of an age limit specification in school bus contracts. Your Committee believes that so long as these buses are able to meet the safety standards and requirements of the department of transportation, the age of a vehicle should not be used as a basis to exclude their consideration.

In this regard, your Committee has amended this bill by requiring that a contract between the State and the contractor shall not include an age limitation on school vehicles. Section

296-46.1 is further amended to require that the servicability of a vehicle shall be determined by chapter 286, Hawaii Revised Statutes, the Hawaii Highway Safety Act.

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

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 909, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 909, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb, Hagino, George and Soares.

SCRep. 645            Transportation on S.B. No. 127

The purpose of this bill is to provide the department of transportation complete authority to acquire property and interests therein and to plan, design, and construct structures and improvements to land for airport purposes.

Testimony by the department of transportation revealed that while the current law requires involvement by the department of accounting and general services, it has delegated its responsibilities to the department of transportation. Projects have thus been planned and constructed without cumbersome interdepartmental reviews.

Your Committee finds that, over the years, the airports division has developed special expertise in planning, designing, constructing, and maintaining airports. The division also has a good working relationship with the Federal Aviation Administration and is familiar with the many design standards and criteria needed to qualify for federal assistance. Accordingly, the airports division is in a position to assume complete responsibility in this area. This bill is a housekeeping measure which will provide that authority to the department of transportation.

Your Committee has amended the bill to correct typographical errors.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 127, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 127, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb, Hagino and Soares.

SCRep. 646            Transportation on S.B. No. 128

The purpose of this bill is to assign to the department of transportation the primary responsibility for care and control of state shores and beaches.

Currently, the department of transportation administers the shores up to the "mean high-water mark" leaving the area from that point to the shoreline to be administered by the department of land and natural resources.

Your Committee finds that this bill will clarify responsibility and authority among state agencies for the adoption and enforcement of rules governing uses of shores and beaches, including such critical areas as Waikiki Beach.

Your Committee further finds that this bill will not affect, and your Committee intends that it not affect, the department of land and natural resources' authority or jurisdiction to administer the conservation district lands seaward of the shoreline. Your Committee intends for the department of land and natural resources and the department of transportation to continue to exercise concurrent jurisdiction in this area.

Your Committee has made technical, nonsubstantive changes to the bill.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 128, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 128, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 647            Transportation on S.B. No. 163

The purpose of this bill is to repeal a provision of section 266-2, Hawaii Revised Statutes, to remove the department of transportation's exemption from obtaining county permits and approvals for harbor projects.



Your Committee received favorable testimony from the department of transportation, the department of planning and economic development, and the city and county of Honolulu's department of land utilization and finds that exempting harbor activities from county approvals has been questioned by the federal office of ocean and coastal resource management in their evaluation of the Hawaii coastal zone management program. Therefore, this bill is needed to retain federal coastal zone management funding and Hawaii's privilege of administering the federal provisions. Moreover, even though the department of transportation has been following procedures for complying with county permits and approvals despite the exemption in section 266-2, this bill is necessary to restore the intent of the Hawaii Coastal Zone Management Act.

Finally, your Committee finds that the responsibility for land use management in this State is shared by state and county agencies to reflect their respective public policy objectives for land and water resource allocations. This bill will help to restore the balance of state and local interests forged over many years so that neither totally dominates resource management decisions, by repealing the department of transportation's exemption from county permits for harbor facilities.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 163 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. 648                      Transportation on S.B. No. 828

The purpose of this bill is to amend section 291C-103, Hawaii Revised Statutes, by providing a definition relating to unlawful displays of speed on the highway.

Currently, the law includes an "exhibition of speed or acceleration" as a violation of this section. However, this term has been viewed as ambiguous, and the bill seeks to define the term to mean, but not be limited to, excessive acceleration on any street in such a manner as to cause a tire or tires to screech loudly or to lose traction.

Your Committee heard favorable testimony from the department of the prosecuting attorney, city and county of Honolulu, and the Honolulu police department. Both departments testified that the new definition would improve enforcement of this section.

In addition, the Honolulu police department also informed your Committee that some citations for speed displays have been dismissed because, in several instances, the courts have ruled an "exhibition of speed" required an audience.

For this reason, your Committee amended section 1 (d) by adding the following behind "traction" on line 9:

"For purposes of this section, exhibition of speed shall not require an audience."

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 828, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 828, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 649                      Government Operations on S.B. No. 236

The purpose of this bill is to require that a government agency, in expending public funds, must purchase and use available Hawaii products which meet the equivalent, comparable, or substitutable minimum qualifications.

Your Committee finds that it is particularly important that the State and county governmental agencies utilize local products to their maximum extent. This type of requirement would increase economic development, increase employment opportunities, and increase the tax base within the State.

Your Committee has amended the bill by making stylistic and language changes in the proposed amendments to Sections 103-43 and 103-45, Hawaii Revised Statutes. These changes serve to more precisely accomplish the purpose of this measure and do not affect the intent and substance of the bill.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 236, as amended herein, and recommends that it pass Second reading in the form attached hereto as S.B. No. 236, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 650            Government Operations on S.B. No. 873

The purpose of this bill is to eliminate the statutory requirement that department heads, first assistants and first deputies, and second assistants and second deputies in state or county service must be residents of the State for one year at the time of appointment, or that other appointive officers and employees must be residents at the time they are appointed.

Your Committee received testimony from the Director of Personnel Services and the Department of Civil Service, City and County of Honolulu, and finds that the Hawaii Supreme Court has ruled that the county charter provisions relating to qualifications of department heads are superior to state statute, and that there is currently no residency requirement in the City Charter of Honolulu. Your Committee further finds that there are no one year residency requirements for other appointive officers in the law and that there are no current statutory prohibitions against employing a non-resident when a qualified resident cannot be found.

The fact that department heads and first and second assistants and deputies do not enjoy the above residency exemptions indicate that there is substantial inconsistency, both in the law and in practice, regarding the eligibility requirements of appointed personnel throughout the State and county service, and also indicates a possible unintentional limitation on the constitutional right to travel. Therefore, your Committee finds that this measure is necessary to correct jurisdictional discrepancies and practices and to make the residency requirement of civil service and appointed employees consistent.

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

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 873, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 873, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 651            Government Operations on S.B. No. 642

The purpose of this bill is to require counties to exercise their powers of eminent domain subsequent to certain zoning changes.

Your Committee received testimony from the Department of Land Utilization, City and County of Honolulu, and the Land Use Research Foundation of Hawaii indicating that the bill requires further revision and clarification.

Accordingly, your Committee has amended the bill by deleting all substantive provisions of the bill and inserting the substantive provisions found in S.B. No. 1294 (Relating to Zoning). The bill as amended provides for payments by the landowner to the County based on a percentage of the increased valuation resulting from an upzoning and payments from the County to landowners following a downzoning based on a decreased valuation of property.

Your Committee supports the concept of just compensation in the event zoning restrictions are placed on the use of property.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 642, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 642, S.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 652            Economic Development on S.B. No. 149

The purpose of this administration bill is to amend the State land use district boundary process, under Chapter 205, Hawaii Revised Statutes, relating to the Land Use Commission, by focusing on areas of State concerns; reducing the duplication, time, and cost of the process; and reestablishing a long-range planning concept by reinstituting the five-year planning process review into the land use law. The major features of the proposed amendments are: (1) all petitions to redistrict lands of 15 acres or less, except conservation lands, would go directly to the counties; (2) the Land Use Commission would be authorized to waive a contested case hearing provided that all parties support the petition and enter into appropriate stipulations on all issues; (3) land use decision making criteria relating to areas of State concern would be established; and (4) the five-year planning process review would be reestablished.

Your Committee concurs with the Department of Planning and Economic Development that improvements should be made to the existing land use district boundary process and that this measure will: (1) reduce the time and cost to an applicant, facilitate processing of applications and reduce duplication; (2) protect the public interest; (3) increase emphasis on long-range planning; and (4) provide for a smooth transition from the current system to an improved system. Your Committee believes this measure will address the concerns of applicants while providing sufficient safeguards to protect the use and condition of the land.

Your Committee has amended the bill in the following major respects: (1) allowing rather than requiring, the Commission to conduct a five year review of the classification and districting of all lands; (2) requiring the Commission to determine within thirty days whether a petition to reclassify the district boundaries of lands of 15 acres or less, except in conservation districts, involves overriding statewide interests and concerns, and is consequently a matter for the Commission to decide; and (3) deleting the provision that the Commission may waive contested case hearings.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 149, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 149, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 653            Ways and Means on S.B. No. 1394

The purpose of this bill is to encourage private sector participation in the development of agricultural parks through a tax exemption for 50 per cent of the development costs of agricultural parks.

Your Committee finds that agricultural use of lands should be encouraged as a means to attain productive and long-term viability of agriculture in Hawaii. In past years, urban encroachment has made it difficult for agricultural enterprises to survive, thus the acquisition of private property for agricultural purposes was a major concern of the legislature to facilitate sound agricultural land-use planning.

Your Committee has amended this bill by deleting its contents and substituting an agricultural parks tax credit. Your Committee finds that an income tax credit is easier to target than the proposed deduction, and moreover allows a dollar-for-dollar reduction of tax liability. Your Committee has provided an income tax credit in an amount equal to ten per cent of agricultural park infrastructure development costs if such costs are incurred by a qualified farmer. Qualified farmer is defined in agricultural loan law and means a person of proven farming ability who operates the person's own farm on land owned by the person or rented or leased and who is presently devoting, has devoted, or intends to devote at least one-third of the person's time or derive at least one-third of the person's net cash income from direct participation in farming. The definition includes partnerships and small corporations composed of certain numbers of qualified farmers.

Your Committee has defined agricultural infrastructure development costs to include irrigation systems, field roads, drainage layouts, and other capital development costs required by the state agricultural park law or by state law or county ordinance in order to create an agricultural park. Agricultural parks is broadly defined to include state agricultural parks, and also any agricultural complex developed by one or more qualified farmers acting together and which combines in a common location agricultural activities for the purpose of production and distribution economies necessary to the production and distribution of agricultural commodities.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1394, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1394, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 654            Ways and Means on S.B. No. 1198

The purpose of this bill is to eliminate the requirement that a member industrial loan company pay assessments to the Thrift Guaranty Corporation of Hawaii.

This bill is designed to primarily aid depositors of Manoa Finance Company and Great Hawaiian Financial Corporation, two industrial loan companies which were put into receivership due to insolvency. The Thrift Guaranty Corporation of Hawaii which was created to bring stability and confidence back to industrial loan companies has ceased to function effectively and has no current funds to provide immediate redress to the aggrieved depositors.

Your Committee notes that this bill is the cornerstone of an industry proposal, the "Dods proposal", which requires the member industrial companies to loan approximately \$22,000,000 to Thrift Guaranty Corporation at ten per cent interest for three years secured by the assets of Manoa Finance and Great Hawaiian Financial Corporation. The \$22,000,000 would be used in conjunction with existing funds held by Thrift Guaranty Corporation to repay nondepositor creditors up to 70 per cent of their claims, and fully guaranteed depositors up to 79.9 per cent of their thrift account funds not to exceed \$10,000. In return, the industrial loan companies that make the loan would be allowed to discontinue assessment payments to the Thrift Guaranty Corporation and recoup their loan by the liquidation of the assets of the two insolvent industrial loan companies. The State would assume a subordinate position on the \$27,000,000 in prior loans to Thrift Guaranty Corporation, thus, bearing the risk of not receiving any payments on the loans.

Your Committee notes that the proposed industry plan covers up to approximately 79.9 per cent of the fully guaranteed depositors' claims not to exceed \$10,000; but the Committee believes the aggrieved persons should receive as soon as possible 100 per cent of their funds up to \$10,000. Accordingly, your Committee authorizes or appropriates, or both, the sum of \$10,500,000 in general obligation bonds or general revenues, or both, toward that end.

In addition to the foregoing change, your Committee has made the following amendments:

(1) Section 1 is amended to include a reference to the authorization of a loan from the State to Thrift Guaranty Corporation of Hawaii to permit prompt payment of up to the guaranty amount provided in section 408A-9, Hawaii Revised Statutes.

(2) Section 408A-5, Hawaii Revised Statutes, is amended by providing that: (A) the thrift guaranty members may elect two directors of the guaranty corporation; (B) in addition to one vote each member has, each member has an additional vote for each \$1,000,000 of the member's outstanding thrift obligations, provided that no member is entitled to more votes than is represented by fifteen per cent of the total thrift account obligations of all members; and (C) the governor, president of the senate, and speaker of the house of representatives shall each elect one director of the guaranty corporation.

(3) Section 408A-6, Hawaii Revised Statutes, is amended to change the number of directors from seven to five and the number necessary for any action of the board from four to three directors.

(4) Section 408A-14(a), Hawaii Revised Statutes, is amended by: (A) providing that payment of the guaranty amount may be made if a member has sought relief as a debtor in bankruptcy proceedings, rather than when the member has been adjudicated a bankrupt; and (B) adding the words "or bankruptcy" after "proceeds of receivership" in paragraph (2).

(5) A new section 5 is included, which authorizes or appropriates up to \$10,500,000 in general obligation bonds, or general revenues, or both, to provide loans to Thrift Guaranty Corporation of Hawaii. The loans are to be made so that Thrift Guaranty may pay depositors of Manoa Finance Company, Inc. ("Manoa Finance"), Great Hawaiian Financial Corporation ("Great Hawaiian"), and Commercial Finance, Limited ("Commercial Finance") up to the guaranty amount provided for in section 408A-9, Hawaii Revised Statutes, as part of a plan of reorganization or liquidation of those three loan companies. The loans to Thrift Guaranty are to be made only if the following conditions are met: (A) \$1,000,000 of the amount authorized or appropriated is for payment to Commercial Finance depositors should a majority of them request payment; (B) the reorganization or liquidation plan contain the following provisions: (i) each thrift account holder shall receive up to the guaranty amount, less any payments already received; (ii) payments made by Thrift Guaranty cannot exceed the total of the amount appropriated or authorized, plus amounts loaned by Thrift Guaranty members for the plan, and not more than \$2,000,000 of other funds of Thrift Guaranty; (C) the reorganization or liquidation plan be approved within one year of the effective date of this Act; (D) payment to each thrift account holder shall be within ninety days of court confirmation of the reorganization or liquidation plan; (E) any loans and payments made by the State to Thrift Guaranty under this Act shall be secured by a first lien in favor of the State on the assets of Manoa Finance, Great Hawaiian, and Commercial Finance; (F) Thrift Guaranty, its members, the State and its officers, agents, and employees shall be released from any liability arising out of any thrift account or guaranty thereof; (G) Thrift Guaranty and its members shall amend the articles of the guaranty corporation to conform with sections 408A-5 and 408A-6, Hawaii Revised Statutes, as amended; and (H) members of Thrift Guaranty shall pay their assessments for fiscal year 1985-1986.

(6) A new section 6 is included, which provides that the assessments paid by members in accordance with sections 408A-9 and 408A-10, Hawaii Revised Statutes, shall terminate within thirty days after the bank examiner determines that the above conditions have been met for making loans to Thrift Guaranty.

(7) Sections 3 and 4 of the bill have been renumbered to 7 and 8.

(8) The effective date has been changed from "upon its approval" to one year after its approval.

Your Committee has made other technical, nonsubstantive amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1198, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1198, S.D. 2.

Signed by all members of the Committee except Senators Henderson and Soares.

SCRep. 655            Ways and Means on S.B. No. 472

The purpose of this bill is to generate additional quality economic activity in the State by promoting Hawaii as a site for film-making. This bill establishes a Hawaii film authority under the department of planning and economic development (DPED) to develop professional film production facilities, studios, parks, and related projects, to provide services which promote film-making, and to facilitate the permit process. DPED's film industry branch would be transferred to the new authority and the Hawaii film industry fund would be established to carry out the authority's programs.

Your Committee fully supports this measure as a means of consolidating in one agency the responsibility and authority for promoting Hawaii as a center for film-making. The authority will be able to issue bonds and charge fees and to provide funds to carry out its programs. Your Committee also believes that this bill provides a sound basis for the future development of film-making into a significant economic activity in this State.

Your Committee has made the following substantive changes to the bill:

(1) Leaving blank the number of public members to be appointed to the board in addition to the ex officio members; and

(2) Including an appropriation of \$1 for the Hawaii film industry fund. The importance of these items necessitate further discussion, and your Committee has determined that the use of purely arbitrary figures would be inappropriate without such discussion.

Your Committee has also made technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 472, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 472, S.D. 1.

Signed by all members of the Committee except Senator Soares.

SCRep. 656            (Majority) Ways and Means on S.B. No. 564

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

Article XI, section 7, of the State Constitution adopted in 1978 requires that "(t)he legislature shall provide for a water resources agency...." Despite the passage of seven years since the enactment of this constitutional provision, the completion of two separate water study commission reports, the confirmation of an acute ground water shortage on Oahu, the continued and increasing diversion of surface stream water, and the mounting but unsatisfactory resort to judicial remedies to solve these problems, the State still does not have a water code.

Your Committee finds that the conflicting demands for water use, the need to protect both streams and the sources of water, and the inadequacy of the existing legal mechanisms to generate comprehensive and equitable resolutions have added new urgency for the creation of a forum for the rational allocation of this precious resource. In particular, on Oahu, declining ground water levels, toxic pollution, increasingly frequent water shortages, widespread diversion of streams, and accelerated conflicts of overuses and claims of rights have hastened the situation to the point where it may no longer be safely managed on a piecemeal basis. To this end, this legislature may no longer defer its constitutional duty.

Moreover, it is now clear that the availability of water is becoming the critical factor in making land use decisions. If the people of Hawaii do not manage this most vital of our natural

resources for our common good, future land use decisions will be made outside of Hawaii and beyond the reach of our collective will.

The code recognizes the importance of county land use planning and specifically provides in section 8(g) that this water code "shall be developed and formulated in a manner which is consistent with county zoning and land use designation and goals, ...." In this manner the water code reconciles the constitutional comprehensive statewide policies while recognizing the primary role that each county has of establishing its own land use plan.

We strongly urge the adoption of this water code which will grant unlimited duration permits for all existing uses and establish a single forum for the systematic, rational, and equitable allocation of water resources.

Your Committee, upon the consideration of testimony from the counties, major land users, agricultural interests, governmental agencies, and other affected parties has amended S.B. No. 564, S.D. 1. The major changes are as follows:

1. The island of Oahu is designated as a water management area.
2. Possible threat to either ground or surface water may trigger designation of a water management area and criteria are statutorily set for designating an area for water use regulation. Under the procedure for designation of a water management area by the board, the chairperson is required to consult with the appropriate county council and water board.
3. Various deadlines have been adjusted. Rules concerning the Water Code shall be adopted within two rather than three years after the Act passes and the comprehensive review of all permits issued to ascertain compliance has been shortened to once every twenty years. The period of nonuse leading to forfeiture of a permit is extended from two to four years and the time for notifying the department of a permit transfer is changed from sixty to ninety days.
4. The effective date of the Code has been delayed until June 30, 1986 but the board is to prepare all necessary regulations and organizational support upon passage of this Act.
5. Other changes have been made for clarification purposes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 564, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 564, S.D. 2.

Signed by all members of the Committee except Senator Soares.  
Senators Fernandes Salling and Henderson did not concur.

SCRep. 657                      Ways and Means on S.B. No. 1233

The purpose of this bill is to appropriate sufficient sums from the state general fund to the department of Hawaiian home lands (DHHL) for administration and operating costs of the department for the fiscal biennium beginning July 1, 1985.

DHHL does not receive general fund moneys to cover its administration and operating costs and must depend upon special funds for that purpose. As a result, the amount of special funds used to cover operating costs is not available to be used for direct benefits to native Hawaiians, such as increasing the availability of homesteads and homestead loans.

Your Committee has amended the bill by appropriating \$1 for each year of the biennium.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1233, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1233, S.D. 1.

Signed by all members of the Committee except Senator Soares.

SCRep. 658                      Ways and Means on S.B. No. 1186

The purpose of this bill is to allow the director of health, with the approval of the governor, to contract with private individuals or corporations for administration, lease, or sale of the county/state hospitals division, either individually or collectively.

Your Committee recognizes the need for further options that would directly address the difficulties encountered by the State in administering its hospitals and believes that the flexibility provided by this bill will alleviate these problems and consequently, enhance health care in the State, especially for the people of Hawaii county.

Your Committee has amended the bill to ensure that employees will not be adversely affected by any contract entered into by the State for administration of its county and state hospitals. A further amendment to the bill provides that a state contract with a private entity is limited to administration or lease and only pertains to the state and county hospital division facilities in Hawaii county collectively. It has also made technical, nonsubstantive amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1186, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1186, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 659            Ways and Means on S.B. No. 113

The purpose of this bill is to establish a permanent nursing home without walls program.

In 1983, the Legislature passed Act 192, Session Laws of Hawaii 1983, establishing a Nursing Home Without Walls demonstration project, to provide comprehensive services to patients in their homes to reduce the possibility of prolonged institutionalization or the inappropriate utilization of scarce institutional beds as well as the concomitant high costs and other associated adverse social and medical implications of institutionalization.

This bill amends the Nursing Home Without Walls demonstration project act. As amended it provides an exception to the expenditure ceiling and does not limit the provision of services to Oahu.

Your Committee has amended this bill to extend the program two years. This two-year period will enable the program to be further evaluated and considered for a more extended duration or permanency.

Your Committee has also 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. 113, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 113, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 660            (Majority) Ways and Means on S.B. No. 496

The purpose of this bill is to permit nonprofit organizations to operate bingo games to raise funds for the promotion of their causes and activities and to appropriate an unspecified amount for the licensing of the games.

Under the bill, nonprofit organizations may operate bingo games if they are organized for religious, charitable, scientific, or educational purposes, or for the social welfare or benefit of the community, are exempt from income taxation, and have been in continuous existence for at least five years prior to an application for a license to operate a bingo game. The licenses are to be issued by the department of commerce and consumer affairs. People who play in or operate a licensed bingo game are specifically deemed to be exempt from prosecution under the criminal statutes governing gambling.

The bill also provides for procedures for the revocation of a license and penalties for violations of its provisions, and allows income from the bingo game to be subject to income and general excise taxation.

Moreover, the bill specifies the dollar amount for prizes awarded in bingo games. It limits the prize award for a single game to \$100, for a jackpot game to \$500, and for the total game to \$2,000. Finally, it restricts the operation of a bingo game to only one day of a calendar year. The bill makes the operation of bingo games unattractive and nonlucrative to criminal elements, so they will not attempt to infiltrate the games.

Due to continuing 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. Conducting bingo games may be an appropriate enterprise for such nonprofit organizations to enable them to pursue their community interests. Your Committee is not endorsing bingo as a sanctioned gambling activity. However, the bill proposes an interesting suggestion for a new avenue for nonprofit organizations to raise funds.

Your Committee has amended the bill to specify that no person employed in the operation or the actual conduct of a bingo game is to be compensated more than \$100 for the day or any part of the day that the bingo game is conducted. Moreover, your Committee has determined that \$64,000 is to be appropriated out of the general revenues of the State of Hawaii for the salaries of one clerk, one investigator, and one auditor to facilitate the administration of the bill.

Your Committee deleted sections 3 and 5 which amend the law to provide for the income taxation of nonprofit organizations that operate bingo games. Instead, your Committee has amended section 235-2.3(e), Hawaii Revised Statutes, to reflect that the unrelated business income of nonprofit organizations includes income from bingo games as a more proper method of making such income taxable under the income tax law.

Your Committee made technical, nonsubstantive amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 496, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 496, S.D. 2.

Signed by all members of the Committee except Senator Soares.  
Senators Holt, Matsuura and Henderson did not concur.

SCRep. 661            Ways and Means on S.B. No. 258

The purpose of this bill is to clarify the protections afforded to volunteers and to members of the public who may be injured by volunteers performing services for the State. Further, this bill ensures that volunteers receive reasonable hospital and medical expenses in accordance with part V, subpart B of chapter 386, Hawaii Revised Statutes, the workers' compensation law.

Your Committee finds that this bill would make clear that volunteers are employees of the State for the purposes of chapter 662, Hawaii Revised Statutes, known as the State Tort Liability Act, and that there is no conflict between a volunteer's status under chapter 90, Hawaii Revised Statutes, and the workers' compensation provisions of chapter 386, Hawaii Revised Statutes. Since volunteerism is a small but vital cornerstone of public service which should be encouraged, your Committee supports this bill which is in the public interest and to the public's benefit.

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. 258, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 258, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 662            (Majority) Ways and Means on S.B. No. 471

The purposes of this bill are to adjust the salaries or maximum salaries of certain public officers and employees of the executive branch, state explicitly that certain public officers and employees who are exempt from civil service also are exempt from collective bargaining, and delete reference to the salary of the special assistant to the governor for agriculture.

Your Committee has amended the bill by reducing the salaries of department heads to \$1 and adjusting the salaries of the administrative director and deputy administrative director of the courts and certain legislative officers.

As amended, this bill proposes adjustments to the salaries or maximum salaries of the following public officers and employees: governor, lieutenant governor, superintendent of education, department directors, adjutant general, deputies and assistants to department directors, administrative director of the State, federal programs coordinator, members of the Hawaii public employment relations board, chief negotiator, stadium manager and deputy stadium manager, commissioners of the public utilities commission, assistant, district, and deputy district superintendents of education, state librarian, executive director of the Hawaii public broadcasting authority, director of the executive office on aging, members of the Hawaii paroling authority, executive director of the Hawaii housing authority, members of the labor and industrial relations appeals board, deputy commissioner of credit unions, director of the office of consumer protection, director of the office of children and youth, state public defender, administrative director and deputy administrative director of the courts, legislative auditor, director of the legislative reference bureau, and ombudsman and their deputies or assistants, and executive director of the state ethics commission.

Your Committee notes that this bill does not include an increase in the maximum salary of



the president of the University of Hawaii. Your Committee also notes that, because of sections 401-1 and 431-33, Hawaii Revised Statutes, the maximum salaries of the bank examiner and insurance commissioner are increased by this bill.

Your Committee finds that the salaries or maximum salaries of the public officers and employees who are subject to this bill should be increased. At this time, however, your Committee is undecided as to the specific increases. Thus, your Committee acts favorably on this bill in its present form to keep the measure alive in the legislative process. Your Committee intends to provide its input in conference with the House of Representatives, if the House also acts favorably on this bill.

Technical, nonsubstantive amendments have also been made to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 471, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 471, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.  
Senator Hee did not concur.

SCRep. 663                      Ways and Means on S.B. No. 774

The purpose of this bill is to provide that adjustments for overtime, standby duty, temporary hazard duty, and negotiated pay increases affecting employees in shortage categories be made by using the base pay of the employees.

Your Committee finds that under current law, an employee hired in a shortage category position receives a temporary shortage differential which is not considered an adjustment to the employee's base pay. Consequently, while the employee may have been recruited at Step G, the employee's base pay rate remains at Step B. Any adjustments to the employee's salary for overtime, standby duty, temporary hazard duty, and negotiated pay increases are made to the Step B pay rate and not at the rate at which the employee was recruited. Your Committee amended the bill to ensure this inequity is corrected by substituting the phrase on page 1, line 15 of the bill "base pay of the employees" with "current rate of pay which includes the temporary shortage differential".

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 774, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 774, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 664                      Ways and Means on S.B. No. 1075

The purpose of this bill is to provide for the constitutionally mandated income tax credit.

Your Committee has amended the bill by providing for the income tax credit in the amount of \$1.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1075, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1075, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 665                      Ways and Means on S.B. No. 1416

The purpose of this bill is to amend section 235-7, Hawaii Revised Statutes, to exclude from gross income, adjusted gross income, and taxable income an amount equal to four per cent of the total rent paid during a taxable year by a resident individual taxpayer for the use of a principal residence.

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. 1416, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1416, S.D. 1.

Signed by all members of the Committee except Senator Soares.

SCRep. 666                      (Majority) Ways and Means on S.B. No. 495

The purpose of this bill is to provide for the establishment of a state lottery that will provide a new source of substantial revenues for the State. Profits generated from the operation of a lottery would be appropriated by the legislature for the benefit of senior citizens.

Your Committee amended section 3 of the bill by appropriating \$1 to provide for the establishment of the state lottery.

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. 495, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 495, S.D. 1.

Signed by all members of the Committee except Senator Soares.  
Senators Holt, Matsuura and Henderson did not concur.

SCRep. 667 (Majority) Ways and Means on S.B. No. 1190

This bill is part of the Senate tax package for 1985.

The purpose of this bill is to impose a "hotel room tax" by raising the general excise tax on transient accommodations to 6 per cent, and establishing a Hawaii tourism promotion and protective fund with an advisory board to recommend expenditures from this fund to the legislature.

For many years, representatives of the tourist industry have repeatedly requested the legislature to provide the necessary funds to adequately support advertising and promotion of Hawaii as a visitor destination. It is estimated that in order to remain competitive in the world tourist market, promotional expenditures of approximately \$10 to \$15 million per year would be required. Much of our State's revenues, however, have been channeled to and will continue to be in demand for our educational, social, and health oriented priorities. As a result of the finite amount of resources that the legislature has to work with, and other programs needing our immediate attention, funding for tourism promotion has been difficult to acquire.

As an alternative source of stable and permanent funding, the concept of a hotel room tax has been hotly debated in various forms over the past 15 years. Preliminary studies indicate that a hotel room tax is commonly imposed by many mainland cities and foreign tourist destinations. Proponents for the room tax argue that on the mainland, hotel tax rates range from 1 to 15 per cent, generally with little or no adverse effect on the visitor industry. In the past, the legislature, recognizing that Hawaii's economy is highly dependent on tourism, has been wary of imposing a room tax that could place our visitor industry at a competitive disadvantage.

Your Committee finds that there is a need to generate revenues to support the tourist industry on such projects as:

- (1) Tourism advertising and promotion,
- (2) Acquisition of land for state parks and recreation areas,
- (3) Upgrading and maintaining infrastructure in visitor destination areas, and
- (4) Establishing and operating a world class convention facility.

Such projects, if adequately funded, could ensure the long-term stability of the tourist industry and ultimately the vitality of Hawaii's economy.

Your Committee has amended this bill to increase the six per cent tax imposed to eight per cent over a three-year period with the tax to become effective on January 1, 1986 in order to provide sufficient time to both the industry and the department of taxation to prepare for its imposition.

Your Committee has further amended the bill by making technical and clarifying amendments and to show legislative intent to provide that for calendar year 1986-1987, one hundred per cent of the two per cent tax increase will go to fund tourist industry programs; for calendar year 1987-1988, two-thirds of the three per cent tax increase will go to fund tourist industry programs and one-third will go to fund county services such as police, fire, park maintenance and security, and sewers; and for calendar year 1988-1989 and thereafter, fifty per cent of the four per cent increase will go to fund tourist industry programs, twenty-five per cent to fund county services, and twenty-five per cent to fund human services. The legislature is required to

appropriate such tax revenues annually.

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

Signed by all members of the Committee except Senator Soares.  
Senator Machida did not concur.

SCRep. 668                      Ways and Means on S.B. No. 237

The purpose of this bill is to increase the personal exemption for income tax purposes to \$1,040, to amend the brackets and credits for the excise tax credit and to adopt the use of modified adjusted gross income for the excise tax credit, to adopt corporate tax brackets and new rates, and to repeal the tax credits to promote the purchase of child passenger restraint systems and to discourage the sale of dangerous drugs.

This bill is part of the Senate tax package for 1985.

Your Committee finds that the increase of the personal exemption from \$1,000 to \$1,040 will reduce the income taxes imposed on our taxpayers and increase their present income. This increase is also the same as that provided by the federal government for 1985 in Internal Revenue Code.

The bill also adjusts the income brackets and credits allowed under the excise tax credit. The new brackets and credits reflect the effect of inflation and increase the number of people who are eligible to claim the credit by extending the brackets to \$29,000 from \$20,000. At the same time, your Committee is adopting the use of modified adjusted gross income to determine eligibility. Modified adjusted gross income was used in the income tax law for the predecessor of the excise tax credit. With the increase in credits, it is only proper that modified adjusted gross income be used to determine eligibility so that only the deserving may claim these credits. By adding to adjusted gross income nonreported income such as pension and exempt interest income and deductions from gross income such as individual retirement account deductions, only those actually in need of these credits will be allowed to claim them.

Your Committee is adopting the income brackets and tax rates for corporations suggested by the Tax Review Commission. The present corporate rates have been in effect since 1965 and the \$25,000 cut off for small corporations has been in effect since 1958. The time for adjustment is long overdue. Although at the highest income level for corporations—\$100,000 and over—there is a slight income tax increase of .565 per cent, bracket creep and income tax deductions since 1965 more than offset this slight tax increase.

Your Committee is also repealing the credit for dangerous drugs. The credit apparently has never been claimed since its enactment in 1970 and should be repealed.

Your Committee has amended this bill by deleting the repeal of the child passenger restraint credit.

Coupled with other bills reported out of this Committee concerning taxation in the State of Hawaii, the taxes of both individuals and corporations will be equitably adjusted.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 237, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 237, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 669                      Ways and Means on S.B. No. 1185

The purpose of this bill is to exempt from the general excise tax, gross proceeds received from the retail sale of prescription drugs.

Currently, proceeds received from the sale of prescription drugs are subject to the four per cent general excise tax that is generally levied against all persons engaging in business within the State. This bill would exclude from the tax, proceeds realized from the retail sales of drugs which are prescribed by a practitioner licensed by law to administer the drug and which are dispensed and sold by a licensed pharmacist.

Your Committee notes that the department of taxation is in favor of this exemption and the revenue loss will be at acceptable levels. Your Committee finds that this exemption will assist our lower-income and elderly populations which must purchase prescription drugs. This

exemption will be of particular assistance to those who are chronically ill. Furthermore, this exemption will assist in alleviating the high cost of living in Hawaii.

Your Committee has amended this bill by substituting references to chapter 244D for chapter 244 which was repealed in 1984.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1185, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1185, S.D. 1.

Signed by all members of the Committee except Senator Soares.

SCRep. 670                      Ways and Means on S.B. No. 656

The purpose of this bill is to reduce the general excise tax rate for Care Homes and Adult Family Boarding Homes from the current four per cent to one-half of one per cent of the gross income due to such activities.

Your Committee finds that monthly payments to Care Homes and Adult Family Boarding Homes, which care for the elderly, developmentally disabled, and handicapped are inadequate considering that out of such payments, the care home operators are expected to provide food, living accommodation, laundry, recreation, transportation, twenty-four-hour care, and supervision to their residents.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 656, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 671                      Ways and Means on S.B. No. 239

The purpose of this bill is to amend the general excise tax to provide exemptions for affiliated and controlled groups of corporations and for common paymaster situations and to clarify the problems created by the department of taxation's stand regarding "gross up".

This bill is part of the Senate tax package for 1985.

The exemption of transactions between affiliated and controlled groups of corporations from the general excise is provided to remove an inequitable situation created between the income tax law and the general excise tax law. These groups of corporations are closely related to each other and in some instances not truly independent. For example, in the case of an affiliated group of corporations there is a parent and a subsidiary corporation where the subsidiary must be owned eighty per cent by the parent. The controlled group of corporations are similarly interdependent. Under the state and federal income tax laws, transactions between such corporations are not taxed and in the case of an affiliated group of corporations they are allowed to file a consolidated tax return. This is not the situation under the general excise tax law. As a result corporations in Hawaii are not able to use a beneficial method of operating due to the general excise tax law without incurring unnecessary tax consequences. This inequity creates an artificial barrier to doing business in Hawaii and should be eliminated.

The exemption granted common paymasters is also to eliminate an artificial barrier to doing business in Hawaii. In a common paymaster situation a group of corporations may share employees among themselves and choose one of the member corporations to pay the employees as the most efficient method of doing business. The other corporations reimburse the paying member corporation for their share of the salaries, social security, and other payments made regarding such common employees. Similarly, in the case of a related group of corporations, one corporation may have a very efficient payroll system and be chosen to perform payroll functions for all members of the group, for which it is reimbursed. The state and federal income tax law do not tax such reimbursements, but the general excise tax law does tax such reimbursements. This is an inequitable situation and should be eliminated in order to allow business to do business more freely and effectively in Hawaii. The language provided for this situation meets the objections made by the department of taxation to earlier bills on this subject.

The clarification of the departmental stance regarding "gross up" is required due to the artificiality of such a stance. The principle of "gross up" is used by the department to provide that if a company uses an outside third party, whether or not there is an apparent agency relationship, to sell the company's services, any commissions the department attributes to the third party will be added to the gross proceeds of the company using such third party, even though the company never receives the money. Such additions to gross proceeds are subject to the general excise taxation. For example, if a tour company offers a tour at \$20 and advertises

such fact and an independent person sells a ticket on that tour for \$15, the department attributes the difference between \$20 and \$15 as commissions paid the independent person and includes the \$5 difference in the gross proceeds of the tour company. The department applies the concept even though the company never sees the extra \$5 and may have no control over the price at which the person sells the ticket. Your Committee finds that this practice is inequitable and carries a broader implication for businesses which use the discount and independent agent concepts. This is particularly true in Hawaii where many of the hotels and other tourist activities package their services with discounts.

Your Committee finds that will be little if any revenue loss as a result of this bill as in the case of affiliated and controlled groups of corporations and common paymasters, business in Hawaii avoid the tax by not doing business in this manner. In the case of "gross up", revenues only result after audits and an after the fact imposition of tax.

Your Committee has amended this bill to provide that the requirement to file consolidated returns under the income tax law only applies to an affiliated group of corporations and not to controlled corporations as they do not file such consolidated returns. The provision on "gross up" has been amended to meet a problem the department had with the language.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 239, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 239, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 672                      Ways and Means on S.B. No. 1152

The purpose of this bill is to exempt merchants' associations which are organized to handle joint advertising and promotional activities for the association as a whole from the general excise tax.

The purpose of this bill is to reinstate an earlier position of the department of taxation regarding the taxability of advertising media, promotional, and advertising costs. In 1968 the department of taxation advised the Ala Moana Center Association that dues contributed for these costs were considered by the department as reimbursements and not subject to the general excise tax. In 1979 the department issued Tax Information Release 67-79 superseding this opinion and made such dues contributions taxable. This decision was based on a misreading of In Re Aloha Motors, Inc., 56 Hawaii 321 (1975).

Your Committee heard testimony in favor of this bill from all testifiers, except the department of taxation. Your Committee does not agree with the department that this situation is the same as that in the Aloha Motors case which involved only the manufacturer and Aloha Motors. In addition in the Aloha Motors case, Aloha Motors itself obtained additional monetary consideration from the customer for the warranty work which was reimbursed by the manufacturer.

In the case of merchants' associations, three parties are involved. The individual members, the association acting as a conduit for the member's dues and the third party advertiser who does the advertisements. The association obtains no additional monetary consideration for placing the advertisements, it merely pays the money over to the person performing the advertisement.

The general excise taxation of these associations is another example of the increased cost of doing business in Hawaii. Your Committee is taking the initiative in this area and where it finds that the department of taxation is making marginal calls regarding the taxation of certain methods of doing business in Hawaii, your Committee will suggest corrective legislation. This bill is an example of your Committee's interest this year.

Your Committee has amended this bill by deleting the amendment of section 237-23, Hawaii Revised Statutes, which would have exempted all activities of such association. Your Committee feels that such an exemption may encourage a misuse of these associations for other activities. Your Committee has substituted an amendment to section 237-24, Hawaii Revised Statutes, to provide for an exemption of the dues used by such associations for advertising media, promotional, and advertising costs. This exemption is the same as that granted by the department in 1968 to the Ala Moana Center Association.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1152, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1152, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 673

Ways and Means on S.B. No. 697

The purpose of this bill is to exempt exports of tangible personal property from the general excise tax.

This measure parallels the recommendations of the Tax Review Commission which recommended that the receipts from goods shipped outside of the State should be exempt from the 4 per cent general excise tax. The proposed measure, however, presents a more comprehensive understanding of the problems of the imposition of the general excise tax of such exports.

Under the general excise tax law, when goods are sold by a retailer for delivery outside the State there is no tax since the seller is placing it into interstate commerce. On the other hand, if the retailer conveys the goods to the buyer within the State the 4 per cent tax is imposed even though the buyer will be transporting the goods out of State. This is the problem that this measure attempts to address.

Your Committee is also aware of the inconsistency in the general excise tax law with respect to the exporting of manufactured and produced goods. Section 237-13(1) and (2), Hawaii Revised Statutes, provides that the 0.5 per cent tax is imposed on the goods (whether sold or not) prior to entry into interstate or foreign commerce. As a result, all goods sold by manufacturers and producers are imposed a 0.5 per cent rate whether or not they are sold for in-state use or for shipment out of State while retail goods are totally exempt from the 4 per cent tax if shipped through interstate commerce.

This measure corrects this inconsistency in the general excise tax law by exempting all tangible personal property exported out of State from the general excise tax law, regardless of the condition that the property is in, and whether or not the property is sold before or after it enters interstate commerce.

Your Committee finds that this exemption would have a small impact on state tax revenues if it is accepted that an increase in the volume of exported goods will represent an inflow of new economic wealth, i.e. money coming into the State to pay for the goods sold. This new economic wealth will mean an increase in revenues to the State via payroll and property taxes that are included in the cost of the tangible personal property exported.

Since the export of Hawaii manufactured and produced property would represent the inflow of new economic wealth and increased employment opportunities for Hawaii's people, such activities should be encouraged. Exempting such property from the general excise tax would allow such property to be more price competitive on the world market.

This is particularly true of property which is taxed in Hawaii and then taxed again in another state when sold at retail. Since in most instances the cost of goods sold reflects all prior costs and taxes, goods sold in another state from Hawaii will cost more than goods produced in that state assuming that both types of goods have equal costs of manufacture, other than the general excise tax.

This result is highlighted in the case of customized computer software. Since such software represents services according to the department of taxation, the tax on such software in Hawaii is at the 4 per cent rate. When such software is sold in California the price of such software includes the 4 per cent tax and incurs a 6 per cent sales tax in California. The accumulation of taxes makes it most difficult for a Hawaii software to compete in the California market.

Your Committee has amended this bill to provide that tangible personal property does not include tangible by-products of services. This amendment is to prevent the possibility of legal briefs, accounting papers, and the like—the tangible by-product of a service—from being exempted under this bill. In order to encourage Hawaii's new software industry, however, the bill has been amended to specifically provide that computer software and customized computer software are included within the definition of tangible personal property. Your Committee feels that any loss in general excise tax revenues will be more than made up through the expansion of a clean industry which is so necessary to Hawaii.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 697, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 697, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 674

Ways and Means on S.B. No. 241

The purpose of this bill is to amend the general excise tax by reducing the tax on sublessors

over a three-year period from four per cent to one-half of one per cent, to expand the exemptions for certain scientific contracts and for certain shipbuilding and ship repair, and to repeal the exemption for manufacturers of pulp and paper.

This bill is part of the Senate tax package for 1985.

The reduction of the general excise tax on sublessors, except for the final sublessor who pays the four per cent rate, will result in an overall reduction in the cost of doing business and will result in lower prices charged to the consumer in many cases. When there is a series of leases, presently each lessor pays four per cent. In a series of three leases, the tax passed on to the final lessee may be twelve per cent or more due to the pyramiding of taxes. This pyramiding has an onerous effect on all business in Hawaii, and the time is long overdue to address this problem by reducing the tax on intermediate lessors.

The exemption for scientific contracts is expanded to all such contracts in the State and the definition of scientific facilities is reordered, updated, and expanded to reflect present day activity. These amendments will encourage research activities in this State and result in more clean industry developing in Hawaii.

The expansion of the exemption for shipbuilding and ship repair to all surface vessels operated for commercial purposes out of any harbor in this State will encourage the present industry to expand and will allow it to compete with such areas as California which does not have a tax on this service similar to Hawaii. With its unique position in the middle of the Pacific, Hawaii should be able to attract many of the fishing vessels operating in this area. Extending this exemption will also assist Hawaii's ailing fishing industry by reducing repair costs to that industry.

Finally, this bill repeals the exemption for the manufacturer of pulp and paper. This exemption is obsolete and should be repealed.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 241, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 675                      Ways and Means on S.B. No. 701

The purpose of this bill is to reduce the general excise and use tax on capital goods by one per cent a year until June 30, 1988, when the sale of such capital goods to general excise tax licensees—people who do business in Hawaii and pay these taxes—will be totally exempt from such taxation.

This bill is part of the Senate tax package for 1985.

The imposition of the general excise tax on such sales adds to the cost of doing business in this State and in turn adds to the cost of consumer and other products. The same may be said for the imposition of the use tax on the importation of such capital goods into the State. Both of these taxes, for the most part imposed at the four per cent rate, make it just that much harder to start a business in Hawaii and to continue such a business. This reduction and exemption is necessary to stimulate business in Hawaii. As your Committee pointed out in Standing Committee Report No. 345, although tax revenues will be reduced by adopting this bill, the economic activity generated by the bill will provide additional income and payroll taxes and increased general excise taxes from increased sale of goods due to lower prices.

Your Committee has amended this bill to clarify that the reduction of the general excise and use tax on capital goods only applies to the tax on sales to licensees and not to all sales. Your Committee believes that the department of taxation will be able to administer this bill through the use of certificates such as those used for some wholesale sales or through some other cost efficient method.

Your Committee has also added reference to persons paying taxes under chapter 239, the public service company tax law, chapter 241, the financial institution tax law, and section 431-318, the insurance company tax law to allow them the exemption granted by this bill. In order to prevent abuse, your Committee has provided that the persons purchasing or using capital goods must purchase them for, or use them in, their business.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 701, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 701, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 676

Ways and Means on S.B. No. 246

The purpose of this bill is to provide for the exemption of sales and gross proceeds of sales to the State and its political subdivisions and to provide an exemption from the general excise tax to certain government service companies.

This bill is part of the Senate tax package for 1985.

Your Committee notes that sales to the State and its political subdivisions are subject to the four per cent general excise tax as they are the final consumers of the products or services sold. The tax, however, only applies to local vendors which places them at a disadvantage to unlicensed out-of-state sellers not subject to this tax. While the revenues to the State would be somewhat reduced by this exemption, the ability of local vendors to compete will be enhanced. Furthermore, this tax exemption will assist the cash flow of the counties by reducing the amounts paid for the general excise taxes.

The second exemption is provided to certain government service companies. The main beneficiary of this exemption will be the MTL corporation which operates the bus system for the city and county of Honolulu. Presently, the State considers amounts reimbursed (the county subsidy) to MTL by the city and county for actual expenditures associated with the operation of the bus system as gross income to the corporation and taxable under the general excise tax. In addition thereto, revenues from the fare box are also taxable under the general excise tax. The taxation of both these amounts increase the subsidy that MTL requires to be paid by the county. The taxation of both reimbursements and fare box revenues increase the total cost of the bus system.

Your Committee finds that by exempting the county and the MTL corporation from the payment of general excise tax the counties will obtain fiscal relief which can be passed on to real property owners in the form of reduced real property taxes.

Your Committee has amended this bill by adding a section repealing section 103-53.5, Hawaii Revised Statutes. This section requires the bid price on government bids of out-of-state vendors not doing business in the State to be increased by the amount of the general excise tax. With the exemption of sales to government from the general excise tax this section is no longer needed. Your Committee has also made technical amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 246, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 246, S.D. 2.

Signed by all members of the Committee except Senator Soares.

SCRep. 677

Agriculture on S.B. No. 1353

The purpose of this bill is to amend the Hawaii Pesticide Law, Chapter 149A, Hawaii Revised Statutes, to prohibit the use of any pesticide banned by the Environmental Protection Agency (EPA) or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

Your Committee received testimony from the Board of Agriculture stating that pursuant to the FIFRA, the use of any pesticide, the registration of which is subject to suspension or cancellation by the EPA, is prohibited. However, FIFRA allows the use of the remaining stock under a restrictive condition approved by the EPA.

Further, there are cases where only certain uses of a pesticide are suspended or cancelled by the EPA. In these cases, the remaining uses of the pesticide not subject to suspension or cancellation are permissible, provided that the registrant amends the label or labeling to show only the permitted uses.

Your Committee finds that prohibiting the use of agricultural pesticides without exceptions may have devastating effects on the agricultural sector. A complete cancellation of a pesticide affords no flexibility to farmers if there are no alternate products available or as is sometimes the case, the product is unavailable in the islands.

A "phase out use" period, or an interim period following the cancellation or suspension of a pesticide is allowed by Federal pesticide laws and is based on a risk assessment. The phase out period is provided to farmers so they can find a registered alternative product to take the place of the affected pesticide. A phase out period would have merit and should be allowed if the extent and period of use of the pesticide are determined by the EPA to pose no significant environmental risk to the health and welfare of the general public.

Your Committee has amended the bill to provide for the following:



- (1) The use of pesticide shall be prohibited when the registration or use is suspended or cancelled by the EPA under FIFRA;
- (2) The use of such pesticide may be continued under any special local needs registration; provided that the Department of Agriculture re-evaluate the special local needs registration;
- (3) Providing the chairman of the Board of Agriculture with the authority to ban the use of certain pesticides when such usage is deemed to have unreasonable adverse effects on the environment; and
- (4) Repealing Section 149A-32, Hawaii Revised Statutes, which is redundant and unnecessary.

Your Committee believes it is in the best interest of the public to provide flexibility in monitoring pesticide use.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1353, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1353, S.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 678      Consumer Protection and Commerce on S.B. No. 174

The purpose of this bill is to authorize the Contractors License Board to contract for examination services with a testing agency and to establish examination fees.

Under the current law, the Contractors License Board shall prepare, administer and grade examinations and tests for applicants. The contractor examination consists of two parts: (I) Contractors licensing laws, workers' compensation laws, lien laws, and business practices; and (II) specialty subject matter. All applicants must pass Part I; and pass Part II if it is available. Presently there are 52 sets of contractor examinations in 49 specialty areas.

Currently, examinations for the various boards in the Department of Commerce and Consumer Affairs (DCCA) are either prepared by board members or the services are contracted out to a consultant or testing agencies. Your Committee finds that a number of boards presently contract for services with testing agencies. Recently, a testing agency began providing examination services which include examination development, periodical up-dates of the examination, references for examination question to aid applicants, and determine the validity and reliability of the questions. The Board believes that using a testing agency will improve the examination program and such examinations may be less subject to challenges. The Board noted that the testing agency will defend the validity of the examination in court, if necessary.

Your Committee believes that special expertise in developing examinations and writing tests insures test results are administered and graded in an unbiased manner and improves the professional quality of the examination process.

Under the bill, examination fees will be established by the Director of the DCCA. The Director will periodically consult with the contractors licensing board and the testing agency to determine reasonable fees which would be remitted by an applicant to the testing agency after the application has been reviewed and approved by the board.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 174 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Henderson.

SCRep. 679      Consumer Protection and Commerce on S.B. No. 177

The purpose of this bill is to include an "auction" as part of the definition of the term "dealer" for purposes of Chapter 437, Hawaii Revised Statutes, the Motor Vehicle Industry Licensing Act.

Presently, "auction" is defined as any person engaged in the business of selling motor vehicles by means of bidding at a public or private sale but excludes an auctioneer. The definition of dealer does not expressly state that an auction is included within the purview of the statutory definition.

Your Committee heard testimony from the Motor Vehicle Industry Licensing Board that when

it proceeded to take action against an "auction" for alleged violations of Chapter 437, Hawaii Revised Statutes, confusion arose as to whether "auction" can be construed to mean a "dealer". Accordingly, the Department of the Attorney General advised that the term "dealer" be amended to include auction.

Your Committee also heard testimony from the Car and Truck Renting and Leasing Association (CATRALA) expressing the concern that rental and leasing businesses often use the auction mechanism and would be adversely affected if this amendment is interpreted to preclude "any" sale of vehicles by a bidding process.

Your Committee appreciates the Association's concern and the Committee expressly notes its intention that no interpretation of auction shall include a vehicle rental or leasing company, partnership, agent, or sale proprietorship that auctions vehicles for the purposes of decreasing, disposing, or increasing its fleet to meet customer demands.

Your Committee has amended the bill to correct typographical errors.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 177, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 177, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Henderson.

SCRep. 680      Consumer Protection and Commerce on S.B. No. 204

The purpose of this bill is to replace the Director of Commerce and Consumer Affairs as trustee in charge of the management of the travel agency recovery fund with three trustees selected and appointed by the director from among persons licensed under Chapter 468K, Hawaii Revised Statutes.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs supporting this bill because it removes the director from a conflict of interest situation. Currently, the Director of the Department of Commerce and Consumer Affairs is the sole trustee of the recovery fund. The principal investigator and prosecutor of complaints against travel industry members is the Office of Consumer Protection which is assigned to the Department of Commerce and Consumer Affairs for administrative purposes. To the extent that the Office of Consumer Protection obtains a judgment for which recovery may be sought from the fund, the Office of Consumer Protection in an awkward position of having to prepare an action against the Director of the Department.

This bill provides that trustees of the recovery fund will be appointed by the Director from among those licensed under the chapter. The Department notes that using people from the travel industry as trustees affords them the opportunity to be involved in the process of redressing consumer harm and complaints and be made aware of practices and persons that produce the harm and complaints.

Your Committee also received favorable testimony from the American Society of Travel Agents and the Hawaii Business League.

Your Committee has amended the bill to make technical and stylistic 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. 204, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 204, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi and Henderson.

SCRep. 681      Consumer Protection and Commerce on S.B. No. 198

The purpose of this bill was to delete the invalid durational residency and high school graduate requirements from chapter 455, Hawaii Revised Statutes.

Your Committee heard testimony from the Board of Examiners in Naturopathy on this bill and Senate Bill No. 216 relating to the sunset of the Board. Your Committee is concerned with the Board's inaction on resolving important issues regarding accreditation of school programs and curricula, examination criteria, and licensure. Much work has to be done to update and modernize the regulatory provisions administered by the Board.

In light of these concerns, your Committee feels that the Board should be extended for two years by amending the bill to include a repeal date for the Board of December 31, 1987. Your

Committee is also adding a requirement that no license shall be issued after the effective date of this Act until such time as new rules have been approved addressing the issues of concern.

Your Committee further amended the bill by raising the passing grade on examinations from a general average of seventy-five percent to a minimum of score of seventy-five percent on all parts of the examination.

Your Committee believes that the Board should take immediate, positive steps to address the problems and concerns expressed in this report. The Committee believes two years is an adequate extension to allow correction of these problems.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 198, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 198, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Henderson.

SCRep. 682            Consumer Protection and Commerce on. S.B. No. 199

The purpose of this bill was to discontinue licensing of osteopathic physician and hereafter license osteopathic physicians and surgeons and eliminate the distinction between these two groups of people.

This bill removes the term "osteopathic physician" and replaces it with the term "osteopathic physician and surgeon."

Currently, there are two kinds of licenses issued by the State Board of Osteopathic Examiners: one for "osteopathic physicians" and one for "osteopathic physicians and surgeons." Osteopathic physicians have been regulated in Hawaii since 1921. Act 14 that year authorized the State to "regulate the practice of osteopathic physicians and surgeons, to provide penalties for the violation of the Act and to repeal all laws and parts of laws in conflict therewith." Act 14 provided for two separate licenses, one for osteopathic physicians and a separate license for osteopathic physicians and surgeons. The latter license authorized osteopathic physicians to perform major surgery. This distinction has resulted in needless confusion because all graduates of the fifteen osteopathic colleges in the United States are certified and licensed as both osteopathic physicians and surgeons.

The proposed amendments will not affect those licensed as osteopathic physicians until the biennial renewal period. The bill provides for change of status of osteopathic physician to and surgeon after the next biennial renewal period or after June 30, 1986.

There was general support in favor of the bill. However, the Board of Osteopathic Examiners was critical of the Legislative Auditor's (LAD) report suggestion of eliminating "willfully betraying a professional secret". The Board cites that the code of ethics for osteopaths states, "The physician shall keep in confidence what he may learn about a patient in the discharge of professional duties. Information shall be divulged by the physician when required by law or when authorized by the patient." The Board also disagrees with the LAD's suggestion of having osteopaths placed under the Board of Medical Examiners. Therefore, the Committee decided to incorporate Senate Bill No. 214 into this Bill, and also granted the Board of Osteopathic Examiners a six-year extension.

Your Committee has made the following amendments to the bill:

- 1) Defines the practice of osteopathy.
- 2) Eliminates the osteopathic physician license and instead provides for licensing as an osteopathic physician and surgeon.
- 3) Eliminates the requirement for one year of assistantship to a qualified osteopathic surgeon if graduated subsequent to 1943.
- 4) Eliminates the requirement of age and good moral character for licensing.
- 5) Provides for the acceptance of results of the Federal Licensing Examination in lieu of the state written examination.
- 6) Eliminates the three-year experience requirement for a license provided that an applicants' license is practically equivalent to the requirements for a license in this State.
- 7) Eliminates the oral-practice examination.

- 8) Provides for the representation of at least one osteopathic physician on the Board of Osteopathic Examiners.
- 9) Provides for the regulation of physician's assistants employed by osteopathic physicians.
- 10) Provides that existing statutes relating to disciplinary action and information reporting requirements for medical doctors apply to osteopathic physicians.
- 11) Provides that the chapter pertaining to the Board of Osteopathic Examiners is repealed effective December 31, 1991.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 199 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 199, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 683      Consumer Protection and Commerce on S.B. No. 213

The purpose of this bill is to expand the membership of the Board of Private Investigators and Guards from four to seven members by adding a second police chief, another public member, and one more industry member.

Your Committee heard testimony from the Board of Private Detectives and Guards on the continued growth of the security industry which requires additional attention and input in regulating it. The Board feels enlarging the membership would be helpful in regulating this growing industry.

Your Committee amended section 1 of the bill by changing the period after the word "practices" in line 6 of page 2 to a semicolon and adding the following phrase:

"provided that one person shall be a licensed private detective and one person shall be a licensed guard."

The purpose of this amendment is to ensure equal representation on the Board by both private investigators and security guards.

Your Committee also made technical and stylistic 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. 213, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 213, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Matsuura, Henderson and A. Kobayashi.

SCRep. 684      Consumer Protection and Commerce on S.B. No. 217

The purpose of this bill is to extend the repeal date of chapter 463E, Hawaii Revised Statutes, to December 31, 1991.

Your Committee received favorable testimony from the Board of Medical Examiners and the Hawaii Podiatry Association and finds that in order to maintain the current standards of podiatric care, chapter 463E must be in effect.

Your Committee, after having reviewed the Sunset Evaluation Report on Podiatrist (Report No. 85-5) finds that there are several deficiencies in chapter 463E and has amended the bill as follows:

1. Deleting the requirements for oral and practical licensing examinations and adding instead a requirement for a written test of clinical competency.
2. Deleting specific references to the dates when the licensing examination should be administered.
3. Deleting the requirements for good moral character as that term is ambiguous.
4. Updating section 463E-3, Hawaii Revised Statutes, and section 463E-4, Hawaii Revised

Statutes, to reflect the American Podiatry Association's recent name change to the American Podiatric Medical Association.

5. Incorporating additional grounds for disciplinary action and sanctions additional to the chapter.
6. Requiring state court clerks and uninsured podiatrists to report cases involving death or personal injury caused by negligence, error or omission in practice, or the unauthorized rendering of services to the department.
7. Adding a requirement that hospitals must consider applications for clinical privileges and medical staff membership submitted by licensed podiatrists, and review these applications on a case-by-case basis in accordance with the same rules and procedures that are established for other licensed individuals who are authorized by law to practice independently.

Your Committee on Consumer Protection and Service is in accord with the intent and purpose of S.B. No. 217, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 217, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Henderson.

SCRep. 685      Consumer Protection and Commerce on S.B. No. 218

The purpose of this bill was to extend the repeal date of Chapter 451A, Hawaii Revised Statutes, relating to the Board of Hearing Aid Dealers and Fitters to December 31, 1991.

Your Committee heard testimony from the Hawaii Speech-Language-Hearing Association and the Board of Hearing Aid Dealers and Fitters and finds that the repeal date for Chapter 451A should be extended for the protection of consumers.

Your Committee has amended the bill by deleting the requirement that license or certificate applicants be of good moral character, and providing that the Board shall monitor medical authorizations and waivers and develop policies and procedures, in consultation with the State Ethics Commission, for dealing with conflicts of interest. Your Committee finds that a requirement of good moral character is, in actual experience, unenforceable. Your Committee further finds that despite the Board's expressed authority to monitor medical authorizations and procedures it has not done so, and that any competent regulatory board should have the fully developed capability to protect the consumer against potentially harmful conflicts of interest.

Your Committee, in approving this measure, wishes to note that it does so with the clear understanding that by January 1, 1986, the Board shall amend its rules which have no current statutory basis or are unenforceable and improve its written examinations to reflect contemporary needs, conditions, and practice.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 218, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 218, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 686      Consumer Protection and Commerce on S.B. No. 220

The purpose of this bill is to extend the term of the Elevator Mechanics Licensing Board until December 31, 1991.

Your Committee finds that the Elevator Licensing Board provides a constant monitoring of elevator mechanics to ensure the safety of individuals utilizing elevator and escalator equipment. A continuing need for the existence of this board is in the best interest of the general public's welfare.

Your Committee further finds that the licensing requirements of elevator mechanics insures that these mechanics are qualified to assemble and maintain elevators in Hawaii. Without this requirement, untrained elevator mechanics would be able to work in Hawaii without any testing of their skills or knowledge.

In 1983, the Legislative Auditor recommended that the Board be sunsetted mainly because of their inactivity. Aware of the Auditor's recommendations, the Board was extended for 2 years

rather than the original 6 years, with the understanding that the extension will serve as a period of consideration of eventual repeal or continuation.

Presently, your Committee finds after careful consideration, that the Board has demonstrated their usefulness to the elevator industry in the past 2 years by taking a more active role by working with the Department of Labor and Industrial Relations Inspection Division on unlicensed activity and with the Department of Commerce and Consumer Affairs on the mechanic's examination.

Your Committee concurs with the testimony supporting this measure to extend the term of the Board to maintain the high standards of competency in our licensed elevator industry.

Your Committee has amended the bill by amending Section 448H-5, Hawaii Revised Statutes, to allow the Board to prescribe a nationally recognized examination including locally developed material, to be used in testing for licensure; passing grade for the examination to be not less than 70 percent; and to establish rules for the different levels of competence among elevator mechanics. Your Committee believes these amendments will continue to keep up the standards of elevator mechanics and will provide a basis for the continued evaluation and consideration on whether to repeal or continue the Elevator Mechanics Licensing Board. Your Committee further amended the bill by making technical changes having no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 220, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 220, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Henderson.

SCRep. 687            Consumer Protection and Commerce on S.B. No. 230

The purpose of this bill is to include motor vehicle service warranty or guaranty contracts within the definition of vehicle insurance.

Your Committee was informed that the vehicle service contract concept had its beginning in the late 1960's as the automakers moved away from the five-year/50,000 mile extended warranty plans and began to supply limited coverage. The vehicle service contract, which protects car owners beyond the manufacturer's warranty period, filled this void.

It quickly became one of the most popular aftermarket products. Total sales of vehicle service contracts increased from 250,000 in 1974, to more than 3.7 million in 1983.

One of the principal reasons for this dramatic increase in service contract sales has been the dramatic rise, particularly since 1978, in the cost of repairs and maintenance of an automobile. In spite of the recent "boom" within the automotive industry, consumers are holding onto their cars longer and longer. During the fiscal year ending June 30, 1983, American's kept their older models longer than at any time since 1950. The median age of the U.S. automobile population hit 6.5 years in 1983, up from 5.1 years in 1973.

Repairs two, three and four years down the road are inevitable as manufactured products continue to become increasingly complex. The costs of repairs are rising. It is not at all unusual to find flat labor rate charges in excess of \$50 per hour. A vehicle service contract allows a consumer to pay up front and freeze the costs of future insured repairs, thereby enhancing the contracts utility and popularity during a time of rising repair costs.

This bill requires the maker of a motor vehicle service warranty contract to obtain an insurance policy to provide additional protection to consumers upon any failure of the guarantor to perform the contracted services.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs and the American Warranty Corporation in support of this bill.

Your Committee adopted recommendations by the Department to place these provisions under the general casualty insurance Section 431-11, Hawaii Revised Statutes, and your Committee has amended the bill accordingly.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 230, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 230, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Henderson.

SCRep. 688            Consumer Protection and Commerce on S.B. No. 309

The purpose of this bill was to remove motorcycle and motor scooter operators from Chapter 294, Hawaii Revised Statutes, the Motor Vehicle Accident Reparations Act.

Your Committee heard testimonies comparing the high cost of motorcycle insurance to the little harm that motorcycles and motor scooters cause in accidents. There was also testimony opposing excepting motorcycle and motor scooter operators from the no-fault laws.

Your Committee is concerned with (1) keeping no-fault coverage intact in cases where a motorcycle rider strikes a pedestrian, or a passenger is injured; (2) continuing coverage for property damage and personal injury liability for pedestrians and riders as in no-fault; and (3) maintaining the threshold amount, under no-fault insurance, for those pedestrians or passengers injured by a motorcycle rider.

In weighing the different concerns and implications, your Committee has amended section 1 of the bill by restructuring subsection (a) and adding the provision "in the case of accidental harm arising out of a motorcycle or motor scooter accident to any passenger of said motorcycle or motor scooter, or any pedestrian, motorcycles and motor scooters will not be exempt from sections 294-4, 294-6 and 294-10, Hawaii Revised Statutes." Your Committee recognizes that the mechanism by which uninsured motorists and motorcyclists can be detected and penalized must be strengthened.

Your Committee also provided optional wage loss protection, in addition to optional medical coverage for the insured motorcycle rider. This was incorporated by adding a new provision, in a restructured form, in section 1 of the bill which reads "(2) Offer an income disability plan".

In addition, your Committee incorporated sections 6 and 7 from Senate Bill No. 670 which deletes proportionate reimbursement among insurers and self insurers under section 294-34(c), Hawaii Revised Statutes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 309, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 309, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Henderson.

SCRep. 689

Consumer Protection and Commerce on S.B. No. 389

The purpose of this bill is to provide for an increase in the no-fault benefit amounts and the liability and uninsured coverage amounts under the no-fault law, and to further provide a new optional "underinsured" motorist coverage under said no-fault law. The purpose of this bill is in line with the overall intent of the no-fault law to provide speedy and adequate protection to persons injured in motor vehicle accidents at the least possible cost.

The bill proposes to increase the benefit amounts recoverable by an injured party or his survivor by increasing the monthly earning loss from \$800 to \$1,000 per month, substituted services from \$800 to \$1,000 per month, and funeral expenses from \$1,500 to \$3,000. The bill also increases the liability and uninsured motorist coverages from \$25,000 to \$100,000. While the cost of living has steadily increased since the inception of the no-fault law in 1973, the foregoing liability, uninsured and no-fault benefit coverages have not correspondingly increased. The increase is an attempt to update the benefits and coverages to current economic realities. Your Committee, however, feels that the increase in liability and uninsured motorist coverage should be from \$25,000 to \$50,000, rather than as proposed. For the same reasons your Committee believes that the minimum required property damage protection should be increased from \$10,000 to \$25,000.

Testimony on the "underinsured" coverage provision indicated that such optional coverage would provide additional protection to the injured party. Since the intent of the no-fault law is to provide speedy and adequate protection to the injured party at the least possible cost, your Committee is in favor of the underinsured coverage. The coverage being optional, however, your Committee believes that the coverage amounts of \$125,000 and \$150,000 should not be stated in the law but should be a matter between the insurance company and the insured.

In connection with providing no-fault insurance to the consumer at the most reasonable and lowest cost, the bill's provisions are deficient. In setting premium rates the motor vehicle insurance commissioner should be allowed to use out-of-state data to reach a fair and reasonable rate, a rate which would give the consumer a low cost auto insurance and the insurance company a reasonable margin of profit. The bill has been amended to provide for the foregoing by amending Section 294-13, Hawaii Revised Statutes, relating to motor vehicle insurance rates.

Your Committee has further amended the bill by changing the effective date to January 1,

1986 and providing for the other aforementioned changes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 389, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 389, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Henderson.

SCRep. 690            Consumer Protection and Commerce on S.B. No. 457

The purpose of this bill is to allow large condominium associations to reduce the number of directors below a minimum of nine by means of a mail ballot of owners, rather than a secret written ballot.

Present law requires that condominiums with one hundred or more individual units shall have a minimum of nine directors. Should the association want to reduce the minimum to a number less than nine directors, the law requires that not less than seventy-five percent of all apartment owners vote by "secret written" ballot, at a special or annual meeting of the owners to reduce the number of directors.

Your Committee recognizes that the greater the number of directors the greater the opportunity for owner participation in managing the affairs of a condominium. However, your Committee is aware that certain condominium projects have experienced difficulty in obtaining the minimum number of directors, thereby causing difficulties in managing the project. This bill would allow such projects to more easily reduce the number of directors required.

Your Committee heard testimony from the Hawaii Association of Realtors supporting this bill.

Your Committee has amended the bill by deleting unnecessary language making cross references between paragraphs 1(A) and 11 of Section 514A-82 and by making a technical change which has no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 457, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 457, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Henderson.

SCRep. 691            Consumer Protection and Commerce on S.B. No. 539

The purpose of this bill was to regulate alarm businesses which install, maintain, and repair burglar alarm systems.

This bill establishes a new chapter prescribing minimum standards of conduct and responsibility for alarm businesses and users of the alarms. The bill provides for the following:

- (1) Defines terms necessary for the functioning of the provisions of this chapter;
- (2) Requires an alarm business to have a \$5,000 bond;
- (3) Requires maintenance of records and reports;
- (4) Requires posting name, address, and telephone number of the business monitoring the alarm;
- (5) Requires audible systems to have automatic termination of the signal within fifteen minutes;
- (6) Provides that automatic telephone dealers shall not be programmed for police or emergency telephone numbers;
- (7) Prohibits intentional activation of an alarm unit except to report an unauthorized intrusion;
- (8) Provides for information sharing with police departments;
- (9) Contains a restitution provision for violators of this chapter; and
- (10) Provides for a fine up to \$2,500 for any unlawful act or practice.

Your Committee heard testimony from the Office of Consumer Protection, the Honolulu



Police Department (HPD) and the Hawaii Burglar and Fire Alarm Association in support of this bill. HPD testified that this bill would help to combat the false alarm problem, which in 1984, amounted to an average of over 2,300 calls per month. The Office of Consumer Protection and suggested amending this bill to help clarify the bonding conditions for alarm businesses. Smaller distributors expressed concern over too much regulation, saying that most national parent companies would be able to provide bond coverage sufficient to meet the financial solvency concern.

Your Committee has amended Section 2 of the proposed chapter to require alarm businesses to be regulated for a period of 5 years during which time each alarm business would have a \$5,000 surety bond. Your Committee has further amended the proposed chapter in Sections 3, 4, and 8 by restructuring the language for purposes of clarity, and adding clarifying language in section 6 concerning emergency numbers and in Section 8 concerning false alarm systems. Other grammatical and style changes which were made have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 539, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 539, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Henderson.

SCRep. 692            Consumer Protection and Commerce on S.B. No. 556

The purpose of this bill is to substantially revise the current regulation of port pilots by eliminating the Board of Pilot Commissioners and rate regulation and substituting the Director of the Department of Commerce and Consumer Affairs (DCCA) in place of the Board.

Your Committee finds that there is a need for the regulation of pilotage, however, regulation by the Board has not met the purposes intended by the Legislature. The practice of pilotage presents significant potential dangers to life, property, and the economic well being of a community dependent on maritime commerce.

Your Committee has amended the bill as follows:

1. Provide that the regulation of rates shall be handled by the Director of DCCA;
2. Provide that Chapter 462A relating to pilotage shall be repealed effective December 31, 1990; and
3. Provide that the Director of DCCA shall establish standards for licensure and deputy port pilots and full pilots.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 556, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 556, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Henderson.

SCRep. 693            Consumer Protection and Commerce on S.B. No. 665

The purpose of this bill is to regulate and control individuals practicing acupuncture.

This bill creates a new chapter within the Hawaii Revised Statutes to regulate and control the practice of acupuncture in the State. This bill does the following:

- (1) Defines terms relevant to the proper functioning of the various provisions of the chapter;
- (2) Establishes a licensure requirement for the practice or instruction of acupuncture;
- (3) Exempts certain persons and professions from the provision of the chapter;
- (4) Delineates the necessary eligibility qualifications to take the examination required for licensure;
- (5) Creates a Board of Acupuncture;
- (6) Delineates the powers and duties of the Board;
- (7) Provides for required fees and their disposition;
- (8) Determines conditions by which licenses may be revoked or suspended and provides for hearing proceedings before revocation or suspension is imposed;
- (9) Establishes penalties for violations of any of the provisions of the chapter or rules adopted to effectuate the purpose of the chapter; and
- (10) Repeals the Board effective December 31, 1990.

Your Committee received testimony from the Department of Commerce and Consumer Affairs in favor of an alternative plan wherein the director would be responsible for the regulation and control of the practice of acupuncture. An Advisory Board would be created to give the necessary technical input to the director. This plan evolved from the past experience with the old board wherein abuses of the board and current factionalism within the occupation led to its repeal effective December 31, 1984. However, the Department provided many suggested changes to this bill which it believes are necessary in order to correct many of the shortcomings and past problems as documented by the Legislative Auditor's sunset evaluation report on the old Board.

Your Committee received testimony from many concerned individuals and practitioners in support of this bill noting that the profession must have a mechanism to control and regulate itself and not be regulated by the Director of Commerce and Consumer Affairs.

Your Committee, after free and open discussion carefully weighed and balanced the problems and shortcomings of the old Board of Acupuncture, the alternative plan offered by the Department, and the sincere concern of practitioners and students in the profession to be allowed another chance to put their house in order. The Committee believes that the profession should be given another chance to rectify its past failures in regulating and controlling its practitioners. The Committee, however, is in accord with many of the concerns of the Department and is amending the bill to reflect the Department's recommended changes. One change of particular significance to the Committee is the amendment of the repeal date from December 31, 1990 to December 31, 1988. This will give the new Board of Acupuncture approximately three years to effectuate the necessary regulation of the profession to the satisfaction of the Department and the Legislature.

Accordingly, your Committee has amended this bill as follows:

- (1) § -4, on page 2, line 13: Added "(a)" before the word "Except"; and on page 2, line 20 added a new subsection (b) which reads as follows:

"(b) Any person who has been issued a license to practice acupuncture by the board may use the title "Licensed Acupuncturist" or append to his name the letters "L.Ac.", a designation for "Licensed Acupuncturist"; provided that a licensee who also has received an academic doctoral degree from a university or college within the United States in the study or practice of acupuncture or oriental medicine may use or append the letters "DR." to the licensee's name provided that the word "Acupuncturist" immediately follows the licensee's name."

This provisions will provide guidance to practitioners on the appropriate designations and titles they may use in holding themselves out as acupuncture practitioners.

- (2) § -4(a), on page 2, line 21: Added the number and comma "448," after the comma following the number "442". This allows dentists to be exempted from licensure provided the dental board so certifies. This exemption was part of the previous law before the acupuncture board was repealed.
- (3) § -4(c), on page 3, line 5: Inserted the words "and current" after the word "valid". This addition insures that those licensees who were not current when the old board was repealed would have to go through the examination process again.
- (4) § -4(e), on page 3:
- (a) On line 15: Inserted the phrase "and complete their training by December 31, 1989" after "1984" and before the colon;
  - (b) On line 16: Inserted a comma and the phrase "earned or accumulated credits," after the word "education";
  - (c) On line 19: Deleted the comma after "16-72";
  - (d) On line 20: Deleted the phrase "Hawaii Administrative Rules, as they existed" and substituted the words "in effect";
  - (e) On line 21: Deleted the period after "1984" and substitute a semi-colon;
  - (f) On line 22: Added a phrase that applies to all of subsection (e) that says "provided that the school or tutorship has not altered its program as to lower the standards for completion of the program."

These amendments limit a present students' right to sit for the examination if the school or tutorship has altered its program so as to lower standards for graduation. The change insures that the public is not harmed by inadequately trained practitioners.

- (5) § -5 on page 3, line 22: Inserted a new section 5 which reads as follows:

§ -5 Patient's rights. No person licensed under this chapter shall engage in the practice of acupuncture without first informing the patient that acupuncture is not effective for all illnesses and that some illnesses do not respond to acupuncture."

The original section 5 and all other subsequent sections have been renumbered accordingly.

Your Committee agrees with the Legislative Auditor that an informed patient will make better decisions about the type of treatment the patient should proceed with and obtain.

- (6) § -5(b)(1) on page 4, line 21: Deleted the words "an acceptable status" after the word "be" and substituted the words "accepted to qualify". This change clarifies the sentence and is consistent with the subsections purpose.
- (7) § -6 on page 5, lines 3 and 4: Deleted the sentence "One duty of this board shall be to examine all applicants for license to practice acupuncture." This sentence is inappropriate here and its content is sufficiently provided for in Section 7(3). In its place, substituted the sentence "Any action by a member deemed unethical by the director shall be cause for immediate removal." This provision is intended to effectuate adherence to generally accepted professional standards of conduct. If, in the director's opinion, any ethical conduct have been breached by any member of the board, the director may seek immediate redress from the governor pursuant to Section 26-34, Hawaii Revised Statutes. Your Committee has been very concerned by the past practices of the old Board and does not wish a repeat of past conflicts and abusive practices by the new Board.
- (8) § -6 on page 5, line 5: Added before the word "two" the clause "one of whom shall be a representative of the Department of Health who has knowledge of the practice of acupuncture either as a practitioner or a patient,". This change should provide the necessary objective viewpoint of a person familiar with the profession, but not so involved with it as to create any factional bias. The two remaining acupuncturists should be sufficient to provide the technical expertise for the Board to function properly.
- (9) § -6 on page 5, lines 7 and 8: Deleted the sentence "The chairperson of this board shall be an acupuncturist. Your Committee believes the selection of chairman should be left to the members of the Board.
- (10) § -6 on page 5, line 12: Deleted the word "two-year" and substituted the word "four-year". This change provides consistency with other boards which generally require four year terms.
- (11) § -6 on page 5, line 13: Deleted the period after the word "otherwise" and substituted a comma, and added the phrase "except that the terms of the members first appointed shall be for two, three, and four years, respectively, as designated by the Governor at the time of the appointment." Your Committee believes the terms of the members should be staggered so as to maintain continuity of knowledge and expertise by members on the board.
- (12) § -7(3) on page 5, line 19: Deleted the words "Prepare and", capitalized the letter "a" in "administer", added the words "and grade" after "Administer", and added the phrase "provided that the board may contract with a testing agency to provide such services;" after the semi-colon after the word "examination". This allows a national licensing examination to be administered if it is available.
- (13) § -8 on page 6, line 10: Added a new paragraph which reads:

"Every person holding a license under this chapter shall register with the board and pay a biennial fee on or before June 30 of each odd-numbered year. Failure to pay the biennial fee shall constitute forfeiture of the license as of the date of expiration. Any license so forfeited may be restored within one year after expiration upon filing of an application and payment of a restoration fee." This addition allows biennial renewal of licenses and conforms to the practice of other boards and commissions.
- (14) § -9 on page 7, line 3: Added another condition for revocation or suspension of a license which is enumerated as "(6)" and reads "Violating any rules adopted hereunder." This makes it clear that violation of rules properly adopted by the board is an act for which revocation or suspension of a license may be imposed.
- (15) § -11 on page 7, line 16: Deleted the words "written permission of" and substituted the words "a license or permit issued by". This change makes a license or permit the important document containing the boards confirmation of a persons ability to perform.

- (16) § -11 on page 7, lines 20 and 21: Deleted the following sentence "The fine shall be collected in a civil action brought by the attorney general or the department." This is omitted to allow any violation to be both a criminal as well as a civil penalty. See amendment (17) below.
- (17) § -11(b)(3) page 8, line 4: Added the letters and comma "L.Ac.," after the comma after the word "acupuncturist". This adds to the list of designations or titles which persons are precluded from using if they are not licensed by this chapter.
- (18) § -11 on page 8, line 9: Deleted the period and substituted a semi-colon and added the phrase "provided that the department may also seek all legal and equitable remedies available to it for the enforcement of the provisions of this chapter, including seeking injunctive relief." This amendment allows the department to provide both civil and criminal sanctions for violations of the law.
- (19) Section 2 on page 8, lines 11 to 17: Deleted all references to subsection (g) and the contents thereof and substituted subsection (e) of section 26H-4, Hawaii Revised Statutes, which effects a repeal date of 1988 for the board. The Committee believes three years is sufficient time for the profession to control and regulate itself to the satisfaction of the Legislature.
- (20) Section 4 page 8, line 20: Deleted the words "upon its approval" and substituted the words "on September 1, 1985". This change gives the department lead time to prepare for the new responsibilities imposed on it by this new chapter.
- (21) Made technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 665, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 665, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Henderson.

SCRep. 694

Consumer Protection and Commerce on S.B. No. 1130

The purpose of this bill was to limit a claimant's wage loss benefits from both workers' compensation and no-fault insurance sources to the maximum of such benefits available under a claimant's no-fault insurance policy.

This bill attempts to remedy the recent Hawaii Supreme Court decision in Maldonado v. Transport Indemnity. By way of history, the Insurance Commissioner initially ruled in Maldonado that the wording of Section 294-5, Hawaii Revised Statutes, required "a finding that the payment of workers' compensation wage loss benefits would be offset against the amounts otherwise recoverable under the no-fault law for wage loss." Thus, although the claimant's total wage loss because of his accident was over \$1,500 a month, the claimant was allowed to recover a total of only \$800 a month from both workers' compensation and no-fault insurance. Through subsequent appeals, the Hawaii Supreme Court reversed the Commissioner's initial ruling and held that claimant was entitled to recover his total wage losses from both worker's compensation and no-fault subject to the benefit limits provided by each policy.

The major inequity the decision has caused is that many employees will now receive their full wages without any reduction for Federal, State or FICA withholdings. Employees will receive substantially more take-home pay while not working than while working. The split 3-1 Hawaii Supreme Court decision was a reversal of two lower court decisions, the final decision of the Insurance Commissioner and more than ten years of previous administrative practice.

This bill seeks to codify the Insurance Commissioner's initial ruling in Maldonado and to clarify that the no-fault law should be administered the same way as it has been over the past ten years.

Your Committee received several favorable testimonies for this bill. The Department of Commerce and Consumer Affairs, while generally supporting the general intent, suggested on policy grounds that payments from both sources of compensation sources should be allowed up to approximately 80 percent of a person's monthly income. For example, limiting the amount to just the no-fault ceiling puts a hardship on someone making \$2,000 per month, for he would receive less than half his wage amount due to the injury. The 80 percent limit would allow up to \$1,500 per month, but would still be a disincentive for malingering.

Your Committee agrees with the reasoning and rationale presented by the Department and has adopted the recommended amendments except, instead of an 80 percent limit on compensation, your Committee feels a 75 percent limit is adequate.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1130, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1130, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Henderson.

SCRep. 695 (Majority) Consumer Protection and Commerce on S.B. No. 1144

The purpose of this bill was to allow licensed optometrists to use pharmaceutical agents for eye examination purposes.

Specifically, this bill does the following: 1) lists the ocular pharmaceutical agents which may be used for examination purposes; 2) requires optometrists to refer their patients to a licensed physician should evidence of any ocular abnormality be detected; 3) requires a licensed optometrist to have graduated from a school, college, or university which is accredited by a regional or professional accreditation organization; 4) requires an optometrist desiring to use pharmaceutical agents to satisfactorily complete a Board-approved course in general and ocular pharmacology; 5) allows the Board of Examiners to refuse to administer an examination or issue a certificate should pharmaceutical agents be used for purposes other than examinations; 6) provides that wholesalers may sell, distribute, or dispense the specified pharmaceutical agents only to optometrists who are allowed to use them under this chapter; and 7) makes non-substantive technical language changes.

Your Committee heard favorable testimonies from optometrists, and unfavorable testimonies from ophthalmologists and other medical professionals. The issues discussed focused on the adequacy of optometric education and training in diagnosis of eye abnormality and systemic diseases, use of diagnostic pharmaceutical agents, and handling of medical crises arising from reactions to pharmaceutical agents. The issues of malpractice and the status of similar legislation on the mainland were also discussed.

The ophthalmologists testified that optometrists should not be allowed to diagnose eye diseases or use pharmaceutical agents because they are not medical doctors. They postulated that if a medical crisis from a reaction to the agents were to occur, only medical doctors could provide proper care and treatment. They also expressed concern that expensive malpractice suits could result from an optometrist's misuse of pharmaceutical agents.

The optometrists testified that they are thoroughly trained in the detection of eye abnormalities and diseases and in the use of pharmaceutical agents by optometric schools which are nationally accredited. Currently, 43 states and all armed forces branches allow them to use pharmaceutical agents for examination purposes, and no successful malpractice suits have resulted. The optometrists also testified that medical crises rarely occur as a result of the use of pharmaceutical agents, and that they are adequately trained to handle any such emergency. They believe this bill would provide consumers with better and lower cost eye care.

After a free and full discussion of the issues, including intensive questioning of the witnesses, your Committee has amended the bill as follows:

- (1) Deleted paragraph (7) on page 1, lines 13 to 16, so that the range of pharmaceutical agents which may be used for examination purposes is set by the statute rather than by the Board of Optometry.
- (2) Added the phrase "for non-therapeutic purposes only," to page 2, line 10, after the word "mydriatics," to provide that optomologists may use pharmaceutical agents only for purposes other than treatment of diseases, disorders, or for other therapeutic procedures.
- (3) Deleted the language on page 3, lines 8-11, and substituted new language requiring the optometrist to refer patients to an ophthalmologist upon discovering any ocular abnormality or evidence of systemic disease, and providing that failure to do so constitutes malpractice. It is also malpractice to misuse any of the pharmaceutical agents.
- (4) Deleted the language in subsection (f) on page 7, lines 10-21, and replaced it with new language providing a more specific description of the nature of training and educational course contents.
- (5) Added a new paragraph (11) to page 11, line 22, to provide that failure to refer a patient to a licensed physician upon discovery of an ocular abnormality or evidence of systemic disease is grounds for the Board to refuse to admit the person to its examination or issue a certificate.

Your Committee on Consumer Protection and Commerce is in accord with the intent and

purpose of S.B. No. 1144, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1144, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

Senators Cayetano, Matsuura and A. Kobayashi did not concur.

SCRep. 696            Consumer Protection and Commerce on S.B. No. 1334

The purpose of this bill was to amend the existing time share provisions under Chapter 514E, Hawaii Revised Statutes, by deleting all references made to "transient vacation rentals" from section 514E-1 and section 514E-4, Hawaii Revised Statutes. The intent was to separate time sharing from transient vacation rentals.

Your Committee received testimony from the Department of Commerce and Consumer Affairs that similar deletions should also be made to include sections 514E-5 and 514E-7, Hawaii Revised Statutes. The Department of Land Utilization, City and County of Honolulu, concurred with the deletion of "transient vacation rentals" so that the City can effectively regulate transient vacation rentals through amendments to their zoning code.

Your Committee has decided to adopt the suggested amendments by the Department to put the matter of defining transient vacation rentals back into the jurisdiction of the counties. Accordingly, two new sections have been added to the bill which eliminates the clause "transient vacation rentals" from sections 514E-5 and 514E-7.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1334, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1334, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Henderson.

SCRep. 697            Housing and Community Development on S.B. No. 110

The purpose of this bill is to amend Section 359G-9.2, Hawaii Revised Statutes, to exempt dwelling units financed under a federally-subsidized mortgage program from the Hawaii Housing Authority's (HHA) buy-back provision.

Testimony indicates that the current buy-back provision has caused the U.S. Farmer's Home Administration (FmHA) to withhold permanent mortgage financing in recent years from certain dwelling units which qualify for HHA assistance. The FmHA 502 loan program provides subsidized mortgage loans to low-income families in rural areas of 10,000 people or less. The program requires that in the event of a foreclosure, the buyer be given the opportunity to sell his unit on the open market, free and clear of any encumbrances. The HHA buy-back provision is an obstacle to the FmHA loan program. Further, the 502 program requires that interest subsidies be recaptured from the appreciated value of the unit upon its sale. Enforcement of this recapture requirement has proven to be a problem for FmHA in HHA projects due to the buy-back provision. Since the buy-back provision limits the amount of equity a homebuyer would realize upon the sale or transfer of a HHA sponsored unit during the initial ten years from loan closing, FmHA may not be able to recapture the full amount of the FmHA subsidy.

The FHA Section 235 Homeownership Assistance Program under the U.S. Department of Housing and Urban Development has similar provisions requiring the recapture of assistance payments.

The Hawaii Housing Authority testified that the large interest subsidies provided through the FmHA 502 and FHA 235 programs make units affordable for those who would not otherwise qualify to purchase homes. Since FmHA operates only in rural areas, the neighbor islands are particularly affected by the unavailability of this financing option.

As the intent of the buy-back requirement is to prevent speculation of lower cost homes, the recapture provision of the federal programs should be sufficient to impede speculation by preventing homebuyers from realizing windfall profits upon the sale of their units. Your Committee supports this measure and has amended the bill to provide conformity with existing statutory language where no statutory amendment was intended.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 110, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 110, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 698

Housing and Community Development on S.B. No. 112

The purpose of this bill is to amend section 359G-9.4, Hawaii Revised Statutes, to require publication in a newspaper of general circulation for State agencies and in county newspapers for county agencies, of substantial amendments to the buy-back provisions.

Currently, the statute sets forth specific requirements regarding notification by the Hawaii Housing Authority (HHA) or any other State department or county housing agency to all purchasers of any change in buy-back restrictions made by law, ordinance, rule or regulation. The law, however, is unclear as to how this notification should be made.

Testimony indicates that HHA mails letters to all purchasers informing them of any change to the buy-back provisions, a costly and labor intensive process.

The proposed amendment allows State and county housing agencies to utilize the process of publishing notices three times in appropriate newspapers used by the agencies for public notice and would be more cost efficient, particularly since the buy-back restrictions for some of HHA's projects have already expired and many more are due to expire in the next few years.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 112 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

Housing and Community Development on S.B. No. 234

The purpose of this bill is to add a new part to Chapter 46, Hawaii Revised Statutes, to authorize the counties to enter into development agreements.

Existing land use laws and ordinances sometimes create conflicting and ambiguous "ground rules" as to when a landowner or developer may safely rely on existing regulations to begin or complete a development. Clearly, this is not in the public interest. The fact that a developer or property owner may proceed with a development, but must do so at his own risk, seems to weaken public commitment to comprehensive land use planning, discourages the efficient utilization of resources, and contributes significantly to escalating housing costs.

This bill provides enabling legislation authorizing the counties to enter into development agreements — it does not require the counties to utilize such agreements. Upon execution of a development agreement by a developer and county, the right to develop a property in accordance with existing laws, ordinances, resolutions, rules, regulations and policies is vested.

This bill establishes that development agreements shall include specific provisions and may include other negotiable requirements.

The provisions outlined in this legislation are not intended to circumvent current requirements in the development approval process. The laws, ordinances, resolutions, rules, regulations, and policies in effect at the time the development agreement is executed apply to the project, without modification, for the duration of the project. The bill provides that each development agreement shall be considered an administrative act of the government body made party to the agreement.

Your Committee received testimony from the City and County of Honolulu and the County of Hawaii (the other counties did not submit testimony) supporting this legislation. No opposing testimony was received.

Your Committee has amended the bill to incorporate recommendations of the City and County of Honolulu and the County of Hawaii to provide greater flexibility to the counties in the regulation of development agreements. The City and County of Honolulu testified that adoption of specific language at the state level may hinder or discourage development agreement negotiations. As amended, the bill allows the counties to establish time schedules and to determine the most appropriate government agency responsible for the administration, modification, or termination of development agreements.

The "Findings and purpose" section of the bill has been amended to clarify that development agreements can: (a) be viewed as a useful planning and development tool beneficial to both the public and developer; (b) allow predictability in land development; and (c) decrease costs to all parties through improved development approval processing and orderly planning of public facilities and services.

Your Committee has further amended the general language of the bill to provide for a more

concise reading of the provisions.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 234, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 234, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 700            Housing and Community Development on S.B. No. 235

The purpose of this bill is to permit the buy-back of residential project, by the Hawaii Community Redevelopment Agency.

Currently, the law applies the buy-back requirements to redevelopment projects only. Your Committee finds that while a redevelopment project is always comprised of a residential project, a residential project is not necessarily a redevelopment project. Since the buy-back provisions are intended to ensure that speculation of units which benefit from government subsidies is controlled, these provisions should be applied to residential projects.

Further, the bill amends the repurchase price formula to allow the HCDA to individually consider each project or a portion of each project and establish a repurchase price based on market considerations including interest rates, land values, construction costs, and Federal tax laws.

Your Committee concurs with the recommendation of HCDA to amend the bill to allow the Authority to waive the buy-back requirement in the event a residential project or a portion of the project is sold at market prices. Since the buy-back requirement is provided to deter speculation of government subsidized units, it should only apply to below market priced homes.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 235, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 235, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 701            Housing and Community Development on S.B. No. 287

The purpose of this bill is to amend section 206E-6, Hawaii Revised Statutes, to ensure public facilities in Kaka'ako are designed and constructed to meet county standards.

Currently, the statute requires the Hawaii Community Development Authority (HCDA) to obtain the consent of the county council prior to developing public facilities which will affect other public facilities owned or controlled by the county.

The intent of the law is to ensure that public facilities developed by HCDA, in particular infrastructure improvements, are properly designed and constructed and in good working condition for dedication to the county. Current language, however, may be interpreted to mean that a county council could prevent the development of public facilities financed through bonds issued by HCDA.

The HCDA is required to follow statutory procedures to ensure that infrastructure improvements are properly designed and constructed. The additional step requiring the HCDA to obtain the county council's consent prior to the development of public facilities is a processing step not required of any other department.

Your Committee concurs with the recommendation of the Hawaii Community Development Authority that for the purpose of clarity the word "standards" on page 1, line 11, should be replaced with the word "requirements" and the bill has been amended accordingly.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 287, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 287, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 702            Transportation on S.B. No. 132

The purpose of this bill is to place requirements relating to lights on motorcycles, motor scooters, and motorized bicycles by amending Section 291-25, Hawaii Revised Statutes. The bill requires all such vehicles to use white headlights and specifies how these headlights should be mounted.



Your Committee heard favorable testimony from the department of transportation and the Honolulu police department. The department of transportation testified that there is currently no Hawaii law which requires white headlights. As such, some vehicle owners are attaching colored coverings over the headlight lens. Because these coverings change the headlight color, they diminish the effectiveness of the headlight.

Additionally, the police department testified that regulating how headlights are to be mounted would eliminate lights mounted too high or too low.

Your Committee amended Section 291-25(b) of the Hawaii Revised Statutes to place the same requirement on motorcycles. This was an inadvertent omission when the bill was originally drafted.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 132, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 132, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 703            Transportation on S.B. No. 854

The purpose of this bill is to amend section 286-209, Hawaii Revised Statutes, to require that all car rental customer transport vehicles be certified and inspected every six months.

The current law requires that vehicles over 10,000 pounds be inspected every six months. However, many vehicles, such as those used by car rental companies, fall below the weight stipulation.

Your Committee believes that these vehicles must be inspected every six months to ensure their safety.

Your Committee amended section 1 of the bill by striking "and" on line 7, and adding the following phrase between "vehicles" and "shall" on line 7:

"and all other vehicles which transport passengers in the furtherance of a commercial enterprise."

The purpose of the amendment is to include all vehicles used to transport patrons of a business, such as tour shuttle buses.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 854, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 854, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Cobb, George and Soares.

SCRep. 704            Transportation on S.B. No. 1318

The purpose of this bill is to allow the counties to remove abandoned vehicles more rapidly by amending section 290-8, Hawaii Revised Statutes.

Currently, counties may dispose immediately of derelict vehicles. However, to be declared derelict, two conditions must be met. First, the vehicle must be in a certain physical condition. Second, the vehicle must not have been registered within the last two registration periods. If the vehicle has been registered, the vehicle may only be classified as abandoned. The county must then make a search for the owner of the vehicle, and must store the vehicle for fifty to ninety days before disposing of it. The bill would change the requirements of the second condition by allowing the counties to declare a vehicle derelict if the vehicle has not been registered within the current registration period or previous periods, or if the vehicle is at least ten model years old.

Your Committee heard favorable testimony from the department of finance, city and county of Honolulu. The department testified that in accordance with the law, vehicles meeting the first condition but not the second are held in storage; however, most of these vehicles are never claimed and ultimately are disposed of as derelicts. The department stated that the changes in the bill would not only enable a more rapid removal of abandoned vehicles, but would also relieve demand on the City's storage areas.

Your Committee has made non-substantive and technical amendments.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1318,

as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1318, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb, Machida, George and Soares.

SCRep. 705                      Transportation on S.B. No. 1400

The purpose of this bill is to divide the offense of driving while license is suspended or revoked into two offenses as follows: the offense of driving while license is suspended or revoked in the second degree, a misdemeanor, is committed when a person operates or assumes actual physical control of a motor vehicle while the person's driver's license or driving privilege as a nonresident is canceled, suspended, or revoked; the offense of driving while license is suspended or revoked in the first degree, a class C felony, is committed when a person operates or assumes actual physical control of a motor vehicle while the person's driver's license or driving privilege is canceled, suspended, or revoked and the person causes or is involved in a traffic accident involving serious bodily injury to another.

Your Committee finds that there is widespread concern among public officials and the community over the number of people who continue to drive after their license has been suspended or revoked, especially those drivers who have lost their right to drive following convictions for drunk driving. Your Committee also recognizes the position of the Honolulu Police Department and the Office of the Prosecuting Attorney for the City and County of Honolulu who testified that the designation of the first degree offense as a class C felony appears too harsh.

Your Committee, therefore, has amended this bill by classifying the offense of driving while license is suspended or revoked in the second degree as a petty misdemeanor and the first degree offense as a misdemeanor. Your Committee has added a provision to both the first degree and the second degree offenses mandating an additional one-year period of suspension or revocation to commence on the date that the original period of suspension or revocation was to lapse. Other technical, nonsubstantive amendments also have been made.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1400, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1400, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb, Machida, George and Soares.

SCRep. 706                      Transportation on S.B. No. 129

The purpose of this bill is to allow the department of transportation to have a lien on any aircraft that has failed to make payment of all landing and other airport-related fees charged by the department.

The department of transportation currently lacks the statutory authority to establish a lien against aircraft for fees and charges that have remained delinquent.

This has led to the airport special fund having more than \$700,000 in receivables which, the department believes, will never be collected. Additionally, the department reports that another \$500,000 remains past due and might be uncollectible if the debtor's assets cannot be attached.

Because of this problem, the department is seeking the authority to place a lien on any aircraft whose owners have outstanding fees and charges still due to the department. The aircraft would remain impounded and cannot be removed until the debt is paid.

Your Committee supports the department's efforts to collect on delinquent aircraft operators and owners. However, your Committee believes that the current provisions of the law do not set forth provisions for notice and review for the aircraft owner. The department acknowledges this deficiency of this bill and has submitted amendments which will ensure due process.

These amendments include:

(1) Require that the department give notice on the aircraft of the failure to pay, declare an intention to place a lien on the aircraft;

(2) Allow the department to impound on failure to pay after 48 hours;

(3) Provide the owner of an aircraft with an administrative hearing within three days after the request of the owner;

(4) If the owner is found to be current on all fees, the aircraft is released immediately and the department shall bear the cost of impounding the aircraft; and

(5) If the owner is not current on all fees, the department shall have a lien for which it may satisfy by the proceeds of any sale or auction of the impounded aircraft, provided that the balance from such sale or auction shall be returned to the aircraft owner minus expenses incurred by the department.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 129, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 129, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Cobb, George and Soares.

SCRep. 707                      Transportation on S.B. No. 255

The purpose of this bill is to amend section 286-109, Hawaii Revised Statutes, relating to the issuance and renewal of driver's license.

The bill expands the authorization to place holds on the issuance and renewal of driver's licenses by stating that such holds may be used if, after an individual has initially appeared in court, the individual has not fully complied with the court's orders.

Your Committee heard favorable testimony from the State Judiciary. The Judiciary testified that the courts have a backlog of cases involving individuals who fail to fulfill court orders. These cases presently can only be resolved by using bench warrants to bring the individual to court. The Judiciary stated that the use of bench warrants was an inefficient means for dealing with the backlog and recommended the use of holds as a means for bringing the individual to court.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 255, 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, Cobb, George and Soares.

SCRep. 708                      Transportation on S.B. No. 1356

The purpose of this bill is to amend Section 286-181, Hawaii Revised Statutes, to provide an exception for a privately owned passenger van, used by a community association, from the Department of Transportation's rules and regulations for pupil transportation. The passenger van must be used to serve the purpose of promoting recreation, health, safety, or social functions.

Presently, Section 286-181 requires school vehicles to comply with safety rules and standards adopted by the Department of Transportation relating to school vehicles, equipment, and drivers. However, certain vehicles are exempt from compliance with this section. These include: (1) vehicles used to transport pupils attending schools above the 12th grade; (2) a privately owned passenger vehicle which provides pupil transportation without receiving compensation; and (3) a motor vehicle used for transporting pupils together with other passengers as part of a bus or mass transit system.

The Department of Transportation testified in favor of allowing privately owned passenger van of a community association to also be exempted from their rules governing school vehicles. In many cases, such transportation is not on a regular basis. As a result, your Committee also believes that requiring such passenger vans to be held to the same standards and requirements as school vehicles would be burdensome and unnecessary.

Your Committee has made technical and non-substantive amendments.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1356, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1356, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb, Machida, George and Soares.

SCRep. 709                      Transportation on S.B. No. 1264

The purpose of this bill is to allow motor vehicle bumpers to be a greater distance from the ground by amending section 291-35.1, Hawaii Revised Statutes.

Act 291, Regular Session of 1984, sets maximum bumper heights for motor vehicles. The effective date is July 1, 1985. The purpose of Act 291 is to ensure a vehicle's safety by restricting how high it could be raised.

However, your Committee is not certain that such a hazard exists. This is in part due to a lack of information on such vehicles. According to testimony by the department of transportation, no local, state, or federal agency keeps records on how many of these vehicles are involved in accidents. Therefore, whether these vehicles are more accident-prone has not been documented.

Moreover, your Committee received testimony from the owners of such vehicles that while raising a vehicle does create a risk of rollover or tipping, the installation of accessories can overcome this problem. The owners maintained that with the addition of such accessories, a vehicle, despite its higher clearance, was actually safer than when it had left the factory. The owners presented your Committee with bumper height limits that they stated were safe, even though higher than those provided for in the bill.

Additionally, your Committee considered that a bumper height requirement would bring two hardships upon those who own such vehicles.

According to the owners' testimony, these vehicles are used on rough terrain. Thus, the vehicles need extra ground clearance. A bumper height requirement, by reducing a vehicle's ground clearance, would restrict the areas in which it could travel.

Second, the owners of these vehicles would be forced either to scrap their vehicles or undertake costly work to reduce the height of their vehicles. As these vehicles may be seen as an investment, the present height requirement would mean that the owners would have to relinquish their investment.

After weighing these considerations, your Committee believes that since the hazard said to be caused by such vehicles has not been substantiated, the present bumper height standard is not justified.

Your Committee is faced with the difficult task of providing a different standard. Admittedly, this is a question which should be further reviewed during the 1985 legislative session. For the purposes of this bill, your Committee has reviewed the bumper height standard of the State of Wisconsin as presented before the Committee. The Wisconsin standard has not been fully examined. As a result, your Committee recommends that the Wisconsin standard be reduced by two inches in each category. The bill has been amended accordingly.

Your Committee has made technical and non-substantive amendments.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1264, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1264, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 710            Transportation on S.B. No. 644

The purpose of this bill is to exempt from section 291-3.2, pertaining to consuming or possessing intoxicating liquor while a passenger in a motor vehicle, and 291-3.3, pertaining to the storage of opened containers containing intoxicating liquor: (1) the living quarters of housecars, tractors, and campers; and (2) motor vehicles for hire licensed by the public utilities commission, so long as it has a barrier between the driver and the passengers sufficient to prevent alcoholic beverages from being passed between them.

Your Committee has amended the bill as follows:

- (1) Rewriting the title of the new law contained in the bill to better reflect its content;
- (2) Deleting the exemption for tractors and campers based on your Committee's finding that (A) "tractor" is probably a typing error that instead should have read "trailer", and that the living quarters of trailers and campers are already exempted from section 291-3.2 and 291-3.3 by section 291-3.2(d) and 291-3.3(c); and (B) even if "tractor" was not a typing error, your Committee finds that tractors do not have living quarters and, even if that were not the case, would not want to allow passengers to drink intoxicating liquor in the living quarters of tractors or exempt tractors from section 291-3.3;
- (3) Clarify that only passengers behind the barrier may consume or possess the intoxicating liquor; and

(4) Replaced "alcoholic beverages" with "intoxicating liquor" throughout the bill in order to conform to language used in sections 219-3.2 and 219-3.3; and

(5) Made technical, nonsubstantive changes to the bill.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 644, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 644, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb, Machida, George and Soares.

SCRep. 711                      Transportation on S.B. No. 1365

The purpose of this bill is to allow the examiner of drivers to waive the driving test for any person who is at least eighteen years of age and who has a valid driver's license from any other state of the United States or a province of the Dominion of Canada for the operation of motor scooters; motorcycles and motor scooters; or passenger cars of any gross vehicle weight rating and trucks and buses having a gross vehicle weight rating of 10,000 pounds or less.

Your Committee has amended this bill by also allowing the examiner to waive driving tests for persons at least eighteen years old who have valid driver's licenses from the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, American Samoa, or Guam.

Your Committee further amended this bill to clarify that categories 1 through 3 are the same categories set forth in section 286-102, Hawaii Revised Statutes.

Your Committee has also corrected a typing mistake in this bill.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1365, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1365, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Cobb, George and Soares.

SCRep. 712                      (Majority) Judiciary on S.B. No. 615

The purpose of this bill is to allow a court to award reasonable attorney's fees to the private party who prevails in an action for injunctive relief against the other private party who allegedly has been or is undertaking any development work relating to land use without obtaining the necessary permits and approvals for development.

Your Committee finds that the sheer volume of private development throughout the State is a limiting factor on State or County investigation of abuses against public resources and the natural environment. Oftentimes, it is through the initiative of private parties that legal action is brought forward on such abuses. However, the high costs of legal action against such abuses limits the ability of private individuals or parties to undertake such initiatives.

Your Committee finds that the award of reasonable attorney's fees in cases where legal action is initiated against private development undertaken without the necessary development permits or approvals will assist in relieving the burdens of private parties initiating such injunctions. The bill allows only prevailing parties to receive an award of attorney's fees and costs. As a result, the plaintiff will be inhibited from filing a frivolous action and a potential defendant will likewise be inhibited from commencing an illegal development.

Your Committee amended the bill to give the court discretion in the awarding of attorney's fees and costs to the prevailing party. Your Committee also amended the bill to make this section applicable to chapters 54, 176D, 177, and 195. The purpose of this amendment is to include developments affecting ground water quality, streams and natural area reserves.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 615, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 615, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.  
Senators Kawasaki and George did not concur.

SCRep. 713                      Judiciary on S.B. No. 742

The purpose of this bill is to add several new sections to chapter 804, Hawaii Revised

Statutes, and to make substantial changes in the law and procedures relating to bail.

In January, 1983, the State Justice Service Center submitted the results of its study requested by the House of Representatives, State of Hawaii, pursuant to House Resolution No. 64, "Requesting the Development of Proposed Bail Reform Legislation". The study, supplemented by comments from various criminal justice agencies, concluded that Hawaii's present laws on bail are adequate, only requiring minor modifications to bring the bail system to its highest level of effectiveness.

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 held that a portion of 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". The offending provision, section 804-3(b), Hawaii Revised Statutes, 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." Huihui v. Shimoda, supra.

Your Committee finds that Section 2 of S.B. No. 742, 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". 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 insure that an accused is treated as innocent until proven guilty, the bill eliminates existing language regarding this standard for proof.

Testimony received from the Judiciary, the State Intake Service Center, and the Hawaii State Bail Bondsman Association voiced concerns about issues presented by other sections of S.B. 742. Therefore, your Committee amended the bill to delete all substantive sections of the bill and retained section 2 to address the constitutional issue in Huihui v. Edwin Shimoda.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 742, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 742, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 714                      Judiciary on S.B. No. 1413

The purpose of this bill is to afford the public more participation in governmental open meetings and more access to public records.

Your Committee heard favorable testimony from the American Association of University Women, Common Cause, the League of Women Voters and several private citizens. This year marks the tenth anniversary of Hawaii's Sunshine Laws, Chapter 92, Hawaii Revised Statutes. To make government as open as possible to the public to protect the public interests, strengthening of the Sunshine Law is necessary.

Specifically, the bill amends various sections of Chapter 92, to add the following:

- (1) Section 92-3: A provision to require the board to give reasonable opportunity to allow the public to testify.

- (2) Section 92-4: Two provisions to mandate that a majority of the board vote to close the meeting, and if so voted, that each member's reason for voting for the closed meeting be publicly announced and recorded.

- (3) Section 92-5: Three provisions a) to protect in a closed meeting personal information about applicants for vocation and professional licenses; b) to require that closed meetings with the board's attorney be limited to matters relating to an actual, threatened or proposed lawsuit in which the board is a party; and c) to prohibit the board from making a decision or deliberate toward a decision in an executive meeting.

- (4) Section 92-7: Two provisions to require the board to give the public notice of an

executive meeting, if known in advance, and the reason for it, and to mandate that no item of major importance be considered at a meeting continued at a later date.

(5) Section 92-12: Two provisions a) to direct the Attorney General and the Prosecuting Attorney to investigate a complaint from a citizen of the state; and b) to allow and set standards for a suit in court for any violation.

(6) Section 92-51: A provision to forbid a public official from requiring that a reason be stated before a public record can be inspected.

(7) Section 92-52: A provision to require attorneys fees and costs to the successful plaintiff in a lawsuit for any violation.

Your Committee amended the bill to delete the provisions regarding public records, sections 92-51 and 92-52. These proposals will be incorporated in another bill, S.B. 613, which relates to only records.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1413, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1413, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 715            Ways and Means on S.B. No. 1057

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 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 has further amended this bill by adding a new section which lapses partially or in entirety, capital improvement projects made by Act 283 and Act 301 of Session Laws of Hawaii 1983. These projects have been identified as low priority or have been deferred such that reductions will not have an adverse impact on the planned capital improvement program.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1057, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1057, S.D. 1, and be placed on the calendar for Second and Third Readings.

Signed by all members of the Committee.

SCRep. 716            Judiciary on Gov. Msg. No. 142

Recommending that the Senate advise and consent to the nomination of MARC V. OLEY as Chairman of the Hawaii Paroling Authority, for a term ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 717            Tourism and Recreation on S.R. No. 26

The purpose of this resolution is to initiate the establishment of a sister-state/province relationship between the State of Hawaii and the Province of Taiwan of the Republic of China.

Tourism from the Republic of China on Taiwan to Hawaii has dramatically increased in recent years and has substantially contributed to the economy and well-being of the people of Hawaii; and, the high-tech and computer industries in the Province of Taiwan, Republic of China show great potential as vehicles to promote cooperation, mutual respect, understanding, and economic reciprocity with the State of Hawaii in the future.

Your Committee finds that the Aloha spirit and good will of both the Republic of China on

Taiwan and the State of Hawaii should be crowned by the establishment of a sisterhood relationship.

Your Committee has amended the resolution by allowing a certified copy of the resolution to be transmitted to the Governor of the Province of Taiwan.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.R. No. 26, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 26, S.D. 1.

Signed by all members of the Committee.

SCRep. 718            Ways and Means on Gov. Msg. Nos. 153, 154, 190, 191 and 232

Recommending that the Senate advise and consent to the nominations of the following:

HARRIETTE M. DAVIS to the Board of Taxation Review, Second Taxation District, for a term ending December 31, 1988;

LOVEY LEINAALA APANA to the Board of Taxation Review, Fourth Taxation District, for a term ending December 31, 1988;

FRED T. YAMASHIRO to the Board of Taxation Review, Third Taxation District, for a term ending December 31, 1988;

ERLINDA SALVADOR to the Board of Taxation Review, Fourth Taxation District, for a term ending December 31, 1988; and

NORMA J. YUSKOS to the Board of Taxation Review, First Taxation District, for a term ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 719            Health on Gov. Msg. No. 86

Recommending that the Senate advise and consent to the nomination of LESLIE S. MATSUBARA as Director of Health, for a term ending December 1, 1986.

Signed by all members of the Committee.

SCRep. 720            Health on Gov. Msg. No. 132

Recommending that the Senate advise and consent to the nominations to the Technical Advisory Committee on Pesticides of the following:

KAZU HAYASHIDA, L. STEPHEN LAU, Ph.D., and JAMES J. NAKATANI, for terms ending December 31, 1985;

MELVIN KOIZUMI, SUSUMU ONO and JACK K. SUWA, for terms ending December 31, 1986; and

JAMES W. MORROW, SAMUEL S.H. LEE, JAMES KUMAGAI, Ph.D., and JACQUELINE PARNELL, for terms ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 721            Health on Gov. Msg. No. 204

Recommending that the Senate advise and consent to the nominations to the Maui County Subarea Health Planning Council of the following:

GAIL EHRHARDT and ORA LATHAM, for terms ending December 31, 1988; and

HERBERT Y. NAKASONE, for a term ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 722            Health on Gov. Msg. Nos. 87, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 133 and 188

Recommending that the Senate advise and consent to the nominations of the following:



CALVIN T. MASAKI to the State Planning Council on Developmental Disabilities, for a term ending December 31, 1987;

ROBERT E.L. BERRY, M.D., to the Board of Health, for a term ending December 31, 1988;

ELENA GABORNO to the Honolulu Subarea Health Planning Council, for a term ending December 31, 1988;

NOBERTO BAYSA, M.D., and PATRICK R. CULLEN to the Central Oahu Subarea Health Planning Council, for terms ending December 31, 1988;

YVONNE M. ANGUT, MARYKNOLL K. SPOTKAEFF and RICHARD P. BETTINI to the Waianae Coast Subarea Health Planning Council, for terms ending December 31, 1988;

Reverend KENNETH W. SMITH to the Kauai County Subarea Health Planning Council, for a term ending December 31, 1988;

WARREN Y. TORIANO to the County Hospital Management Advisory Committee, Hawaii County Hospital System, for a term ending December 31, 1988;

BERTRAM W. WEEKS, M.D., to the County Hospital Management Advisory Committee, Maui County Hospital System, for a term ending December 31, 1988;

HOWARD G. MEDEIROS and HISAO NAKAMURA to the Advisory Commission on Drug Abuse and Controlled Substances, for terms ending December 31, 1988;

NELLIE S. CHANG to the Drug Product Selection Board, for a term ending December 31, 1988;

VINCENT H.S. LEE and COLETTA M. WHITCOMB to the Commission on the Handicapped, for terms ending December 31, 1988;

DARRYL K.H. CHOY, EUGENE M. YAMANE, WAYNE K. OGASAWARA, FREDERICK C. GREENWOOD, Ph.D., and TOM POY to the Advisory Committee on Pesticides, for terms ending December 31, 1988;

VIOLET S. TSUKAYAMA, RONALD BRIAN FITZGERALD and LOUISA LEONES SUMAOANG to the Board of Radiologic Technologists, for terms ending December 31, 1988;

HERBERT A. SEGAWA to the County Hospital Management Advisory Committee, Hawaii County Hospital System, for a term ending December 31, 1988; and

LAWRENCE A. PEEBLES, M.D., to the County Hospital Management Advisory Committee, Hawaii County Hospital System, for terms ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 723      Housing and Community Development on H.B. No. 209

The purpose of this bill is to enable the county governments in Hawaii to undertake a tax increment financing program wherein a county may establish tax increment districts, commit certain real property taxes, and issue tax increment bonds for the financing of public improvement in redevelopment districts.

Your Committee finds that the State of Hawaii may benefit significantly from tax increment financing as a supplement to the traditional method of general obligation bonds for raising funds for capital improvement projects. However, your Committee believes that tax increment financing must not result in adverse financial impact on any county and its redevelopment agency to repay bonds. Normal inflationary increases in property taxes and costs of providing additional county services for new projects developed within a designated redevelopment district should be considered as recompense to the county government. Your Committee believes that this bill provides for such compensation by authorizing the county director of finance to establish an adjustment rate, or rates, that will allocate the tax increment amounts so that the county may be compensated not only for the base amount but also for inflationary increases and projected cost increases for servicing new developments in the tax increment district.

Your Committee has made nonsubstantive amendments to this bill to correct stylistic errors.

Your Committee on Housing and Community Development is in accord with the intent and purpose of H.B. No. 209, H.D. 1, as amended herein, and recommends that it pass Second

Reading in the form attached hereto as H.B. No. 209, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 724            Housing and Community Development on H.B. No. 861

The purpose of this bill is to amend the definition of "eligible borrower" in section 356-201, Hawaii Revised Statutes, to enable single-parent households to obtain a loan under the Housing Loan and Mortgage (Hula Mae) Program even where the parent has had an interest in a principal residence within the last three years.

The bill defines a single-parent household as a household headed by a single parent who has legal custody of one or more dependent children.

The bill further provides that up to ten per cent of eligible loans of a bond issue shall be made to qualified single-parent household borrowers. This language will allow any excess funds available, due to a lack of qualified single-parent borrowers, to be utilized for other loans.

Under the State's current provisions, an eligible borrower under the Hula Mae program must be able to document that the borrower has not had an interest in a principal residence for a period of three years prior to applying for a loan. The intent of the requirement is to ensure that the Hula Mae Program assists the first-time homebuyer.

The Tax Equity and Fiscal Responsibility Act of 1982 amended the first-time homebuyer provision of the Internal Revenue Code to provide that ten per cent of the lendable proceeds of a qualified mortgage bond issue can be used to finance residences where the applicant did not meet the three-year requirement. Despite this relaxation of federal requirements, no corresponding amendment has been made to the state statutes.

The Hawaii Housing Authority (HHA) has become cognizant of the needs of a particular group for whom the assistance provided under the Hula Mae Program is particularly needed. Specifically, the State recognizes that opportunities for home ownership should be made available to the recently-divorced single parent who may have had an interest in a principal residence during the past three years. This group of individuals and their children are presently precluded from the Hula Mae Program even though their need for housing may be urgent.

Your Committee on Housing and Community Development is in accord with the intent and purpose of H.B. No. 861, 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. 725            Agriculture on Gov. Msg. No. 180

Recommending that the Senate advise and consent to the nomination of TRACEY ELMORE LAUDER to the Advisory Committee on Flowers and Foliage, for a term ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 726            Economic Development on Gov. Msg. No. 114

Recommending that the Senate advise and consent to the nominations of ROBERT S. TAMAYE and EVERETT CUSKADEN to the Land Use Commission, for terms ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 727            Economic Development on Gov. Msg. No. 115

Recommending that the Senate advise and consent to the nominations of DAVID A. HEENAN and PAUL YUEN, Ph.D., to the Board of Directors, High Technology Development Corporation, for terms ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 728            Economic Development on Gov. Msg. No. 112

Recommending that the Senate advise and consent to the nomination of BARBARA L. HANCHETT to the Hawaiian Homes Commission, for a term ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 729            Judiciary on H.B. No. 94

The purpose of this bill is to appropriate funds for the repair and maintenance of correctional facilities.

Your Committee finds that this appropriation would help the Department of Social Services and Housing to properly administer programs designed to improve the well-being, detention, and reintegration of adult and juvenile offenders by providing an adequate and safe environment. Furthermore, your Committee finds that some of the correctional facilities are in a rundown condition and are in serious need of repair and maintenance.

Your Committee amended this bill to delete the \$203,125 appropriated for building repair and maintenance at the Oahu Community Correctional Center. Instead, your Committee substituted a total of \$250,000 to be used for the roof repair and fumigation of the Correctional Training Facility, for repairs of the plumbing and electrical systems and the roof of the Women's Correctional Facility and for the repairs for the roof and gym at the Hawaii Youth Correctional Facility.

Your Committee also amended this bill by making nonsubstantive changes for the purposes of style and clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 94, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 94, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie and George.

SCRep. 730            Judiciary on H.B. No. 263

The purpose of this bill is to allow the State to retain state tax refunds from persons who are delinquent on support payments for children who are not recipients of welfare assistance.

Prior federal law mandated the Department of Social Services and Housing to withhold state tax refunds from persons who are in arrears in child support payments only when the children are receiving welfare assistance. Congress recently enacted P.L. 98-378, the federal Child Support Enforcement Amendments Act of 1984, which requires the state child support enforcement agency to extend child support enforcement assistance to all children, whether they are recipients of welfare assistance or not, effective October, 1985. The intent of Congress was to assure that all children will be provided equal child support enforcement services, including the interception of state tax refunds. Tax refund interception is one of the most effective methods of collection of child support.

Your Committee assigned a high priority to strengthening child support enforcement laws, recognizing the serious impact it has on the welfare of our children. Such laws afford a guarantee that some children will not have to resort to welfare assistance to maintain a minimum standard of living. These laws also provide additional support for other children who will no longer have to suffer a lengthy delay in receiving support because of a protracted court battle over the issue.

Your Committee made a technical, nonsubstantive amendment to the bill on page 2, line 4, to correct a typographical error.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 263, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 263, 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 and George.

SCRep. 731            Judiciary on H.B. No. 95

The purpose of this bill is to appropriate \$71,316 for the expansion of educational and vocational training programs in correctional facilities.

Educational and vocational training programs are essential in preparing inmates for integration back into the community. This appropriation provides the Department of Social Services and Housing with the resources to begin the development of a statewide program to achieve coordination of educational and vocational programs among all of the correctional facilities.

Your Committee is providing this appropriation to fund a statewide coordinator and clerk-steno to coordinate and administer the program services. A program director and a clerk-steno are also provided for the Oahu Community Correctional Center.

Your Committee made technical, nonsubstantive amendments to the bill to correct grammar.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 95, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 95, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie and George.

SCRep. 732 (Majority) Economic Development on H.B. No. 1272

The purpose of this bill is to support the planned and continuing development of that part of the Ewa plain of Oahu which includes James Campbell Industrial Park, West Beach, Ewa Plantation, Ewa Marina, and Makakilo by authorizing the issuance of up to \$25 million in special purpose revenue bonds. The proceeds of the bonds will be used to construct and install new water wells and to expand existing water storage and conveyance facilities for the continued growth of industrial and economic activities and the provision of housing.

Your Committee supports this measure as meeting the State's objectives of stimulating new industry, supporting increased economic activity and providing greater employment and housing opportunities for the residents of Oahu's secondary urban center. Your Committee further finds that issuance of these bonds pursuant to Part V, Chapter 39A, Hawaii Revised Statutes, is in the public interest and for a public purpose.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1272 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. 733 Economic Development on H.B. No. 83

The purpose of this bill is to improve the management of Hawaii's ocean resources by appropriating \$75,000 to the Department of Planning and Economic Development (DPED) to study the feasibility of establishing an ocean use authority and to identify and examine comprehensive and efficient ocean management alternatives.

Your Committee supports this measure and notes that DPED is in the process of developing an Ocean Management Plan for the wise development, use and protection of our ocean resources. Your Committee anticipates that DPED expertise will be complemented by the assistance of a consultant in completing this study.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 83, 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. 734 Economic Development on H.B. No. 84

The purpose of this bill is to support the identification, assessment and management of ocean resources by appropriating \$100,000 to the Department of Planning and Economic Development (DPED) to establish a comprehensive ocean mapping system.

Your Committee supports this measure and finds that active interest in the development of a comprehensive ocean and coastal mapping system arose in DPED in 1980. Presently the DPED is concluding a project for a limited-scale prototype ocean mapping and inventory project and an assessment of the project's general usefulness, and feasibility. The project's preliminary findings indicate the need to establish a comprehensive and efficient mapping program through a centralized source to avoid the creation of independent mapping systems that could be duplicative or incompatible. Your Committee anticipates that the funds appropriated will be used to formulate and establish an administrative framework for a comprehensive mapping system which would meet the needs and interests of various federal, state, and county agencies, as well as private interests.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 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. 735            Economic Development on H.B. No. 1121

The purpose of this bill is to promote interest in out-of-state markets in underutilized fresh seafood produced or fished in Hawaii by appropriating \$25,000 to develop a promotional and marketing structure for fresh Hawaiian seafood.

Your Committee concurs with testimony that Hawaii needs a seafood promotion program that will increase consumer education and the awareness of, and demand for appropriate substitutions of seafood species and product forms. A successful promotional campaign could stimulate the harvesting of underutilized substitute seafood resources, decrease harvesting of heavily fished resources, and generally stabilize the market volume and baseline prices of seafood.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1121, 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. 736            Economic Development on Gov. Msg. Nos. 116 and 186

Recommending that the Senate advise and consent to the nominations to the Natural Area Reserves System Commission of the following:

WILLIAM J. WALSH, for a term ending December 31, 1988; and

FRANK J. RADOVSKY, for a term ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 737            Economic Development on Gov. Msg. No. 187

Recommending that the Senate advise and consent to the nomination of STANLEY Y. OSHIMA to the Aquatic Life and Wildlife Advisory Committee, County of Maui, for a term ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 738            Economic Development on Gov. Msg. Nos. 113 and 185

Recommending that the Senate advise and consent to the nominations to the Board of Land and Natural Resources of the following:

J. DOUGLAS ING, for a term ending December 31, 1988; and

JOHN Y. ARISUMI, for a term ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 739            Tourism and Recreation on H.B. No. 1173

The purpose of this bill is to appropriate the sum of \$66,000 for the Big Island Ocean Recreation and Tourism project (BIORT).

Your Committee finds that an appropriation is needed for BIORT in the amounts of \$25,000 for an island-wide system of beach orientation signs and displays, \$21,000 for the "Summer Youth Fishery Program," and \$20,000 for the "Every Swimmer a Lifesaver" program.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of H.B. No. 1173 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 740            Tourism and Recreation on H.B. No. 87

The purpose of this bill is to appropriate \$35,000 to the Visitor Industry Education Council for

the production of a film on career opportunities created by the tourist industry.

Your Committee finds that this film will result in an increased awareness of the benefits of the visitor industry and inform youngsters about career opportunities in the visitor industry.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of H.B. No. 87 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. 741            Tourism and Recreation on H.B. No. 1208

The purpose of this bill is to appropriate the sum of \$157,500 for the Big Island Ocean Recreation and Tourism project (BIORT).

Testimony submitted by the Director of Planning and Economic Development stated that with cooperative efforts of community groups and individuals, the private sector, County, State, and Federal agencies, BIORT can make a balanced and significant contribution to the quality of life of the community and the State.

Your Committee believes that it is important for the citizens of Hawaii to become educated about the ocean and the importance of the State's ocean resources. The ocean is an integral part of the attraction that Hawaii holds for the visitors that play a vital role in our economy, and increased participation in ocean recreation activities by both residents and visitors would have a positive effect on businesses that provide recreation services and products.

Your Committee finds that in the past year, BIORT has developed an organizational framework, established a network of cooperation on the Big Island, evaluated proposals for projects, and prepared a five-year plan for the development of ocean recreation facilities and programs.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of H.B. No. 1208 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. 742            (Majority) Tourism and Recreation on H.B. No. 383

The purpose of this bill is to appropriate funds for the promotion of Hawaii as a sports center.

Your Committee received testimony from the Director of the Department of Planning and Economic Development and the President of the Hawaii Visitors Bureau and finds that the year-round mild climate and available athletic and other support facilities are factors which could influence promoters to select Hawaii as the site for various types of professional or amateur competitions.

Your Committee further finds that this bill would enable local athletes to become more aware of athletic programs, would benefit the relative growth of tourism, and would support related sports industries in Hawaii.

Your Committee has amended the bill by increasing the appropriated amount to \$140,000 and by adding a proviso which allows \$20,000 each to go to the University Foundation for the Hula Bowl and to Aloha Bowl Charities, Inc. for the Aloha Bowl.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of H.B. No. 383, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 383, 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 Chang and Mizuguchi.  
Senator B. Kobayashi did not concur.

SCRep. 743            (Majority) Tourism and Recreation on H.B. No. 1207

The purpose of this bill is to appropriate the sum of \$80,000 for a grant-in-aid to the County of Hawaii for plans, design, and improvements to the Richardson Ocean Center.

Your Committee has amended the bill by increasing the amount appropriated to \$192,000 and including other East Hawaii ocean recreation facilities and programs within the bill.

Your Committee finds that an appropriation is needed for the East Hawaii area of the Big Island in the following amounts.

1. \$37,000 for educational and interpretive programs at the Richardson Ocean Center, Hilo, Hawaii, provided that up to \$15,000 of this sum be used for an on-site facility manager;
2. \$80,000 to the County of Hawaii for plans, design, and improvements to the Richardson Ocean Center; and
3. \$75,000 to the County of Hawaii for the improvement of Reed's Bay Beach in Hilo, Hawaii.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of H.B. No. 1207, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1207, 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 Chang and Mizuguchi.  
Senator B. Kobayashi did not concur.

SCRep. 744 (Majority) Tourism and Recreation on H.B. No. 1209

The purpose of this bill is to appropriate the sum of \$119,000 for West Hawaii ocean recreation facilities and programs.

Your Committee finds that an appropriation is needed for educational and interpretive programs in the West Hawaii area of the Big Island in the amounts of \$9,000 for boating and sailing programs to teach children basic seamanship and boating safety, \$40,000 for educational programs and a visitor center, and \$70,000 to the County of Hawaii to renovate the Old Kona Airport Terminal building for the purposes of a visitor center.

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

Your Committee on Tourism and Recreation is in accord with the intent and purpose of H.B. No. 1209, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1209, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Chang and Mizuguchi.  
Senator B. Kobayashi did not concur.

SCRep. 745 Transportation on H.B. No. 363

The purpose of this bill is to increase the drivers' education fund underwriters' fee from \$1.25 to \$2.00 per insured vehicle and to equally apportion the funds collected between the Judiciary and the department of education. Currently, the department of education receives sixty percent of the funds and the Judiciary is allotted forty percent.

Your Committee heard favorable testimony from both the Judiciary and the department of education. The Judiciary testified that the bill would cover projected expenses for the Judiciary's driver education program until June 1989. During the past five years, the driver education program has expanded substantially as a result of an increase in the number of referrals from the courts. In addition, the program has recently initiated an educational outreach into the schools and community to promote good driving habits and to inform the public of the dangers involved in drunk driving.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 363, 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. 746 Transportation on H.B. No. 830

The purpose of this bill is to prohibit the use of lights, lamps, reflectors and illuminated devices that are blue or made to appear blue on any motor vehicle, motorcycle, motor scooter, bicycle or moped except for law enforcement vehicles authorized and approved by the chief of police in the county in which the vehicle is operated.

Your Committee heard favorable testimony from both the prosecuting attorney's office, city and county of Honolulu, and the Honolulu police department. Current law prohibits the impersonation of a police officer. However, the police department testified that there has been an increase in the number of reported cases of persons posing as police officers. During the period of February 4, 1982 through October 11, 1984, the police department has logged 120

reported cases. Of these, 23 involved the use of motor vehicles with blue lights.

Your Committee believes that there is already wide public acceptance and recognition of the use of such blue lights by duly authorized law enforcement motor vehicles. As a result, this bill would aid the public in making certain that vehicles with blue lights are duly authorized by their respective counties.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 830, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 747            Higher Education on H.B. No. 299

The purpose of this bill is to amend Section 304-8.1, Hawaii Revised Statutes, by adding language necessary to include equipment user fees and equipment purchase costs under the provisions of this section.

Your Committee has heard S.B. No. 141, the companion to this bill, and at that time received testimony from the University of Hawaii that, through the vocational and technical training projects revolving fund, vocational students are provided actual production opportunities. However, heavy student use of production equipment combined with rapid and frequent equipment innovation, rapidly shortens the useful life of production equipment.

Your Committee finds that this bill would assist the University in optimizing the learning experience it presently furnishes vocational students at the community colleges by providing a revenue source, in addition to general fund support, to be disbursed for equipment replacement costs. Your Committee further finds that the amendment of Section 304 8.4, Hawaii Revised Statutes, in the manner proposed by this section is appropriate in light of the desirability of providing vocational students with state-of-the-art learning experiences.

Your Committee on Higher Education is in accord with the intent and purpose of H.B. No. 299, H.D. 1 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 748            Higher Education on H.B. No. 447

The purpose of this bill is to appropriate funds to the College of Tropical Agriculture and Human Resources of the University of Hawaii for fiscal year 1985 1986 for a county extension agent under the county extension service of Maui.

Presently, there are two agricultural extension agents who provide horticultural services on Maui. Due to increases in agricultural productivity and the growing resident population however, the demand for agricultural extension services has exceeded the ability of the existing personnel to adequately respond. An additional extension agent would allow the demand for agricultural extension services to be properly met and possibly expanded to include supplementary requests such as topical workshops.

Your Committee has heard S.B. No. 518, the wording and intent of which are virtually identical to this bill, and at that time received supportive testimony from the University of Hawaii.

Your Committee on Higher Education is in accord with the intent and purpose of H.B. No. 447, H.D. 1 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 749            Higher Education on H.B. No. 905

The purpose of this bill is to establish an innovative program which seeks to provide an opportunity for physicians to serve with the State and, consequently, ease the difficulty of the Department of Health and the Department of Social Services and Housing in recruiting physicians.

Due to the attractiveness of private practice, the efforts of the department of health to provide primary medical care in certain rural communities of the state and the ability of the department of social services and housing to recruit physicians to serve in correctional



facilities is seriously impaired.

The proposed program will help to alleviate the problem by providing a total of six qualified physicians over a period of three years to fill employment vacancies in the department of health and the department of social services and housing. The six physicians will be made available at no cost to the state by reserving a total of six student slots from within the total authorized enrollment in the University's School of Medicine residency program. In return for admission into the residency program, the student will be required by contract to make himself available for employment with the department of health or the department of social services and housing.

Your Committee has heard testimony regarding S.B. No. 1120, which is similar to this bill.

Your Committee on Higher Education is in accord with the intent and purpose of H.B. No. 905, H.D. 1 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 750          Consumer Protection and Commerce on H.B. No. 1056

The purpose of this bill is to amend Chapter 431, Hawaii Revised Statutes, by adding a new section to provide for the establishment of a revolving fund to be used by the Insurance Commissioner of the State of Hawaii to compensate independent contractor examiners.

Your Committee received testimony from the Department of Commerce and Consumer Affairs and the Hawaii Independent Insurance Agents Association in favor of this bill. The Department testified that there are approximately 701 insurance agencies doing business in the State and that the Commissioner is charged with the responsibility of monitoring each agency's operations. The establishment of a revolving fund will provide the Commissioner the needed flexibility to hire independent contract examiners. The Association testified that funding of additional examiners is essential to uncover potentially problematic insurers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1056, 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 Kuroda, McMurdo and Young.

SCRep. 751          (Majority) Judiciary on H.B. No. 354

The purpose of this bill is to increase the salaries of the justices and judges of the state courts and of the administrative director and the deputy administrative director of the state court system. It also clarifies that when a district court judge is appointed temporarily to serve as a circuit court judge, that judge shall receive per diem compensation based on the monthly rate of compensation of a circuit court judge.

In July 1984, the Commission on Judicial Salaries ("Commission") was established jointly by the Governor, Chief Justice, Senate President, and House Speaker for the purpose of reviewing and recommending adjustments to the salary schedules for justices and judges. In November 1984, the Commission issued its finding and recommendation in a report entitled, "Report of the Commission on Judicial Salaries". The Commission concluded the present salary structure for the justices and judges is "woefully inadequate", and was neither "fair" nor "just", nor was it "reasonably calculated to achieve the goals of judicial compensation". These goals established by the Commission were that compensation should: (1) be commensurate with judicial responsibilities; (2) provide security for the judge and the judge's family; and (3) attract and retain successful and experienced practitioners to the bench.

The bill as it came to your Committee did not specify a dollar amount for the salary increases. It provided for unspecified incremental increases for each level of judicial office. The increases would be effective on July 1 for three consecutive years, beginning 1985 through 1987. The bill also linked annual salary increases for each judicial level whenever public employees in either or both white collar bargaining units received a pay increase of three per cent (3%) or more in any one year.

Your Committee amended the bill to incorporate a system of judicial compensation which would raise the salaries of supreme court justices, intermediate court judges, and circuit court judges, who are retained in office for another term after confirmation by the Senate. Presently pending before the Legislature is a bill which would amend Article VI, Section 3 of the State Constitution to require the confirmation of the Senate before a justice or judge can remain in office after that justice's or judge's first term of office expires. If confirmed, the justice or

judge would be elevated to senior status and be entitled to a higher salary, commensurate with the justice's or judge's experience, competence, and ability as a veteran of the bench. Your Committee recognizes that such senior justices and judges should be compensated at a higher level than junior, or newer, justices and judges.

Your Committee also amended the bill to insert a specific dollar amount for the salaries of justices and judges at each judicial level. Since the salaries will be tied to salary increases for governmental officials currently being considered in other bills before the Legislature, your Committee used hypothetical figures with the understanding that more realistic figures will be provided at a later date. Under this new system of judicial compensation, your Committee started with the base figure of \$100 for the highest judicial office of the state, the chief justice of the supreme court who reaches senior status. Your Committee maintained the historic 5% salary differential between the compensation levels for each judicial level. It also provided for a two and one-half per cent (2 1/2%) salary differential between the compensation levels of the junior and senior justices and judges. Moreover, it set the salary of the administrative director of the court at the same level as a senior circuit court judge; the salary of the deputy director was put at ninety-five per cent (95%) of the director's.

Additionally, your Committee deleted the provisions that would have provided for three incremental increases through 1987 and for an automatic increase whenever public employees receive a certain percentage pay increase. Your Committee finds that these provisions are unnecessary at this time.

Furthermore, your Committee revised the effective date of this bill to coincide with voter ratification of the constitutional amendment which would require Senate confirmation for the retention of justices and judges in office. Your Committee intends that the salary increases would be implemented on July 1, 1987, after the next election.

Finally, your Committee made technical, nonsubstantive amendments to the bill to conform with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 354, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 354, 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 Kuroda, Toguchi and Young.  
Senator Kawasaki did not concur.

SCRep. 752 (Majority) Economic Development on H.B. No. 1275

The purpose of this bill is to provide civil service status to Public Utilities Commission (PUC) assistants and to allow the Chairman of the PUC to appoint PUC assistants as needed regardless of the population of the county.

Your Committee supports this measure as providing greater assurance that the PUC will be able to attract and retain qualified staff to address the public utility concerns of residents of neighbor island counties. This measure provides that PUC assistants will be civil service employees without loss of salary, seniority, prior service credit, vacation, sick leave or other employee benefits or privileges. The measure also converts existing PUC assistants to civil service status without the necessity of examination.

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

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1275, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1275, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.  
Senators Kawasaki and Soares did not concur.

SCRep. 753 Economic Development on H.B. No. 154

The purpose of this bill is to grant the Department of Hawaiian Home Lands (DHHL) the discretion to allow a person awarded a DHHL homestead lease more than the one year time period currently stipulated in which to occupy and use a homestead lot.

Your Committee supports this measure as allowing DHHL latitude in accelerating the distribution of land to more than 8,500 applicants on waiting lists by awarding lots which may not be fully improved, and which may require more than one year's work before the lots can be

occupied and used.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 154 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. 754            Energy on H.B. No. 813

The purpose of this bill is to authorize the counties to issue reimbursable general obligation bonds to finance facilities for the disposal and processing of solid waste and generation of electric energy.

Your Committee finds that sanitary landfills are costly and inefficient and that alternate methods of disposal must be pursued. Pollution control projects which provide for waste recovery and generation of electricity have proven to be capable of doing the job. The high cost of such projects, however, continue to inhibit the development of this industry to its full potential. Using the counties' solid waste matter to generate electricity will provide energy from an alternate source and will also alleviate the demand on existing landfills. Therefore, your Committee finds that this bill will serve as an incentive toward the development of such projects, and is therefore in the public interest.

Your Committee on Energy is in accord with the intent and purpose of H.B. No. 813, H.D. 3, 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. 755            Energy on H.B. No. 1246

The purpose of this bill is to extend the present tax exemption on the sale of gasohol to June 30, 1992, and to eliminate the provision which would limit the exemption to gasohol produced within the State from biomass effective July 1, 1985.

Your Committee finds that reducing the State's reliance on imported oil through the production and use of alternate fuels such as ethanol is a major state goal, and that the use of ethanol in a gasoline fuel mixture known as gasohol will aid in achieving the goal. Presently, however, Hawaii has no commercial-size ethanol producing plants in operation. Therefore, your Committee finds that extending the current tax exemption to include mainland-produced ethanol is in the public interest in that it would help to develop a local market for gasohol and encourage Hawaii's local producers to enter the market.

Your Committee has amended the bill by similarly extending the tax credits on solar or wind energy devices and heat pumps to December 31, 1992, with the provision that if the federal energy tax credits are not extended beyond December 31, 1985, the above-mentioned credit will be allowed to lapse as of December 31, 1985, as originally scheduled.

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

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

Signed by all members of the Committee.

SCRep. 756            Health on H.B. No. 162

The purpose of this bill is to authorize the Department of Health to establish regulating levels for pesticides in products by reference to 21 CFR Part 193, as well as 40 CFR Part 180 or the United States Food and Drug Administration Compliance Policy Guides, without regard to Chapter 91, Hawaii Revised Statutes, and to obtain without charge a food, drug, device, or cosmetic sample for analysis.

Your Committee heard testimony from the Department of Health and finds that regulatory levels or tolerances are continually being revised by the federal government, and it is simply not feasible for the Department to adopt each new regulating level or tolerance pursuant to Chapter 91. Your Committee further finds that any substantial delay in adopting revised tolerances or action levels may adversely impact on the health and welfare of the consumer and that the Department needs to be able to obtain suspect samples for analysis as quickly and

expeditiously as possible, regardless of budget restrictions. Therefore, it is in the public interest to expand the Department's ability to adopt regulating levels for pesticides by reference and to obtain free product samples for analysis.

Your Committee, upon the recommendation of the Hawaii Food Industry Association, has amended the bill by providing that a retailer or wholesaler who surrenders a free sample of a product which is suspected or known to be contaminated shall be provided with a receipt which may be used to obtain reimbursement from the supplier or manufacturer, as the case may be.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 162, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 162, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 757      Consumer Protection and Commerce on H.B. No. 1059

The purpose of this bill was to appropriate the sum of \$250,000 for fiscal year 1985-1986 to the insurance commissioner of the Department of Commerce and Consumer Affairs to conduct a comprehensive review of the insurance laws of the State and to submit proposed legislation to simplify, clarify, update, and consolidate the insurance laws of the State.

Your Committee received testimony from the Department of Commerce and Consumer Affairs and the Hawaii Independent Insurance Agents Association in support of this bill. The Department believes a comprehensive review of the insurance laws at this time is needed to substantially reduce the time and effort required by the Legislature, administrative agencies, and the insurance industry in addressing the myriad of piecemeal changes proposed by private industry or any government agency. The Department stated that the benefits would outweigh the costs of such a comprehensive undertaking.

Your Committee believes that an additional catchall provision should be added to address additional issues that may arise for purposes of the comprehensive review. Accordingly, your Committee has added a paragraph (13) on page 4 of the bill to allow consideration of other issues not listed in the bill.

Your Committee also believes that the insurance industry should share in the cost of this comprehensive review of its laws. Accordingly, your Committee has amended the appropriation section to allow the insurance commissioner to assess insurers to match the recommended appropriation of \$150,000 from general fund revenues.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1059, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1059, 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 Kuroda, McMurdo and Young.

SCRep. 758      Housing and Community Development on H.B. No. 208

The purpose of this bill is to authorize the Hawaii community development authority (HCDA) to issue \$15 million of revenue bonds to finance the development of public facilities.

The bill further includes a declaration of what constitutes "public purposes" for the purpose of this bill.

Under the provisions of chapter 206E, Hawaii Revised Statutes, HCDA is required to plan, locate, and develop public facilities to support the development of the Kaka'ako community development district. Of immediate concern to the authority is the development of public parking garages. These parking facilities would encourage a walk-to-work community and the development of smaller properties by private owners who are unable to provide the minimum amount of parking due to the size of their lots. Further, the provision of public parking will support major private development in the district and relieve the area of current hazardous conditions created by the lack of on-street parking.

HCDA indicated it lacks sufficient economic resources to provide public parking structures and other necessary facilities. By authorizing the use of revenue bonds for public facilities in general rather than specifying a particular facility, such as parking structures, HCDA is given the flexibility needed to structure revenue bond financing.

Your Committee has made a technical, nonsubstantive amendment to the bill.

Your Committee on Housing and Community Development is in accord with the intent and purpose of H.B. No. 208, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 208, 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 Hee, Cobb and McMurdo.

SCRep. 759      Housing and Community Development on H.B. No. 219

The purpose of this bill is to amend section 39A-151, Hawaii Revised Statutes, by allowing the issuance of special purpose revenue bonds to finance the development of private parking structures in the Kakaako community development district.

The Kakaako community development plan requires developers to provide a minimum number of parking stalls for private enterprise. This requirement may be a deterrent to redevelopment in the area, since parking revenues may not be sufficient to offset the high cost of developing parking facilities.

However, the redevelopment of Kakaako can be fostered with the help of the State through the issuing of special purpose revenue bonds for the private parking structures. Moreover, part V of chapter 39A, Hawaii Revised Statutes, authorizes the director of finance to issue special purpose revenue bonds to finance industrial enterprises. Bond counsel has questioned whether part V can include bonds for parking facilities. Consequently, this bill addresses the bond counsel's concern and amends the definition of "projects" to include parking facilities.

Your Committee on Housing and Community Development is in accord with the intent and purpose of H.B. No. 219 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 Hee, Cobb and McMurdo.

SCRep. 760      Housing and Community Development on H.B. No. 860

The purpose of this bill is to amend section 356-206, Hawaii Revised Statutes, to broaden the applicability of the State's housing loan and mortgage program (Hula Mae) to a larger group of first-time homebuyers.

The bill provides for the following: (1) a fifteen per cent increase in the adjusted household income of an eligible borrower; (2) a fifteen per cent increase in the asset limit of an eligible borrower; (3) deletion of the requirement that the down payment on property securing a loan shall not exceed twenty per cent of the fair market value of the property; (4) a provision that income received by dependent members of an eligible borrower's household shall not be included in calculating "adjusted household income"; and (5) a provision that the value of a vacant lot owned by an eligible borrower shall not be included as an asset when a dwelling unit is or shall be constructed on the property and financed by an eligible loan.

Your Committee believes deletion of the down payment restriction and the provision excluding as an asset the value of land owned by an eligible borrower on which a dwelling unit is or shall be constructed will assist additional lower-income households to qualify for loans. This situation is especially applicable to the neighbor islands where the Hawaii housing authority (HHA) has found that households tend to accumulate assets (including vacant land) on relatively low incomes. This has caused such low-income households to: (1) become ineligible for the Hula Mae Program since their combined assets exceed the limit for the household size; or (2) be unable to qualify for financing on their level of income because of the inability to make more than a twenty per cent down payment.

Your Committee views the proposal to liberalize eligibility and down payment requirements of the Hula Mae Program as a positive step in achieving the full utilization of a limited housing subsidy.

The HHA testified that proceeds from the \$100 million Hula Mae 1984 Series A bond issue completed in August, 1984, are moving slowly due to the below-market interest rate of eleven per cent. As of January, 1985, over \$65 million of loan moneys remain uncommitted. Further, the State is not issuing the maximum amount (\$200 million) of tax-exempt revenue bonds allowed under the provision of the federal Mortgage Subsidy Bond Tax Act of 1980. This means the State is under-utilizing a valuable housing subsidy which may sunset on December 31, 1987. By making the program requirements less restrictive, a greater number of first-time homebuyers could be assisted, thereby resulting in increased use of the Hula Mae Program.

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

Your Committee on Housing and Community Development is in accord with the intent and purpose of H.B. No. 860, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 860, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Hee, Cobb and McMurdo.

SCRep. 761            Housing and Community Development on H.B. No. 997

The purpose of this bill is to make a \$2 million appropriation for the State's Rental Assistance Program.

Your Committee finds that, with key federal subsidy programs no longer being funded for new construction, the State should help subsidize the development of affordable rental units.

The Rental Assistance Program, created under Part III of chapter 356, Hawaii Revised Statutes, provides subsidies to qualified owners of rental projects in order that rents on all or a portion of the units in an eligible rental project can be maintained at affordable levels.

The Hawaii Housing Authority estimates that the \$2 million appropriation can assist in the development of 80 to 100 new units, which could then be made available at rents affordable to those of low and moderate incomes. The principal will be used to subsidize the rents.

Your Committee has made nonsubstantive amendments to this bill to correct stylistic and typographical errors and to indicate the fiscal year of expenditure.

Your Committee on Housing and Community Development is in accord with the intent and purpose of H.B. No. 997, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 997, 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 Hee, Cobb and McMurdo.

SCRep. 762            Economic Development on H.B. No. 840

The purpose of this bill is to help stimulate Hawaii's fishing and aquaculture industries by exempting from the general excise tax for a period of five years, amounts received for fish and fish and ocean products, as defined in the bill, shipped or transported out of state for sale in interstate or foreign commerce. The exempted products may be in finished or unfinished condition and may or may not have been sold or title transferred at the time they entered interstate or foreign commerce.

Your Committee recognizes the need to preserve the strength of general excise tax revenues. However, without action by the State to improve the financial ability of local fishery and aquaculture producers to compete with out-of-state producers, our industries may decline with a concurrent loss of public revenues. Your Committee believes that the five year trial period for this exemption provides an adequate basis for assessing the costs and benefits of this measure.

Your Committee has amended page 8, line 12 of the bill to clarify that the exemption provided is for persons licensed under Chapter 237, Hawaii Revised Statutes. Your Committee believes persons with general tax licenses under Chapter 237, Hawaii Revised Statutes, will include the primary producers, wholesalers, brokers and retailers of fish and fish and ocean products to be exempted.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 840, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 840, 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 Holt, Young, Henderson and Soares.

SCRep. 763            (Majority) Economic Development on H.B. No. 404

The purpose of this bill is to appropriate funds for the operation of the Office of Hawaiian Affairs (OHA). Rather than providing a lump sum appropriation for OHA, the bill breaks down OHA's budget request by program appropriation, identifying the general fund and special fund requirements for each program to assist in the review of programs and accountability of the costs associated with each program. The bill authorizes the chairperson of the OHA Board of Trustees to transfer positions and funds whenever necessary for the expeditious implementation

of OHA programs, and provides that any unencumbered general fund balances at the close of appropriation periods be lapsed rather than held in trust as ceded land revenues are.

Your Committee concurs with testimony by OHA supporting this measure.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 404, 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 Holt, Young, Henderson and Soares.

Senator Kawasaki did not concur.

SCRep. 764            Transportation on H.B. No. 329

The purpose of this bill is to provide mandatory penalties for driving with a suspended or revoked license stemming from a conviction for driving under the influence of intoxicating liquor.

The bill adds a section to 291-4, Hawaii Revised Statutes. The addition prescribes a penalty of two to thirty days imprisonment and an additional suspension or revocation period equal to the period remaining under the suspension or revocation of the original sentence.

Your Committee heard testimony from the department of transportation, the department of social services and housing, the department of the prosecuting attorney, the Honolulu police department and Mothers Against Drunk Driving (MADD).

According to testimony by the department of the prosecuting attorney and MADD, the suspension/revocation penalty as provided in the bill is not an effective deterrent because a person with a short suspension or revocation period remaining under the original sentence would receive an equally short period as the additional penalty. Thus, a person with one day remaining from the original sentence would receive a one day suspension or revocation of license as the additional penalty.

Your Committee believes that making the additional suspension/revocation penalty a fixed one will provide a more effective deterrent to such violations.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 329, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 329, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Toguchi, B. Kobayashi and Machida.

SCRep. 765            Health on H.B. No. 77

The purpose of this bill is to appropriate \$40,000 to support a cooperative agreement between the Federal Environmental Protection Agency (EPA) and the State Department of Health to provide compliance inspections of generators and handlers of hazardous wastes.

Since the primary responsibility for hazardous waste management now rests with EPA's Region IX Office in San Francisco, your Committee finds that this bill will promote the public interest by facilitating compliance inspection activities, and the State welfare will be greatly served by the increased number and frequency of inspections and the public education funded by this proposal.

Your Committee has amended the bill by incorporating the substance of H.B. No. 78, H.D. 1 and H.B. No. 80 and increasing the total appropriation to \$130,000. The new material provides for an appropriation of \$40,000 to compile and maintain a statewide hazardous materials and waste informational data base and an appropriation of \$50,000 to support an "Amnesty Day" program designed to facilitate safe disposal of hazardous household materials. Your Committee heard testimony which supported this amendment with the understanding that the appropriation of \$40,000 to facilitate cooperation between the EPA and the Department of Health regarding compliance inspection should have first priority. Your Committee concurs.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 77, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 77, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 766

Health on H.B. No. 163

The purpose of this bill is to authorize the Department of Health to license laboratory technologists and supervisors.

The Department's licensing authorization is currently limited to laboratory directors and technicians.

Your Committee received testimony from the Department of Health to the effect that laboratory technologists and laboratory supervisors have become increasingly important to the public health and safety since the licensing law was last revised, and that the emergence of these two specialties is reflective of the multitude of skilled procedures necessary to carry out the business of medical laboratory work. Therefore, your Committee finds that the increased regulatory authority granted to the Department in this bill would further protect the public safety and is in the public interest.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 163 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 767

Health on H.B. No. 165

The purpose of this bill is to increase the opportunities for placing certain clients of the mental health system in community residential facilities.

Act 221, Session Laws Hawaii 1980, established the community residential treatment system for the purpose of providing a range of services to serve as alternatives to institutional care. Until present, these alternative residential arrangements were thought of as half-way houses for people returning to the community from hospitalization.

This bill acknowledges that semi-supervised living arrangements can frequently provide sufficient care to enable individuals to avoid costly hospitalization in the first place, and increase the ability of the Department of Health to meet the treatment and residential needs of its clients.

Your Committee has amended the bill by further broadening the Department's authority to provide satisfactory community residential facilities by deleting the language in each of the four program elements which describes, limits, and specifies the kinds and scope of services, facilities, and living arrangements to be provided, and by providing for the addition of more program elements, if appropriate. Your Committee believes that specific aspects of these activities are best provided by rule, as authorized under section 334-9, Hawaii Revised Statutes.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 165, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 165, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 768

Health on H.B. No. 166

The purpose of this bill is to enable the Department of Health to reinstitute its program of regulating the testing of newborns for congenital metabolic diseases. The bill further appropriates \$22,829 to fund one position to carry out a monitoring and follow-up program.

This bill requires that tests for phenylketonuria, hypothyroidism, and any other hereditary metabolic disease be administered to newborn children in accordance with rules adopted by the Department of Health. Exceptions would be granted for religious reasons. The appropriation will fund a nurse's position to receive and review all reports of infants who show positive test results or who have no test results and provide follow-up to assure that these infants are tested.

Your Committee has amended the bill by making a nonsubstantive change to conform to recommended drafting style.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 166, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 166, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 769

Health on H.B. No. 171



The purpose of this bill is to bring statutory references in section 334-76, Hawaii Revised Statutes, into conformance with Act 188, Session Laws of Hawaii 1984.

Act 188 deleted section 334-60 and replaced it with newly numbered sections. Therefore, this measure is necessary to bring the reference to sections 334-60(b)(6) and 334-60(b)(1) in section 334-76 into conformance with their new designations as sections 334-60.7 and 334-60.2, respectively.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 171 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 770      Health on H.B. No. 1018

The purpose of this bill is to increase the capability of the Hyperbaric Treatment Center to treat "bends" victims and other patients by appropriating funds to make the large sized "Good Samaritan" hyperbaric chamber operational.

At the present time, the Hyperbaric Treatment Center treats bends and embolism patients in its recompression chamber. Your Committee finds that the recent acquisition of the larger, more flexible "Good Samaritan" chamber can provide multiple treatments which would, in turn, generate increased revenues and help the Center become self-supporting.

Your Committee wishes to emphasize that the intent behind this appropriation is to help the Hyperbaric Treatment Center become financially self-sufficient as quickly as possible, and not to provide funds indefinitely on a regular basis.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1018, 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. 771      Health on H.B. No. 1280

The purpose of this bill is to appropriate funds for the establishment of a pilot program on Alzheimer's Disease.

Your Committee finds that Alzheimer's disease is the most prevalent and devastating illness affecting our elderly population today. Your Committee notes that there presently is no cure for Alzheimer's disease and finds that creating a family support group or respite program will serve to lessen the tragic impact of this disease upon the victims and their families.

Your Committee has amended the bill by clarifying that the appropriation is to start a pilot respite program for Alzheimer's disease patients' families and to employ a program coordinator to train volunteers to provide outreach services.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1280, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1280, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 772      Economic Development on H.B. No. 210

The purpose of this bill is to provide the members of the High Technology Development Corporation Board with immunity from or indemnification for civil liability, as well as defense in civil actions, similar to that granted members of other boards and commissions in section 26-35.5, Hawaii Revised Statutes.

Your Committee notes that Act 152, Session Laws of Hawaii 1984, provides immunity from and indemnification for civil liability and defense of members of State boards established by law, provided that members of boards with land trust obligations are exempted from this protection. Recognizing that a primary function of the Corporation is land development, it is unclear if the Corporation Board would ever incur land trust obligations. The Attorney General's Office has recommended that it be clearly established that members of the High Technology Development Corporation Board are not excluded from the immunity and indemnification provisions of Section 26-35.5, Hawaii Revised Statutes.

Your Committee concurs with testimony indicating that the effectiveness of the Corporation

depends to a significant degree on the Corporation's ability to attract private sector leaders to serve as members of the Corporation Board. Your Committee finds that providing Board members with a reasonable degree of immunity, indemnification and defense for their actions as Board members would promote the effectiveness of the Corporation.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 210 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Holt and Young.

SCRep. 773            Transportation on H.B. No. 281

The purposes of this bill are: 1) to transfer funds derived from the general excise tax on retail sales of liquid fuel used for the purposes of operating motor vehicles on highways in the State, from the state general fund to the state highway fund; (2) to increase the state registration fee; and (3) to increase the state tax on certain fuels.

Your Committee finds that under present law, there are several permanent sources of revenue for the state highway fund created pursuant to section 248-9, Hawaii Revised Statutes. These include state vehicle registration fees, state fuel taxes and state vehicle weight taxes.

In recent years, the revenues derived from these sources have not been adequate to meet the costs of construction and maintenance of Hawaii's roads and highways. As a result, in the summer of 1983, a state department of transportation task force was formed to study the problem of solvency of the highway fund. Their findings have been reviewed and the department of transportation has submitted proposals in the 1984 and the 1985 legislative sessions. This year the department recommended that the state registration fee be increased from \$1 to \$28 and that funds derived from the general excise tax on retail sales of fuel be transferred permanently from the general fund to the state highway fund.

Your Committee has studied this proposal and those of the House Transportation Committee (H.B. No. 281, H.D. 1) and the House Finance Committee (H.B. No. 281, H.D. 1). In addition, the Committee also reviewed various funding proposals to evaluate their economic impact.

Based on its review and the public hearing held on this bill, your Committee has attempted to make a recommendation that would be fair and equitable and apportion the cost among all highway users and provide sufficient revenues to allow the highway fund to remain solvent through fiscal year 1990-91.

As a result, the following major amendments have been made to this bill.

Motor vehicle weight tax. Presently, 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; a flat rate of \$27.00 for vehicles between 6,000 to 9,000 pounds; \$31.50 for vehicles between 9,000 pounds and 14,000 pounds; and \$36 for those over 14,000 pounds.

Your Committee believes that the present weight tax should be revised to make heavier vehicles more financially responsible for the costs of our highway system. Your Committee finds that the present system allows cars over 6,000 pounds to pay less through the flat rate than if they were charged the .45 cent rate that cars under 6,000 pounds are now paying. As a result, the current tax on vehicles over 6,000 pounds does not represent an equitable tax assessment.

Furthermore, your Committee has long known that heavier vehicles, especially trucks, do substantially more damage to our roads and highways. Thus, your Committee believes that the weight tax should be utilized to make such heavier vehicles pay a fairer share of the weight tax.

As a result, the bill has been amended to raise the base rate from .45 cents to .55 cents for vehicles under 4,000 pounds, .60 cents for vehicles between 4,000 and 7,000 pounds, and .65 cents for vehicles over 7,000 pounds.

Fuel Tax. State fuel taxes are levied at the rate of 8-1/2 cents per gallon by section 243-4, Hawaii Revised Statutes.

Your Committee finds that revenues derived from the state fuel tax have diminished because of a decrease in the amount of gasoline used per vehicle due to better fuel efficiency and decreased usage of automobiles.

Your Committee also finds that the state fuel tax has not been raised since 1977. Your

Committee recommends that the state fuel tax be increased 2-1/2 cents to 11 cents. This modest increase will provide needed revenue to keep the highway fund solvent.

Registration Fee. Your Committee opposes the Administration's proposal to raise the fee from \$1 to \$28. This is the major component of department of transportation's proposal to provide additional revenues for the highway fund. Your Committee finds that such a dramatic increase would be burdensome to many segments of Hawaii's population, and does not address the concern that any increases in taxes or registration fees be distributed fairly and equitably.

With this in mind, your Committee has reduced the House proposal of a \$17 fee to \$10.

General Fund Transfer. Since 1981, the four percent state general excise tax on most liquid fuels in the State has been transferred from the state general fund to the highway fund. This was a temporary solution to maintaining the solvency of the highway fund. Under section 237-31, the "temporary" transfer is scheduled to end on June 30, 1987.

Your Committee recommends that the transfer be extended until 1991.

Your Committee believes that these recommendations will provide for our construction and maintenance of our roads and highways until fiscal year 1991.

Your Committee has made technical and non-substantive amendments.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 281, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 281, 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 Toguchi and Machida.

SCRep. 774      Agriculture on H.B. No. 916

The purpose of this bill is to make an appropriation for the promotion of papayas.

Your Committee finds that recent set-backs suffered by the papaya industry, including the devastation caused by Hurricane Iwa, the EPA ban on ethylene dibromide, and the adverse marketing effects of the double-dip method of disinfection, have combined to seriously threaten the economic viability of the papaya industry.

Your Committee also finds that in order to revitalize the dwindling papaya market which has been decreasing as a result of these setbacks, and to increase consumer demand to a profitable level, there is a need to implement a new advertising program on the mainland aimed at consumers.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 916, 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. 775      Agriculture on H.B. No. 62

The purpose of this bill is to provide funds for the promotion of fresh Hawaiian pineapple.

Your Committee finds that the pineapple industry is the second largest agricultural industry in Hawaii, and that it is a vital component of the State's economic base. The objectives of the promotion are to increase consumer demand for Hawaiian fresh pineapple by generating greater public awareness of the product and improve the stability of the pineapple industry in Hawaii through effective marketing programs.

Your Committee has amended the bill by changing the effective date from "upon approval" to "July 1, 1985."

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 62, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 62, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 776      Agriculture on H.B. No. 64

The purpose of this bill is to make an appropriation for fiscal year 1985-1986, for the

promotion of diversified agricultural commodities.

Your Committee finds that diversified agriculture is a vital component of the State's economic base and is the fastest growing sector in the agricultural industry.

Your Committee also finds that diversified agriculture continues to experience difficulties in the marketing of commodities, and that it is in the public interest to enhance present funding efforts to assist the diversified agriculture sector.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 64 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. 777            Agriculture on H.B. No. 60

The purpose of this bill is to appropriate funds for sugar research and development, including research on alternate crops, provided that the Hawaiian Sugar Planters' Association provides a dollar-for-dollar match of funds.

Your Committee finds that research on alternate crops and by-products of sugar are important for the future of Hawaii's sugar industry. It not only provides for the subsistence of the sugar industry at the present time, but also provides a hopeful future for Hawaii's sugar industry.

Your Committee has amended the bill by: (1) increasing the appropriation from \$2,000,000 to \$2,750,000; (2) specifying that the Hawaiian Sugar Planters' Association, in cooperation with the College of Tropical Agriculture and Human Resources of the University of Hawaii at Manoa utilize a portion of the appropriation for research on alternate crops; and (3) changing the effective date from "upon approval" to "July 1, 1985."

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 60, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 60, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 778            Agriculture on H.B. No. 184

The purpose of this bill is to establish an aquaculture advisory council to advise the Board of Land and Natural Resources on statewide aquaculture development.

The council would carry out various functions, including coordinating state activities, periodically reviewing the progress and status of state programs, and providing a forum for the discussion of development problems and issues. The council would be composed of representatives from both the public and private sectors of Hawaii's aquaculture community to provide broad and diverse input into state decision-making.

Your Committee finds that for the State's fast-developing aquaculture industry, coordination and communication are areas in need of constant attention. An aquaculture advisory council would offer a much-needed formal mechanism to bring together key government, university, and private-sector groups who are active and interested in aquaculture development for Hawaii.

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

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 184, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 184, 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 Hee and Toguchi.

SCRep. 779            Agriculture on H.B. No. 65

The purpose of this bill is to appropriate funds for the fiscal year 1985-1986 for the support of statewide agricultural activities, the sums appropriated to be expended by the Governor's Agriculture Coordinating Committee.

Your Committee received testimonies in support of this bill and finds that the appropriations are designed to meet a variety of objectives for the promotion of the diversified agriculture industry in Hawaii.

Your Committee has amended the bill by:

1. providing appropriations for the fiscal year 1986-1987 for items 1-5;
2. increasing the appropriation for the continuance of pesticide education for farmers from \$30,000 to \$60,000 for each fiscal year;
3. reducing the appropriation for research on biological control under greenhouse conditions from \$25,000 for fiscal year 1985-1986 to \$5,000 for fiscal years 1985-1986 and 1986-1987;
4. reducing the appropriation for the research on cultural and biological measures to reduce nematode populations from \$100,000 to \$85,000 for fiscal year 1985-1986; and
5. providing \$41,200 for each fiscal year for research and control of anthurium blight and bleach disease for the Hawaii Anthurium industry.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 65, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 65, 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 Hee and Toguchi.

SCRep. 780          Agriculture on H.B. No. 82

The purpose of this bill is to authorize \$60,000 for a study on the feasibility of establishing seawater, freshwater and/or brackish water aquaculture parks in the State, the sum appropriated to be expended by the Department of Land and Natural Resources.

Presently there are no commercial aquaculture activities located in agriculture parks, and no aquaculture parks are planned. Your Committee received testimony from the Department of Land and Natural Resources in support of the bill, stating that a study to establish the feasibility of locating aquaculture parks in the State would be timely and useful in the further development of the aquaculture industry. Your Committee finds that aquaculture is a new, developing industry for Hawaii, which has been strongly supported by the Legislature and citizens of Hawaii to diversify the State's economy.

Your Committee questions whether this appropriation is premature due to the fact that H.B. No. 184, H.D. 2, which establishes an aquaculture advisory council would provide the direction and coordination for the development of aquaculture industries in the State.

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

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 82, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 82, 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 Hee and Toguchi.

SCRep. 781          Labor and Employment on H.B. No. 134

The purpose of this bill is to provide fund authorizations and appropriations for collective bargaining cost items, including the cost of salary adjustments negotiated between the State and bargaining unit representatives for the fiscal biennium 1985-1987.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with section 89-10(b), Hawaii Revised Statutes, to cover the expected cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1985.

Since an agreement for the bargaining units is not expected to be reached in time to include the cost items in the 1985-1987 biennium budget, this measure is necessary.

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 134, 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. 782          Labor and Employment on H.B. No. 144

The purpose of this bill is to provide fund authorizations and appropriations in the amount of

\$1 for Unit 11 collective bargaining cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1985-1987.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with section 89-10(b), Hawaii Revised Statutes, to cover the expected cost of implementing collective bargaining agreements negotiated between the State and the bargaining unit representative for the fiscal biennium commencing July 1, 1985.

Since an agreement for the bargaining unit is not expected to be reached in time to include the cost items in the 1985-1987 biennium budget, this measure is necessary.

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 144, 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. 783            Labor and Employment on H.B. No. 146

The purpose of this bill is to provide fund authorizations and appropriations for wage and other adjustments in fiscal biennium 1985-1987 for executive, judiciary, and legislative officers and employees excluded from collective bargaining.

Section 89C-2, Hawaii Revised Statutes, provides that the compensation, hours, terms and conditions of employment, and other benefits for public officers and employees who are excluded from collective bargaining shall be adjusted by the chief executives of the State or Counties, the Board of Education, the Board of Regents of the University of Hawaii, the Legislative Auditor, the Director of the Legislative Reference Bureau, the Ombudsman, or the Chief Justice of the Hawaii Supreme Court, as applicable. Further, section 89C-5, Hawaii Revised Statutes, provides that any such adjustments which constitute cost items shall be subject to appropriation by the Legislature.

Your Committee is in agreement that adjustments will be necessary for employees excluded from collective bargaining.

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 146, 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. 784            Labor and Employment on H.B. No. 147

The purposes of this bill are to establish the amounts of the state and county contributions to the health fund for officers and employees not covered by collective bargaining, as provided by Chapter 89C, Hawaii Revised Statutes, and to provide appropriations to fund the State's contribution for fiscal biennium 1985-1987.

Act 254, Session Laws of Hawaii 1984, authorized collective bargaining negotiations to determine the amount of employer contributions to the health fund for employees covered by collective bargaining, the negotiated amounts becoming effective July 1, 1985. The Act also authorized the chief executives of the State and Counties, the Board of Education, the Board of Regents of the University of Hawaii, the Legislative Auditor, the Director of the Legislative Reference Bureau, the Ombudsman, and the Chief Justice of the Hawaii Supreme Court to establish the amount of employer contributions to the health fund for officers and employees excluded from collective bargaining in accordance with processes outlined in Chapter 89C, Hawaii Revised Statutes. For officers and employees not covered by either of the foregoing provisions, the Act provided that adjustments to the amounts of employer contributions to the health fund shall be made by legislative enactment.

This bill will permit timely adjustments to the amount of employer contributions to the health fund for officers and employees not covered by collective bargaining or the provisions of Chapter 89C, Hawaii Revised Statutes, and provide appropriations for that purpose.

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 147, 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. 785

Agriculture on H.C.R. No. 6

The purpose of this concurrent resolution is to request the Congress of the United States to include a sugar price support program in the 1985 Farm Bill.

Your Committee finds that the sugar industry is a critical factor in the economic, social, and environmental health of the State. Idleness of the sugar industry and the many economic activities dependent on the industry would produce an economic and social disaster.

Your Committee further finds that without the continuation of sugar support provisions in the 1985 Farm Bill, Hawaii's sugar industry would face numerous and potentially insurmountable problems. Such a situation may likely signal the beginning of the end for Hawaii's sugar industry.

Presently sugar is a widely produced commodity with almost every producing nation having highly protective market mechanisms to support its domestic industry, including costly subsidization. Your Committee finds that the United States, the only sugar producing country that does not regulate the industry, has been able to absorb all sugar produced in this country at a fair market price as a result of the existing price supports for sugar and the import quotas imposed by the United States Department of Agriculture.

Your Committee believes that the Farm Bill has worked well to provide support for domestic sugar and that it is in the best interest of agricultural producers and consumers throughout the United States to include sugar price support provisions in the 1985 Farm Bill.

Your Committee on Agriculture concurs with the intent and purpose of H.C.R. No. 6 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 786

(Majority) Transportation on H.B. No. 89

The purposes of this bill are: (1) to require operators of motor vehicles to be restrained by a seat belt assembly and to ensure that their passengers between four and sixteen years of age are so restrained; (2) to require that motor vehicle passengers over the age of sixteen be so restrained; (3) to provide exemptions from these requirements; (4) to familiarize motorists with the provisions of this bill, by enabling authorized enforcement officials to issue verbal warnings to persons in violations of the seat belt law for a month preceding the effective date of this Act; and (5) to encourage compliance with seat belt laws.

Your Committee has held a hearing on this bill and a similar Senate measure, S.B. No. 350, earlier this session. At both hearings, your Committee heard favorable testimony from state and county agencies, and concerned community groups and individuals.

Your Committee finds that for the past ten years there has been an average of 16,000 to 17,000 traffic accidents each year in Hawaii, involving 24,000 drivers and 5,000 passengers. In view of these facts, your Committee believes that road and highway safety would be improved substantially with a mandatory seat belt policy.

The department of transportation testified that such a policy may be the most effective way of reducing the probability of injury to occupants involved in an accident. A National Highway Safety Administration study has concluded that safety belt use is the most cost-effective highway safety measure currently available.

Its usefulness is especially evident for protection against the second, or the human collision of a car crash, which occurs a split second after the vehicle comes to a quick halt. As a result, seat belts extend the time in which the body stops and distributes the crash force over a larger portion of the body.

The department of transportation further testified that "if everyone used a seat belt on every trip, motor vehicle fatalities could be expected to drop about 57% and injuries about 60 to 70%."

In its deliberations, your Committee has made several amendments to this bill.

First, the mandatory seat belt provision shall apply only to those in the front seat of a vehicle. Earlier this session, your Committee heard testimony that most injuries are to front seat passengers. Because these passengers are in a situation of greater risk, your Committee believes that such mandatory requirements should be applicable to the driver and his front seat passenger.

Second, the bill has been amended to make the driver responsible for compliance and to

provide a fine of \$24 for the operator and each passenger who violates this law. The bill presently subjects violators to the penalties provided in section 291C-161(b) of the Hawaii Revised Statutes. For a first offense, a fine of up to \$200 can be imposed. Your Committee believes that this penalty is too severe.

The bill has also been amended to require at least a ten percent reduction off the liability portion of the motor vehicle insurance premium. In its examination of this issue, your Committee has heard testimony from the department of transportation and the department of health about how a mandatory seat belt policy will reduce traffic fatalities and accidents. Since lowered fatalities and injuries resulting from the use of seat belts will reduce the amount of claims against insurers, it can be expected that insurance companies will realize savings from this law. As a result, the bill is amended so that the public would receive at least a 10 percent reduction.

Your Committee has also amended the bill to include a provision that would make certain that the enactment of a mandatory seat belt law will preserve federal safety standards for passive restraints and permit such automatic crash protection systems for new automobiles.

According to testimony submitted by David L. Fairbanks representing Allstate Insurance Company, a July 1984 decision by the U.S. Department of Transportation makes mandatory seat belt laws in a number of states an alternative to federal passive restraint standards. It is not your Committee's intent that Hawaii's seat belt laws be viewed as a substitute for passive restraint systems. Accordingly, a section has been added which will make clear that Hawaii's seat belt law should not be interpreted or applied in any manner to rescind federal automatic crash protection system requirements for new automobiles.

Your Committee has also amended the bill's effective date to begin July 1, 1986 and June 30, 1991. This delay in enactment will allow for the government agencies and insurers a chance to be better prepared to be in compliance with this Act. Also, the provision for repeal of the Act in 1991 allows the Legislature to review the effectiveness of the mandatory seat belt policy. In this regard, a provision has been included which will direct the director of the department of transportation and the State insurance commissioner to issue a report in 1990 to the Legislature evaluating the effectiveness of the law.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 89, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 89, 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.  
Senator Cobb did not concur.

SCRep. 787                      Judiciary on H.B. No. 26

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

Your Committee explored the legal issues arising from the discriminatory aspects of this bill and finds that there are no insurmountable constitutional or statutory obstacles which would bar the enactment of such legislation.

However, justification for this measure is not based upon broad legal theories or jurisprudential concepts relating to the age of majority in our community. Instead, the proponents of this measure rely primarily upon concerns for traffic safety and continuing availability of federal government transportation funds.

Public Law 98-363 establishes a national minimum drinking age at twenty-one years. It directs the Secretary of Transportation to withhold Federal-aid highway construction funds from those states which do not comply with Public Law 98-363 by September 30, 1986. Accordingly, if this bill is not passed, the Secretary will withhold five percent (5%) of the state's Federal-aid highway construction funds for fiscal year 1987 and ten percent (10%) of the state's funds for fiscal year 1988. This loss would amount to approximately \$5,875,000 for fiscal year 1987 and \$11,750,000 for fiscal year 1988.

However, there remains unresolved the question of whether it is the proper exercise of Congressional power to regulate the states with respect to withholding Federal-aid funds based on non-compliance with a national minimum drinking age. Currently, Public Law 98-363 is being challenged in Federal District Court by the State of South Dakota. The attorney general for the State of Hawaii has indicated that Hawaii will be joining in the challenge to this law.

Your Committee therefore recommends that the appropriate body for the discussion of traffic issues and transportation funds take up these questions and report to the Senate after a



full inquiry has been conducted. Your Committee on Judiciary makes no findings on these matters.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 26, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Transportation.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 788      Government Operations on H.B. No. 614

The purpose of this bill is to repeal Section 46-21.5, Hawaii Revised Statutes, which prohibits the various counties from increasing the salaries of their top-level elected and appointed officials.

Act 129, Session Laws of Hawaii 1982, established the Public Officers and Employees Compensation Review Commission to study the compensation of elected and appointed State and county officials. The Commission was required to formulate and recommend a compensation schedule containing appropriate salaries for these officials. Act 129 also added Section 46-21.5 to the Hawaii Revised Statutes.

Your Committee finds that Act 129 was not intended to permanently "freeze" county officers' salaries but was intended to preserve the status quo to allow the Commission to conduct its study. Since the Committee has completed its study, Section 46-21.5 should be repealed.

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

Your Committee on Government Operations is in accord with the intent and purpose of H.B. No. 614, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 614, 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 Hee and McMurdo.

SCRep. 789      Government Operations on H.B. No. 1131

The purpose of this bill is to clarify the qualifying standards for any organization applying for a grant, subsidy, or purchase of service agreement.

This bill allows an exception in the qualifying standards for a grant, subsidy, or purchase of service to individuals who demonstrate the necessary program experience.

Your Committee has amended the bill by deleting the word "individuals" and replacing it with "organizations" for reasons of consistency and clarity and has made technical changes which have no substantive effect.

Your Committee on Government Operations is in accord with the intent and purpose of H.B. No. 1131, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1131, 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 Hee, McMurdo and George.

SCRep. 790      Economic Development on H.B. No. 194

The purpose of this bill is to protect the public's access to and enjoyment of Hawaii's beaches by adding a new section to Chapter 183, Hawaii Revised Statutes, which prohibits the construction of structures or seawalls, dredging or grading, or other use of accreted land to which title has been obtained by judicial decree after enactment of this measure and which interferes or may interfere with the future natural course of the beach.

Your Committee concurs with testimony by the Department of Land and Natural Resources supporting this measure as a means of protecting public access to beaches, as well as providing for minimal interference with the natural processes of beach accretion and erosion. The measure provides remedies and penalties for any violation of the proposed section, as well as providing that an application to register land by accretion, or an action to quiet title can only be granted if there is a clear preponderance of evidence that the accretion is natural and permanent; permanent being defined as being in existence for at least twenty years. Your Committee particularly supports the measure's provision to place accreted lands within

conservation districts unless otherwise designated by the Land Use Commission under Chapter 205, Hawaii Revised Statutes.

Your Committee has 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. 194, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 194, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Hagino, Mizuguchi and Young.

SCRep. 791            Consumer Protection and Commerce on H.B. No. 39

The purpose of this bill is to extend the expiration date of the special handling fees special fund, created pursuant to section 416-97, Hawaii Revised Statutes, for an additional three years until June 30, 1988 and to expand the types of documents that may be processed by the expedited services.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs that the additional help from staff hired through the special fund has reduced the document processing workload delay from three months to three weeks. The expedited service provided to those businesses willing to pay an additional fee has resulted in a review and processing time of forty-eight hours for some documents.

The department stated that a high interest exists for expanding the types of documents that are subject to expedited processing and, therefore, the department supports expansion of the types of documents for expedited services to include various general and limited partnership documents, foreign corporations documents, as well as, trademark, trade name, service marks, and other similar registration marks. Special handling fees for each particular type of document are detailed in the bill.

Your Committee also heard favorable testimony from the Hawaii State Bar Association.

Your Committee has made nonsubstantive amendments to correct technical and typographical errors.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 39, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 39, 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 Cayetano, Chang, Kawasaki, McMurdo and Young.

SCRep. 792            Consumer Protection and Commerce on H.B. No. 1271

The purpose of this bill is to provide the Real Estate Commission (REC) with the flexibility and the means to carry out its educational mandate under Section 467-19, Hawaii Revised Statutes, by amending Chapter 467, Hawaii Revised Statutes, in the following manner: reallocation of the amount deposited in the Real Estate Education Fund from \$5 to \$20 for each original license issued by the Department of Commerce and Consumer Affairs (DCCA) and from \$10 to \$20 for each biennial renewal of a real estate license, and providing for a temporary moratorium on such renewal contributions and a commission review of licensee contributions if the Real Estate Education Fund balance exceeds \$1,200,000 at the end of any given fiscal biennium.

Testimony submitted by the REC summarized the findings and recommendations of its research consultants contracted to review the real estate regulatory and educational functions in response to Senate Resolution 158 (1984) and House Resolution 389, H.D. 1 (1984). Both resolutions directed the REC to consider the need for increasing support for the REC's Five Year Education Plan and/or the establishment of a Hawaii Real Estate Research and Education Center. Both activities were in direct response to the result of a 1980 mail-out survey that indicated that a major concern of licensees were for more educational and information services.

Your Committee received testimony from the REC that it developed a 5-year Education Plan in 1981-82 for the State's 22,000 real estate licensees expanding the scope of its educational and informational activities as evidenced by the Real Estate Education Fund expenditure rising from \$113,717 in fiscal year 1981-82 to \$347,765. In August 1984, the REC testified that it had approved a creation of a Hawaii Real Estate Research and Education Center that would be delegated many of the educational functions now performed by the REC. The REC further

testified that the Real Estate Education Fund, with the creation of such a center would reach an estimated annual fund expenditure of \$483,000.

Your Committee duly noted the REC's testimony that with a continual annual projected expenditure of \$483,000 within 4 years the fund balance would decline from \$1,000,000 to \$63,478 resulting in the REC being unable to fund an education program for licensees and consumers as mandated by Section 467-19, Hawaii Revised Statutes. The REC explained that the projected erosion of the education fund is due primarily to the discrepancy between the value of the education services received by licensees which is \$21.68/licensee in contrast to the proportionate amount of license fees that is presently allocated to the real estate education fund amount.

The present allocation of the education fund is \$5 of the initial total \$50 license fee deposited in the Real Estate Education Fund; and \$10 of the total \$50 fee for each biennial renewal deposited in the education fund. Thus, your Committee agrees with the REC that the reallocation of revenue as proposed by the bill will enable the education fund balance to be maintained at a level for the REC to carry out its statutory educational mandate while providing a procedural safeguard against the accumulation of unnecessary large sums in the Real Estate Education Fund.

Your Committee has amended the bill by making nonsubstantive changes to conform the bill to recommended legislative drafting style and format.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1271, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1271, 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 Cayetano, Chang, Kawasaki, McMurdo and Young.

SCRep. 793            Human Services on H.B. No. 20

The purpose of this bill is to appropriate \$386,240.11 to pay victims and providers of services who were awarded compensation in 1984.

The sum appropriated shall be deposited in the Criminal Injuries Compensation Fund to be used for payments by the Criminal Injuries Compensation Commission. Currently, forty states have developed special crime victim compensation programs to respond to some of the financial consequences of victimization. These programs compensate victims injured as a result of a crime and, in cases of death, compensate the surviving dependents of the victim. Funds are provided for unreimbursed medical costs, loss of earnings and/or support, and funeral-burial expenses. The Hawaii program was established in 1967 to assist victims of criminal acts by providing compensation for victims of certain crimes and/or dependents of deceased victims.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 20, 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 Yamasaki, Cayetano and Hee.

SCRep. 794            Human Services on H.B. No. 1283

The purpose of this bill is to appropriate funds for a full-time position to provide staff support to the State Coordinating Council on Deafness.

Testimony indicated that the Council, which is a coordinating body, operates without staff and relies on the volunteer efforts of its members, almost all of whom are employed elsewhere. As a result, guidelines for policies and procedures for agencies that serve the 60,000 hearing-impaired citizens in our State, and plans for inter-agency cooperative services for the hearing-impaired have been significantly hindered by the absence of staff.

Your Committee has amended the bill by including a clerical assistance position to reflect the need of the State Coordinating Council on Deafness.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 1283, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1283, 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 Yamasaki, Cayetano and Hee.

SCRep. 795

Judiciary on H.B. No. 99

The purpose of this bill is to appropriate funds for the Judiciary for the 1985-87 fiscal biennium.

The Judiciary is requesting a total of \$46.9 million for fiscal year 1985-87 and \$52.7 million for fiscal year 1986-87.

Your Committee had experienced some difficulty in obtaining budget information which would have enabled the Committee to conduct an adequate detailed analysis of the budget request. Your Committee therefore declined to recommend appropriation beyond the current levels of services, except in those areas that have a clear and demonstrated need.

Your Committee recommends that the Ways and Means Committee continue to elicit budget information and supplement this budget recommendation where it is justified. Program areas that appear to be likely areas for expanded appropriations include: the law library within the Intermediate Court of Appeals, clerical support for the district court and adult probation in the circuit court.

If the appropriation is increased, the Committee on Ways and Means should be mindful of the fiscal limitations established by law. Your Committee is concerned that the budget originally requested represents an increase of more than 30% over the previous fiscal year expenditures and exceeds the general fund expenditure ceiling imposed by the Constitution of the State of Hawaii.

According to Article VII, Section 9 of the Hawaii Constitution, the general fund appropriation to the judicial branch should not exceed the state's growth rate averaged over the three immediately preceding years. The Department of Budget and Finance indicates that the growth figure to be utilized in calculating the appropriate spending ceiling is 7.3%. As a result of these calculations, the spending ceiling is \$40,825,097. The State Judiciary budget request exceeds this ceiling by approximately \$9 million.

Your Committee is aware that the Judiciary has assumed additional operational costs which may justifiably demand funding over the established ceiling. We are concerned that critically needed funds be provided for direct support of the civil, criminal and family court operations.

In addition, we are aware that the Judiciary has recently acquired the responsibility for payment of telephone costs, a function previously held by Department of Accounting and General Services. These costs should appropriately be funded above the established ceiling.

These required costs, however, should be clearly identified, described, and justified in order that the legislature may fully comply with the constitutional mandate.

Finally, your Committee believes that certain purchases of services with private support agencies should be analyzed to determine whether the appropriation represents realistic cost projections. Your Committee, therefore, recommends that the Committee on Ways and Means delete second year funding pending further evaluation for the following: Hale Kipa, Salvation Army Residential Treatment Facility, Salvation Army Residential Treatment for Children, Habilitat. In addition, we recommend that the funds for the Protection and Advocacy Agency be reduced in the first year and be deleted for the second year pending further inquiry.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 99, H.D. 1, as amended herein, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means in the form attached hereto as H.B. No. 99, H.D.1, S.D.1.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 796

Labor and Employment on H.B. No. 174

The purpose of this bill is to abolish the Hawaii Employment Relations Board and transfer its functions to the Hawaii Public Employment Relations Board effective January 1, 1986. The latter would be renamed the Hawaii Labor Relations Board.

Your Committee finds that abolishing the Hawaii Employment Relations Board and merging its functions into the Hawaii Public Employment Relations Board is a logical progression that will provide effective services to those in private employment at less cost to government.

Your Committee has amended the bill by deleting the words "and private" from line 5, page 7, and by correcting a drafting error.

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

No. 174, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 174, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 797      Labor and Employment on H.B. No. 267

The purpose of this bill is to make it unlawful for an employer to discharge, bar, or refuse to hire an individual because the individual is subject to mandatory withholding of wages for payment of child support obligations.

Your Committee finds that in order to satisfy Public Law No. 98-378, the "Child Support Enforcement Amendment Act", Hawaii must enact a law by October 1985 which imposes a fine on any employer who engages in the above kinds of discrimination. This bill would satisfy federal requirements and provide legal recourse should such discriminatory activities be perpetrated.

Your Committee has amended the bill by correcting a drafting error.

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 267, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 267, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 798      Labor and Employment on H.B. No. 268

The purpose of this bill is to make it unlawful for an employer to discharge or discipline an employee solely because of an order of assignment of the employee's wages to fulfill child support obligations.

Your Committee finds that this bill would bring Hawaii's law into conformity with Public Law No. 98-378, the "Child Support Enforcement Amendment Act", thus satisfying federal requirements. In order to satisfy federal law, Hawaii law must have in effect by October 1, 1985 provisions to impose a fine against any employer who discharges or disciplines an employee because of an assignment of wages to satisfy child support obligations.

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 268 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 799      Labor and Employment on H.B. No. 974

The purpose of this bill is to amend section 89-9, Hawaii Revised Statutes, to provide that the salary ranges and the number of incremental and longevity steps now provided by law may be negotiated between public employers and the unions representing public employees in collective bargaining.

The bill provides that the 1986-1987 fiscal year shall be a trial period during which salary ranges and incremental or longevity steps shall be incorporated into the bargaining process as negotiable items. It is the intent of your Committee in approving this legislation that these items be in place in time to be considered in collective bargaining for the 1987-1988 fiscal year. To this end, the bill is to take effect on July 1, 1986 and be repealed on June 30, 1987.

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 974, 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. 800      Education on H.B. No. 129

The purpose of this bill is to allow the Governor to fill vacancies on the Board of Education in cases where the term of the vacant position expires at the next general election.

The present law provides that in the event the term of the vacant position does not expire at the next general election, the position shall be filled by election or appointment. However, there is no similar provision in the law to fill those vacancies the term of which expires at the

next general election. Consequently, a vacancy occurring early in the third year of a member's term remains vacant for almost two years.

This bill will insure that all vacancies on the Board of Education shall be filled on a timely basis.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 129 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Hee and Kuroda.

SCRep. 801            Education on H.B. No. 697

The purpose of this bill is to require the Board of Education to adopt rules which would expand the types of criminal activities in public schools which must be reported by students, school officers, or school employees to the appropriate authorities.

Currently under chapter 19 of the Department of Education's rules regarding student misconduct, discipline, and reporting offenses, indemnity is provided to persons who report incidences of terroristic threatening, assault, and extortion.

In addition to these offenses, this bill would expand the types of criminal activities which must be reported to include involvement with dangerous weapons, intoxicating compounds, marijuana or marijuana concentrate, criminal property damage, robbery, sexual offense, burglary, disorderly conduct, gambling, harassment, theft, and trespass.

The bill also: (1) changes references to persons making a report to "school officials" to provide consistency in sections 296-71 and 296-72, Hawaii Revised Statutes; (2) provides immunity rather than indemnity to school officials making reports in good faith, to protect them from civil or criminal liability; and (3) deletes section references to the penal code for criminal activities enumerated in section 296-71, to insure that the criminal activities enumerated would not be affected by any subsequent change to the penal code.

Your Committee finds that this bill promotes the early detection and rehabilitation of juveniles involved in criminal activities and insures a safe and secure learning environment for students.

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 H.B. No. 697, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 697, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Hee and Kuroda.

SCRep. 802            Human Services on H.B. No. 49

The purpose of this bill is to (1) to continue the cost-effective, long term, essential home care services, to Medicaid-eligible patients, through the Nursing Home Without Walls Demonstration Project and (2) expand the services to the Neighbor Islands.

Your Committee finds this innovative project which provides personal care services, home health aide services, homemaker and chore services to ill or disabled persons who are eligible under the medical assistance program, and who would otherwise require placement in a hospital or residential care facility for an extended period of time to be in the public interest. During its first two years, Nursing Home Without Walls clearly demonstrated its cost-effectiveness and ability to maintain the independence of the elderly and severely disabled.

Your Committee finds that while a major goal of the project has been demonstrated there are still some pending issues necessitating a continuation of the project for another two years.

Your Committee has amended the bill to delete all references to "nursing home without walls demonstration project" and replace it with "program" for purposes of clarity.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 49, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 49, 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 Hee.

SCRep. 803

Human Services on H.B. No. 52

The purpose of this bill is to allow an income tax credit of \$1,000 to a taxpayer who cares for an elderly relative.

This bill provides that: (1) the credit is to be claimed against the taxpayer's tax liability unless the taxpayer has no tax liability in which case a refund shall be made for amounts more than \$1; (2) spouses filing separate returns who could have filed a joint return shall be entitled to credit as if they had filed jointly; and (3) taxpayers having no income and who are not claimed or otherwise eligible to be claimed as a dependent may also claim the credit. Further, claims for the credit must be filed within twelve months of the close of the taxable year or be considered waived if not filed on time.

In order to claim the tax credit, the elderly relative must: (1) be certified for an intermediate care facility by the Department of Social Services and Housing for the whole of the taxable year for which the credit is claimed; (2) be totally disabled or chronically ill; (3) have no taxable income; (4) be 65 years of age or older; and (5) have been cared for in the taxpayer's residence for not less than eleven months.

The bill also disallows any tax credit of the taxpayer who operates any nonprofit or profit care services for elderly individuals. Furthermore, a taxpayer claiming a tax credit under the chapter will not be allowed to claim the dependent care tax credit under Section 235-55.6, Hawaii Revised Statutes.

Your Committee has amended the bill by including "skilled nursing facility" where "intermediate care facility" is mentioned. This amendment expands the scope of the bill to include persons who require skilled nursing care.

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

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 52, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 52, 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 Hee.

SCRep. 804

Human Services on H.B. No. 101

The purpose of this bill is to establish a new office, the Office of Community Services (OCS), within the Department of Labor and Industrial Relations for administrative purposes and to merge within it the Office of Progressive Neighborhoods Program (PNP), the Hawaii Office of Economic Opportunity (HOEO), the Refugee Assistance Office (RAO), and the State Immigrant Services Center (SISC).

Your Committee received testimony from the Department of Social Services and Housing, the Department of Labor and Industrial Relations, the Progressive Neighborhoods Program, the Inter-Agency Council, the State Immigrant Services Center, and the Kalihi-Palama Immigrant Service Center, and finds that the primary purposes of this bill is to facilitate and enhance the development, delivery, and coordination of effective programs for those in need through research oriented activities and to provide assistance to governmental and private agencies in the human services field. In addition, the merging of the various agencies would integrate related human service programs presently in the Office of the Governor and assign them to a single department whose purposes and functions are compatible.

Your Committee has amended the bill by:

1. Placing the responsibility of establishing the programs and policies of the OCS on the legislature rather than the Governor.
2. Making the appointment of the executive director of the OCS subject to Senate approval and giving the legislature the authority to establish the director's salary.
3. Decreasing the number of members in the advisory council from 18 to 12 and by adding the requirement that there shall be a representative of each of the four merged organizations as members.
4. Amending Section 202-9, Hawaii Revised Statutes, rather than repealing it in order to mandate that the functions of the SISC will continue under the OCS.
5. Adding a new section 6 to the bill to ensure that the Refugee Resettlement Program

which is a 100% federally funded program is not jeopardized by the merger of it with the OCS.

6. Making other nonsubstantive changes for the purposes of clarity and conformance with recommended drafting style.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 101, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 101, 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 Hee, Holt and A. Kobayashi.

SCRep. 805                      Human Services on H.B. No. 436

The purpose of this bill is to amend chapter 346, Hawaii Revised Statutes, by: (1) providing personal care services to medical assistance recipients whose physical disabilities are of a degree that would require placement in an intermediate care facility if the personal care services were not provided; (2) expanding the definition of "personal care services" to include assistance with medication which is ordinarily self-administered as well as assistance with mobility and transfer activities; and (3) providing that the ceiling for payment for personal services be sixty-five per cent of the average monthly medical assistance payment for a recipient in an intermediate care facility.

The availability of personal care services which encompass "hands-on" assistance with daily living activities such as grooming, bathing, and feeding has proven to be a major factor which allows disabled and elderly persons to live more independently in the community, thereby avoiding unnecessary hospitalization. In addition, it is anticipated that, in the long run, the provision of personal care services will save the State a considerable amount of funds which may be utilized to meet other needs of the elderly and disabled.

Your Committee has amended the bill to provide a ceiling for personal care services at one-hundred percent of the average monthly medical assistance payment for a recipient in an intermediate care facility. This level of payment will assure that those recipients who are in need of personal care services over and above five hours per day will be appropriately accommodated. Accordingly, the bill has been amended on page 3, line 6 by deleting the word "sixty-five" and substituting the word "one hundred".

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

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 436, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 436, 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 Hee.

SCRep. 806                      (Majority) Labor and Employment on H.B. No. 463

The purpose of this bill is to amend the Workers' Compensation law to make the system both effective and efficient. Your Committee received numerous and extensive testimony from individuals representing diverse segments of our community that have shown interest in the workers' compensation insurance issue.

After careful review of both house drafts of this measure and consideration of recommendations proposed in the Study of Workers' Compensation Program of the State of Hawaii by Haldi Associates, Inc. as submitted by the Legislative Auditor (hereinafter "Haldi"), your Committee recognizes the need to effectively reform existing insurance and workers' compensation laws. Alternate approaches consistent with the humanitarian objectives and purposes of the workers' compensation law have been adopted to achieve meaningful controls upon costs and to reestablish the integrity of the process of claim handling and rate making.

Your Committee has made numerous amendments as follows:

- (1) Office of Business Advocate. Upon review of provisions of this bill aimed to address the problem of rapidly increasing insurance rates in Hawaii within recent years, your Committee is impressed with the need for greater participation by businesses in rate making before the Insurance Commissioner. Under current law and practice, rate filings are reviewed and acted upon by the Insurance Commissioner without intervention of employers who are directly affected by determinations of the Commissioner. Recent increases in rates have been adopted without full hearings and adequate consideration of investment income earned from unearned premium and loss reserve funds. Since existing



rate filings and rate making procedures do not appear to allow a fair consideration of employer/business concerns in setting workers' compensation insurance rates, this bill establishes an Office of Business Advocate to be staffed by attorneys, actuaries, accountants, investigators, clerks, stenographers, and other assistants to represent the interests of employers before the Insurance Commissioner and in court. The role of the Business Advocate is modeled after that of the Consumer Advocate before the Public Utilities Commission under Section 269-51, Hawaii Revised Statutes. Rate filing and rate making procedures must comply with Chapter 91 requirements also. To insure independence and autonomy from the Insurance Commissioner, the Office of Business Advocate is established, for administrative purposes, in the Department of Budget and Finance.

In addition to involvement in rate making, the Office of Business Advocate shall assume the legal and representational functions of the Special Compensation Fund currently vested with the Director of Labor and Industrial Relations. Your Committee agrees with Haldi that a change is needed to avoid the appearance of a conflict of interest in cases involving the Second Injury Fund where the Director renders decisions directly affecting the interests of the Special Compensation Fund. Since employers contribute to the Special Compensation Fund and have a predominate interest in its fair and efficient operation, your Committee believes that transferring authority over the Special Compensation Fund from the Director to the Business Advocate's office would further the public interest. All litigation expenses incurred for the Office of Business Advocate in behalf of the Special Compensation Fund shall be paid by the Special Compensation Fund.

- (2) State Compensation Insurance Fund. After full consideration of the testimony received your Committee agrees that a state competitive insurance fund be created and modeled in accordance with the competitive state fund system currently in effect in the state of California. An alternative system of delivering workers' compensation insurance made available to Hawaii's small businesses and other interested employers is necessary to reduce premium costs for workers' compensation coverage.
- (3) Fraud. Your Committee has amended the bill to insure individual responsibility for false statements and representations made to the Director in the processing of claims and defenses. By including "organizations" within the anti-fraud provisions, this bill may unfairly and improperly interfere with the right of employers and insurance carriers (who certainly are "organizations"), from handling claims before the Director if one adjuster or employee violates the anti-fraud provisions on one occasion. Such a broad reach to a penal-like statute may in fact be unconstitutional. Accordingly, your Committee has redrafted the bill to focus responsibility upon individuals. Otherwise, your Committee is in accord with Standing Committee Report No. 326 on this subject.
- (4) Fee schedules. Your Committee has amended the bill to require the Director of Labor and Industrial Relations to establish fee schedules for physicians and health care providers because your Committee believes all professionals shall be fairly regulated.
- (5) Guidelines on frequency of treatment. Your Committee has amended the bill to promote good faith compliance with guidelines of frequency of treatment by all health care providers. To avoid any confusion, the bill has been amended to insure that sanctions are not imposed upon health care providers except upon finding of bad faith by the violators.
- (6) Waiting period. Your Committee has amended the bill by increasing the waiting period for temporary total disability benefits from two regularly scheduled working days to three calendar days. The increase in number of days is mandated by the need to achieve cost savings to the workers' compensation program. The calendar day basis has been adopted to avoid arbitrary treatment of similarly situated injured employees. On the other hand, temporary total disability benefits shall be paid if wage loss replacement is not received or due the injured employee during the waiting period. Your Committee endorses these amendments as a cost saving measure to the entire program and believes that the amendments herein achieve a fair result for injured workers, employers and insurance carriers.
- (7) Temporary total disability. Your Committee deleted Section 11 of the bill since it incorporates the concept of after-tax earnings as a basis of determining weekly benefit levels for temporary total disability. We concur with House Finance Committee's rejection of the concept of determination of benefits based on after-tax earnings since benefit levels will then be unpredictable and be subject to changes in both federal and state policies. Since workers' compensation is clearly a matter of local concern and should not be contingent upon federal action, the amendment is appropriate.
- (8) Vocational rehabilitation. Your Committee has amended the bill by adding another

purpose to vocational rehabilitation which was previously included in H.D. 1 of the bill. The amendment is necessary to clarify the multiple objectives of vocational rehabilitation services.

- (9) Accident prevention unit. Your Committee has amended the bill to reestablish the accident prevention unit with its overall mission as specified in H.D. 1. It is believed that incorporating additional functions (i.e., fraud) to the accident prevention unit would only serve to divert attention away from the critical area of accident prevention.
- (10) Presumption. Your Committee has amended the bill which provides an exception to statutory presumptions in cases of cardiovascular disease, cerebral vascular disease, hypertension, mental stress, or degenerative tissue, organ or body part which may in part be due to employment. Under H.D. 2 the employer's burden in these categories of cases has been lessened to a standard of preponderance of the evidence. H.D. 2 also establishes a distinct class of injured employees claiming workers' compensation benefits without sufficient medical or scientific evidence to justify disparate treatment when compared to other cases.

Having considered legal opinions on the constitutionality of H.D. 2, and other testimony as it pertains to the presumption clause, your Committee believes that the classifications established do not satisfy the requirement under Article I, Section 5 of the Hawaii Constitution. Shibuya v. Architects Hawaii, Ltd., 65 Haw. 26 (1982); Fujioka v. Kam, 55 Haw. 7 (1973); Hasegawa v. Maui Pineapple, 52 Haw. 327 (1970). Your Committee notes further that disparate treatment of the mentally disabled and the elderly who are more subject to degenerative disease also presents serious state as well as federal constitutional problems. Weber v. Aetna Casualty & Surety Company, 406 U.S. 164, 31 L.Ed.2d 768, 92 S.Ct. 1400 (1972).

Your Committee cannot ignore the humanitarian purposes and remedial character of the Hawaii workers' compensation law. For more than three-fourths of a century this principle has been recognized by the Hawaii Supreme Court in the interpretation and application of Chapter 386. In Re Ikoma, 23 Haw. 291, 295 (1916); Silva v. Kaiwiki Mill Co., 24 Haw. 324, 330 (1918); Acoustic, Insulation and Drywall, Inc. v. Labor and Industrial Relations Appeals Board, 51 Haw. 312, 316 (1969); Evanston v. Univ. of Hawaii, 52 Haw. 595, 600 (1971). With the foregoing principle in mind and testimony that any change in the statutory presumption under Section 386-85 will not result in any measurable degree of reduction in costs, your Committee believes that the current statutory presumption should be maintained.

Furthermore, retaining the statutory presumptions in the current law provides added justification for continuing the limitations to the right to sue in common law under Section 386-5. In view of obvious disparities between awards in common law cases for similar injuries covered under workers' compensation, the bar to the right to sue is an increasingly valuable provision of our law to employers and insurance carriers. Altering the presumption clause would fundamentally violate policies and principles which continue to make our workers' compensation program viable. Accordingly, Section 13 of the bill has been deleted.

- (11) Standard of proof in Second Injury Fund disputes. Based upon what is believed to be an unconstitutional classification as discussed above, your Committee has amended the bill in matters affecting Second Injury Fund disputes between employers and the fund. Under current law, the burden of proof and standard of proof in resolving these disputes under Section 386-33, Hawaii Revised Statutes, is undefined. The purpose of this amendment is to establish a lower burden of proof than currently understood to exist for employers and to enlarge the responsibility of the Special Compensation Fund to include injuries and not just disabilities.

By eliminating the classification existing in the bill, employers are given greater latitude in establishing a basis for relief under the Second Injury Fund in cases involving all types of injuries.

- (12) Subrogation rights and intervention. A new Section 12 has been incorporated in recognition that health care providers and health care plan contractors are fairly treated in disputes regarding subrogation rights before the appellate board. Under current law, a health care plan contractor has no legal right to intervene in proceedings before the Appellate Board to enforce subrogation rights contained in pre-paid health contracts. Since employers and businesses pay for premiums under the Pre-paid Health Act, Chapter 393, a win-fall resulting from duplication of benefits would be costly to employers ultimately. Your Committee believes that the Appellate Board should allow intervention to health care plan contractors claiming subrogation rights in behalf of employers.

- (13) Technical changes. Your Committee has also made technical amendments to this bill. Section 3 previously required that preliminary decisions inform claimants and employers of limitations to temporary total disability benefits only. The amendment to Section 3 allows a great breadth to the Director's preliminary decisions under Section 3.

The effective date clause has been amended to provide that changes in current law affecting compensability of claims and benefits apply only in cases where the accident or injury arises after the effective date of this bill.

- (14) Deductible for medical benefits. The purpose of this section is to require every insurer providing workers' compensation insurance to offer, at the option of the insured employer, a deductible for medical benefits.

The Department of Labor and Industrial Relations has testified it is in support of this concept provided that the total billing is to be paid by the insurer with the deductible to be collected from the employer. It also requested language to ensure that there would be no changes in the reporting calculations for the computing of the Special Compensation Fund.

Your Committee finds that this addition provides an incentive to employers to control safety and monitor claims more diligently.

The bill adds a new section to Chapter 386, Hawaii Revised Statutes, which provides a deductible option of \$100, \$150, \$200, or \$300 for medical benefits covered by any workers' compensation insurance policy. If an employer chooses this option, the insured employer will have to ultimately pay the deductible amount although the insurance carrier will pay all costs directly to the health care provider and collect the deductible amount from the insured employer.

The deductible medical benefit amounts will still be reported as part of the total average annual compensation paid by insurance carriers as required by Section 386-95, Hawaii Revised Statutes.

Section 431-693, Hawaii Revised Statutes, is amended to provide that if the claim does not exceed the selected deductible amount, and the employer reimburses the insurance carrier for that amount, those claims will not be calculated in the employer's loss experience rating on which premiums are based.

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 463, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 463, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.  
Senators Cobb and Henderson did not concur.

SCRep. 807                      Ways and Means on H.B. No. 275

The purpose of this bill is to conform the Hawaii income tax law with the amendments made to the federal Internal Revenue Code during the 1984 calendar year.

Your Committee heard the companion Senate Bill No. 115 to this measure.

The contents of this bill were provided by the department of taxation after reviewing all of the federal legislation for the preceding year and as required by section 235-2.3, Hawaii Revised Statutes. Although the federal amendments during the calendar year 1984 were massive, with the main Act being the Tax Reform Act of 1984, Public Law 98-369, the result for Hawaii is not great as most of the amendments dealt with tightening of the Code and with administrative matters in taxation. In addition to adopting federal amendments, the department of taxation has amended the section by splitting it into three sections to facilitate future amendment.

The major amendments of interest to Hawaii are as follows:

1. The long-term capital gain holding period for capital assets acquired after June 22, 1984, and before January 1, 1988, is decreased from one year or more to six months or more.
2. The ability to make contributions to individual retirement accounts after the deadline for filing income taxes due to extensions is terminated. Henceforth, such contributions must be made by the legal date for filing taxes.

3. For tax years beginning January 1, 1985, and after, gross income includes fringe benefits, unless specifically exempted by statutory provisions such as qualified employee discounts and working condition fringes.

4. The new law makes any transfer of property between spouses during marriage or between former spouses incident to a divorce nontaxable and clarifies the taxation of and alimony exemptions between divorcees.

5. In addition, the Tax Reform Act tightens the rules relating to golden parachute payments in excess of a base established by the Internal Revenue Code and amends the partnership provisions to close loopholes in certain areas and to provide a more uniform method of correctly accounting for income, deductions, and transfer of partnership interests.

6. The child care credit is retitled as a credit for "expenses for household and dependent care services necessary for gainful employment" and deletes the restriction that the amount of the credit cannot exceed the amount of income tax liability reduced by other credits.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 275, 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. 808            Consumer Protection and Commerce on H.B. No. 421

The purpose of this bill is to allow applicants who hold the certificate of the Fifth Pathway Program to be eligible to take the medical licensing examination.

Presently, a person is eligible to take the medical licensing examination and become licensed to practice medicine in Hawaii if the person: (1) graduated from an approved medical school and has one year of residency at an approved hospital; or (2) graduated from a foreign medical school and has two years of residency in an approved hospital, and holds the national certificate of the Educational Commission for Foreign Medical Graduates (ECFMG). Persons that have passed either the examination offered by the National Board of Medical Examiners or the Federation Licensing Examination may be licensed without any further examination.

This bill would allow foreign medical graduates to substitute a year in a special clinical training program in a U.S. medical school (Fifth Pathway Program) for internship or social service which may be required training in a foreign country.

Your Committee received numerous testimonies to the effect that this bill would not affect the quality of care nor will it have any major impact on the health manpower in the State.

Your Committee notes that 44 states plus the District of Columbia and Puerto Rico already allow "Fifth Pathway" graduates to be licensed in their respective jurisdictions. Further, this bill is consistent with the Legislative Auditor's Sunset Report on Medical Licensing Laws that Chapter 453, Hawaii Revised Statutes, be amended to recognize "Fifth Pathway" graduates.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 421 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, Young and Henderson.

SCRep. 809            Judiciary on H.B. No. 264

The purpose of this bill is to conform Hawaii's Uniform Reciprocal Enforcement of Support Act, Chapter 576, Hawaii Revised Statutes, with recently enacted federal law by including a reciprocal provision for enforcement of support orders from another state or country. The bill also clarifies established enforcement procedures by including an automatic wage assignment provision which the court may extend to support orders issued in other jurisdictions.

Congress recently enacted the Child Support Enforcement Amendments Act of 1984, Public Law 98-378. Your Committee finds that in order to satisfy the federal law, 42 U.S.C. 657(b)(9), by October 1985, Hawaii must enact a law which establishes procedures that extends its automatic wage assignment system to include support orders from another state or country. The provision would insure national uniformity of collection of child support, regardless of the residence of the child.

Your Committee made a technical, nonsubstantive amendment for clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 264, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 264, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Aki and Young.

SCRep. 810 (Majority) Judiciary on H.B. No. 29

The purpose of this bill is to propose an amendment to Article I, Section 13, of the Hawaii Constitution to change the jurisdictional amount required for jury trials in civil cases. It would allow the Legislature to establish that value.

Presently, the state Constitution preserves the right to a jury trial where the amount in controversy exceeds one thousand dollars. The state Judiciary and the Hawaii State Bar Association testified that this amount is too low. This bill would allow the Legislature to adjust the jurisdictional amount from time to time as circumstances may require. It would also allow for an expeditious implementation of a new jurisdictional amount, without a delay until the next election for voter ratification of a constitutional amendment.

Your Committee made a technical, nonsubstantive amendment to conform with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 29, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 29, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Aki and Young.  
Senator Abercrombie did not concur.

SCRep. 811 Judiciary on H.B. No. 267

The purpose of this bill is to make it unlawful for an employer to discharge, bar, or refuse to hire an individual because the individual is subject to mandatory withholding of wages for child support payments.

Congress recently enacted Public Law 98-378, the Child Support Enforcement Amendments Act of 1984. Congress' intent in enacting the law was to improve the child support enforcement program nationally and make it available to all children, regardless of their circumstances. Section 466 (b)(6)(D) requires that "provision must be made for the imposition of a fine against any employer who discharges from employment, refuses to employ, or takes disciplinary action against any absent parent subject to wage withholding. . .".

The establishment of the fine is found in a related bill, H.B. 268, S.D. 1. That bill makes a criminal misdemeanor the same unlawful discriminatory employment practice as described in this bill. By adding a new subsection to H.R.S. §378-2 to specify a new unlawful discriminatory practice, this bill creates a civil remedy against employers. Unlawful discriminatory practices, as provided in chapter 378, are under the jurisdiction of the Department of Labor and Industrial Relations, which is empowered to investigate complaints, take appropriate informal action, or bring a civil action. Your Committee finds that although federal law requires the imposition of only a fine, creating both civil and criminal liability for unlawful discriminatory practices involving withholding of wages will insure that employers will meet their duties under the order for wage withholding. This will result in more financial stability for our children.

Your Committee made technical, nonsubstantive amendments to the bill for clarity and for conformance with recommended drafting style.

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

Signed by all members of the Committee except Senators Aki and Young.

SCRep. 812 Judiciary on H.B. No. 268

The purpose of this bill is to amend H.R.S. §571-52 to prohibit any employer from discharging or taking any other disciplinary action against an employee whose wages are assigned to satisfy a child support obligation. It also declares that the penalty for any violation of the section is established by H.R.S. §710-1077(l)(g).

The federal Child Support Enforcement Amendments Act, Public Law 98-378, enacted in August, 1984, requires the State to provide for the imposition of a fine against any employer

"who discharges from employment, refuses to employ, or takes disciplinary action against any . . . parent subject to wage withholding," 42 U.S.C. §657(b)(6)(D). The bill conforms state law to this requirement.

Cooperation of all employers is essential if child support enforcement is to be successful. However, many employers are still reluctant to comply with the wage assignment law. Imposing a penalty is one effective method to gain compliance. This in turn ensures that children will be able to receive timely and regular payments made on their behalf.

Your Committee amended the bill to include as an unlawful act the refusal to hire an employee against whom a wage assignment has been ordered. This addition was necessary to fully meet the requirements of federal law.

Your Committee also specified for purposes of clarity that any employer violating H.R.S. §571-52 will be guilty of a misdemeanor under section 710-1077(l)(g).

Finally, your Committee made technical, nonsubstantive amendments to the bill for correction of grammar and conformance with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 268, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 268, S.D. 1.

Signed by all members of the Committee except Senators Aki and Young.

SCRep. 813 (Majority) Judiciary on H.B. No. 382

The purpose of this bill is to compensate jurors for their transportation to and from the court.

At present, the law provides for compensation of travel only to the court. Because of this, those jurors residing long distances from the court are not being reimbursed in full for their out-of-pocket driving costs. Your Committee acknowledges that jurors are a critical component of our judicial system and deserve fair and equitable compensation.

Your Committee made technical, nonsubstantive amendments to the bill for clarity and for conformance with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 382, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 382, S.D. 1, be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Aki and Young.  
Senator Kawasaki did not concur.

SCRep. 814 Judiciary on H.B. No. 266

The purpose of this bill is to amend the law providing for a wage assignment for child support, H.R.S. §571-52 and §571-52.2, to 1) authorize that the assignment will continue in effect throughout the obligor's employment and shall be terminated when appropriate; 2) to mandate that an employer who refuses to honor or otherwise fails to comply with an order of assignment shall be liable to the obligee for the full amount of all sums ordered to be withheld; and 3) to allow wage assignments for children over the age of majority.

In August, 1984, Congress enacted the Child Support Enforcement Amendment Act, Public Law 98-378. One of its goals is to improve the national effectiveness of child support enforcement through wage assignments. Section 466 (b)(10) of the Social Security Act requires the State to provide for the termination of the assignment; section 466(b)(6)(A)(ii)(C) requires the State to hold the employer liable for any amount which the employer fails to withhold from wages. The bill adds these two provisions to state law to conform with federal law.

Your Committee finds that wage assignments are one of the most successful child support enforcement methods. The provisions in the bill would facilitate the process of collecting child support, thereby providing a more stable and dependable source of income for children.

Your Committee amended the bill to add that the obligee who initiated the wage assignment should have the burden of terminating it. The original bill provided that only the agency or department which initiated the assignment had that burden. Since it is anticipated that private persons will be seeking wage assignments, your Committee extended the same duty to terminate the assignment as the agency or department.

Additionally, your Committee made technical, nonsubstantive amendments to the bill to

correct grammar and conform with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 266, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 266, H.D. 1, S.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Aki and Young.

SCRep. 815                      Judiciary on H.B. No. 171

The purpose of this bill is to change the references to section numbers in H.R.S. §334-76 to conform with Act 188, 1984 Session Laws of Hawaii, which established newly numbered sections.

Act 188 repealed section 334-60 and renumbered sections. Therefore, this measure is necessary to amend section 334-76 to substitute the newly numbered sections for the deleted sections.

Your Committee amended the bill to address a problem raised by the Family Court. The Family Court is concerned about the interpretation of section 334-60.5(c), permitting a temporary guardian to be appointed for the subject of an involuntary commitment hearing. It has been the practice of the Court to appoint a guardian ad litem for the subject, rather than a temporary guardian. The role of the guardian ad litem (GAL) is more limited than the temporary guardian's. The GAL need only be involved during the pendency of the commitment action, which usually consists of one or two hearings. The major objective of the GAL is to determine and recommend to the Court the least restrictive placement for the subject. A temporary guardian serves for a period not to exceed ninety days pursuant to section 560:5-310. The temporary guardian also has the same duties as a permanent guardian, as provided by section 560:5-312. Given the length of involvement and the many duties imposed by law, the appointment of a temporary guardian is not appropriate in many instances. For these reasons, your Committee finds that the present law needs to be clarified to authorize the Court to appoint GALs. Your Committee amended the bill accordingly.

Your Committee also made technical, nonsubstantive amendments to the bill to conform with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 171, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 171, S.D. 1.

Signed by all members of the Committee except Senators Aki and Young.

SCRep. 816                      Judiciary on H.B. No. 1162

The purpose of this bill is to include surviving immediate family members as persons to be given notice of parole or final unconditional release of a criminal offender at least 10 days prior to release or parole.

Currently, only a victim is notified of the parole or final unconditional release of an offender. Your Committee recognizes that surviving immediate family members of homicide victims suffer the same emotional trauma as victims of other types of crimes. This bill provides that a surviving immediate family member of a deceased victim receive notification of parole or final unconditional release of an offender if written request is made for such notification.

Testimony received from the Department of Social Services and Housing pointed out that the victim or witness counseling program in each county prosecuting attorney's office may occasionally provide a more sensitive manner of notification to certain victims and survivors. Therefore, your Committee amended the bill to allow the Department or the Hawaii Paroling Authority the discretion of notifying in writing the victims or survivors directly or through the victim or witness counseling programs of each county.

Your Committee further amended the bill to give emphasis to the fact that only those victims or survivors who submit a written request for notification of the parole or final unconditional release of an offender are entitled to notification under this section.

Your Committee substituted the word "offender" for "prisoner or parolee" and made other technical, nonsubstantive amendments for clarity and conformance with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1162, H.D.

1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1162, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Aki and Young.

SCRep. 817            Judiciary on H.B. No. 460

The purpose of this bill is to allow judgment creditors to recover their attorney's fees, costs, and expenses in the satisfaction of money judgments against judgment debtors.

Presently, judgment creditors who need to return to court in order to compel payment on judgments in their favor are not able to obtain reimbursement from the judgment debtors for their court costs and expenses, including attorney's fees. This bill would offer relief to judgment creditors by providing that judgment debtors pay for the creditors' attorney's fees and costs when court action is necessary to enforce their judgments.

Your Committee amended the bill by adopting the provisions of section 607-14, Hawaii Revised Statutes, which limits the amount of attorney's fees that may be charged in certain situations. Your Committee is concerned that a judgment creditor may incur larger legal costs than would be appropriate for the amount of the debt. To burden the judgment debtor with costs inappropriate to the original judgment is patently unfair. Therefore, your Committee established limitations on the amount of attorney's fees recoverable.

Your Committee also amended the bill to apply it to all judgments, including those that were entered into before its effective date. Originally, the bill only applied to judgments after its effective date. Your Committee finds such a restriction unnecessary and deleted it.

Finally, your Committee made technical, nonsubstantive amendments for clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 460, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 460, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Aki and Young.

SCRep. 818            Consumer Protection and Commerce on H.B. No. 239

The purpose of this bill is to rename the presiding officers of a board to "chairperson" instead of "president" and "vice-chairperson" instead of "vice-president".

Your Committee received favorable testimony from the Department of Commerce and Consumer Affairs. The Department stated that title changes have been effectuated for all boards except the chiropractic, dental, naturopathy, and optician boards. This bill effects title changes consistent with the other boards. The Department also noted that the bill deletes archaic titles of "secretary", "secretary-treasurer", and "treasurer" which no longer serve any purpose.

Your Committee has amended the bill by changing the words "chairperson" and "vice-chairperson" to "chairman" and "vice-chairman" respectively.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 239, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 239, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano and Young.

SCRep. 819            Housing and Community Development on H.B. No. 921

The purpose of this bill is to amend section 206E-14, Hawaii Revised Statutes, to delete the repurchase price formula and to allow the Hawaii Community Development Authority (HCDA) to consider each project individually, or a portion of each project, and to establish a repurchase price formula based on market considerations such as interest rates, land values, construction costs, and federal tax laws.

The bill further allows HCDA to waive the "buy back" requirement if any of the Authority's redevelopment projects, or a portion of a project, is to be sold at market prices.

Under the present statute, speculation in the sale or lease of redevelopment projects by the HCDA is to be controlled within the first ten years of the original sale or lease. This assurance is provided in the form of a mandatory repurchase, or "buy back", provision tied to the consumer price index. The bill does not alter this intent.



Uncertainties occur in the area of financing and federal tax laws and developers are often forced to rely heavily on long-term returns and present and future tax considerations. The present statute requires the use of a fixed repurchase formula which cannot accommodate these considerations and which may have adverse effects on the Authority's ability to work with private sector participants in achieving redevelopment goals. Your Committee is in agreement that this bill would enable developers to earn a fair return for their efforts while maintaining a desired curb on potential speculation.

Your Committee has amended the bill to expand its provisions to cover residential projects. Chapter 206E, Hawaii Revised Statutes, provides definitions of the terms "redevelopment project" and "residential project". Currently, the law applies the buy back requirement to redevelopment projects only. While a redevelopment project is always comprised of a residential project, a residential project is not necessarily always a part of a redevelopment project. Since the buy back provisions are intended to ensure speculation of units which benefit from government subsidies is controlled, these provisions should be applied to subsidized residential projects not a part of a redevelopment project.

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

Your Committee on Housing and Community Development is in accord with the intent and purpose of H.B. No. 921, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 921, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 820

Judiciary on H.B. No. 1257

The purpose of this bill is to amend the election statutes to improve the administration of elections in Hawaii.

This bill proposes the amendment of the following ten sections of the election statutes:

Sections 11-18, 11-21 and 11-25. The proposed amendments to these sections are interrelated. The sections concern the change of voter registration both before and on election day. The amendments make it clear that when the registration of a voter is challenged on election day under section 11-25(b), the voter shall first be given the opportunity to make the relevant correction before the challenge is considered. Also, references have been added to clarify that the challenges provided for by law are to be as provided in section 11-25.

Section 11-112. The proposed amendment deals with the contents of ballots. A new subsection (c) is added to allow for the consolidation of candidates and of ballot questions on the ballots (1) in the discretion of the chief election officer and (2) where consolidation is not expressly prohibited by the state Constitution.

The objective is to save costs involved in printing multiple ballots, but the two limitations assure a reasonable and under standable format for the electorate.

Section 11-119. The proposed amendment concerning the printing of ballots establishes a deadline for submitting the exact language to be printed on the ballot. Currently, no deadline is established for ballot issues. Translation deadlines are needed to comply with the federal Voting Rights Act. The amendment would enable the development of a timely schedule which would meet the requirements of federal law and would set a definite fixed date for the submission of ballot language.

Section 11-139. The proposed amendment provides for the assistance of disabled or illiterate voters at the polls. It amends the current law to conform Hawaii's voting assistance statute to that of the federal Voting Rights Act.

Section 12-3. The proposed amendment revises the contents of nomination papers. It requires candidates for all offices other than State legislative offices, to certify on the day of filing that the candidate is a qualified voter of the district from which the candidate seeks to be elected.

Your Committee deleted the proposed amendment because the companion bill, providing for a similar amendment to the state Constitution, was not transmitted from the House of Representatives. It would be inappropriate to move forward with enabling legislation for other elective offices at this time.

Section 12-42. The proposed amendment seeks to clarify the term of office of candidates running for state office in special or special primary elections. This bill provides that the term

for such a candidate begins as of the day of the special election or of the succeeding special general election, whichever is applicable. This bill further provides that a candidate for state office who is unopposed after nomination in a special primary election begins his or her term of office on the day of the special general election.

Section 13D-3. The proposed amendment seeks to "grandfather" into the general county register those persons registered to vote only for the Office of Hawaii Affairs ("OHA") and who are not currently registered to vote for other state offices. After the inception of OHA, separate voter registration affidavits were required: one for the regular elections and one for OHA. However, before the 1982 elections, the law was changed requiring any registration or re-registration of OHA voters to be reflected in the general county register. In other words, the OHA-only category was eliminated for the 1982 elections.

However, there are still some 600 OHA-only voters statewide. Your Committee is in accord with the consolidation of this group into the general register and the elimination of this category.

Section 15-9. The proposed amendment to section 15-9 deletes the requirement of the county clerks to time-stamp every return envelope containing an absentee ballot on election day. Since time-stamping is used to determine whether absentee ballots arrive too late to be counted, it is unnecessary to time-stamp ballots which arrive before the close of the polls. The new law would require time-stamping only for those absentee return envelopes which arrive after the close of the polls.

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. 1257, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1257, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 821            Judiciary on H.B. No. 355

The purpose of this bill is to propose a constitutional amendment which would authorize the Chief Justice to appoint retired judges of the intermediate appellate court, circuit courts, district courts, and district family courts to serve temporarily on the court level from which they retired. It also authorizes the Chief Justice to appoint per diem circuit court judges.

This bill will expedite the disposition of cases by providing the Chief Justice with greater flexibility in assigning retired judges to fill temporary vacancies in the state Judiciary. Various statutes have been enacted in past years to deal with the heavy caseload in state courts. H.R.S. 602-55 authorizes the Chief Justice to assign retired intermediate appellate court judges or supreme court justices to the intermediate appellate court; H.R.S. 603-41 allows the Chief Justice to assign a retired circuit court judge to any circuit court.

This bill will establish the new authority for the Chief Justice to assign retired district and district family court judges to substitute for judges from the same bench from which they retired.

Your Committee amended the bill to delete the section which would allow the Chief Justice to appoint per diem circuit court judges. Your Committee finds that the remaining provision for assignment of retired judges is the preferable approach to solving the problem of overcoming delay in case resolution.

Your Committee also made technical, nonsubstantive amendments to the bill for clarity and conformance with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 355, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 355, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 822            Consumer Protection and Commerce on H.B. No. 232

The purpose of this bill was to amend Chapter 452, Hawaii Revised Statutes, by establishing a new section on advertising requirements, and by deleting the requirements that an applicant for examination shall have a medical and tuberculin clearance report.

This bill provides new procedures and guidelines for advertising by licensees and classifies violations of the advertising provisions as a misdemeanor. It also deletes the requirement that an applicant for examination must have a medical and tuberculin clearance report to qualify for the examination.

Your Committee received testimony from the Board of Massage, the Honolulu Police Department and the Hawaiian Telephone Company in support of this bill. The Hawaiian Telephone Company suggested changes which would enable a more effective and uniform application of the proposed requirements.

Your Committee has adopted the suggested changes by the Hawaiian Telephone Company and has amended the bill as follows:

(1) On line 14 of page 5: deleted the clause "under a classification of massage". The clause, if not deleted, would limit the provisions relating to advertising in directories to advertisements appearing under the classification of massage. In yellow page advertising, many businesses advertise under several classifications.

(2) On line 18 of page 5: deleted the word "medium" and substituted the word "media".

(3) On line 11 of page 6: changed the effective date to November 1, 1985. This date coincides with the beginning of advertising sales for neighbor island directories and would enable the company to begin seeking license verification at the commencement of the new sales campaign.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 232, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 232, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 823          Consumer Protection and Commerce on H.B. No. 352

The purpose of this bill is to eliminate the percentage limitation on the amount of payments that may be made to a professional solicitor for fund-raising activities.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs in support of this bill. The Department believes that a recent U.S. Supreme Court ruling in Secretary of State of Maryland v. Joseph H. Munson Co., Inc. makes Sections 467B-6 and 7, Hawaii Revised Statutes, constitutionally flawed in that a percentage limitation could not distinguish between organizations with high fund raising costs not due to constitutionally protected activities and those organizations with legitimately high fund-raising expenses for the constitutionally protected activities of solicitation and free speech. This bill eliminates this constitutional defect in our statutes.

Your Committee believes that while the percentage limitation should be repealed, an affirmative disclosure of the percentage of funds raised that will go to the solicitor and the percentage that will go to the charity or activity sponsoring the fund-raiser should be made to the Department before the fund-raising activity takes place. This information should be specified in the contract or statement that is currently required to be filed with the Department. Section 1 of the bill has been amended to reflect this disclosure requirement on page 2, line 10.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 352, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 352, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 824          Consumer Protection and Commerce on S.R. No. 20

The purpose of this resolution is to request the Hawaii Chamber of Commerce to participate with appropriate governmental and private interests in developing the ways and means of implementing the Hawaii Business Corporation Act scheduled to take effect on July 1, 1986.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs and the Chamber of Commerce in support of this resolution. The Chamber suggested that the Department of Commerce and Consumer Affairs serve as a coordinating agency informing organizations of its needs in implementing the Act to ensure against a duplication of efforts.

Your Committee finds that the Chamber has made several positive suggestions and ideas regarding public educational programs such as media releases, seminars, development of informational brochures and other materials. Your Committee also notes that the Chamber represents by and large most of the beneficiaries of the new corporation law. Accordingly, your Committee believes that the Chamber should take the lead as the coordinating agency for the development of the ways and means to implement the Hawaii Business Corporation Act.

The resolution has been amended by designating the Chamber of Commerce of Hawaii as the lead coordinating organization to effectuate the purpose of this resolution with the Department of Commerce and Consumer Affairs providing supplemental support. The Department, having the primary responsibility and interest in this matter, stated that it welcomes any participation and assistance from organizations in implementing the new corporate statutes.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 20, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 20, S.D. 1.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 825      Tourism and Recreation on H.B. No. 181

The purpose of this bill is to amend Section 6E-7, Hawaii Revised Statutes, to allow the State to lease historic properties.

Testimony submitted by the Department of Land and Natural Resources (DLNR) stated that existing laws only address the issuance of permits for the use of historic properties. DLNR believes that with adequate controls incorporated into lease agreements, leases can be a viable means to allow the use of, and ensure the long-term preservation of properties.

Your Committee finds that with the assurance of long-term jurisdiction over State-owned or controlled historic property through a lease, the lessee would be in a very positive position to secure, or otherwise expend funds for the preservation of the historic property.

Your Committee further finds that this bill will allow the DLNR to better fulfill its responsibilities in preserving the State's historic properties. This amendment will provide flexibility in the efforts to encourage private sector investors to restore and/or maintain historic properties under the Department's ownership and control, as well as encourage lease arrangements by appropriate non-profit organizations to manage and maintain historic properties.

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

Your Committee on Tourism and Recreation is in accord with the intent and purpose of H.B. No. 181, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 181, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 826      Judiciary on H.B. No. 104

The purpose of this bill is: (1) to clarify that only those name changes ordered by the lieutenant governor for persons born in the State need to be reported to the Registrar of Births, and (2) to increase the filing fee which accompanies a petition for a name change and make this filing fee non-refundable.

Under present law, all petitioners, regardless of the petitioner's place of birth, are required to record the name-change order with the Bureau of Conveyances and report it to the Registrar of Births within 60 days after the signing of the order. Consequently, the Department of Health ("Department") is inundated with orders of persons born outside the State's jurisdiction. However, the Registrar is empowered to only issue new birth certificates for those born in Hawaii. Unnecessary labor is required for the Department's staff by the present law.

Your Committee finds that an increase in the filing fee from \$5 to \$10 will reflect the current costs incurred in the processing of name-change documents by the Office of the Lieutenant Governor. By making the fee non-refundable, the Office of the Lieutenant Governor will not have to reimburse a petitioner after processing is completed, should the petitioner have a change of mind.

At the suggestion of the Office of the Lieutenant Governor, your Committee amended the bill to correctly refer to the Department's office which handles these documents as the "State

Registrar" and not the "Registrar of Births". It also made technical, nonsubstantive amendments to the bill for clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 104, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 104, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 827      Health on H.B. No. 1231

The purpose of this bill is to mandate the Department of Health to regulate individual wastewater systems by imposing requirements for the approval of plans and construction of all individual wastewater systems.

Chapter 57 of the Administrative Rules of the Department of Health relinquished the Department's responsibility to approve the design and performance of individual sewerage disposal systems, placing the burden of such duties on individual property owners. However, most property owners do not possess the knowledge and expertise necessary to adequately administer these standards and safeguards, and consequently the individual property owners have become vulnerable to the advances of unscrupulous contractors. The ultimate result may be a proliferation of substandard disposal systems posing a threat to individual and public safety.

After carefully considering this bill and the issue of sewerage and wastewater system regulation, your Committee finds that the administration thereof should be with the counties. Therefore, your Committee has deleted the substance of the bill and inserted the following provisions:

- (1) A new section is added to Chapter 46, Hawaii Revised Statutes, providing that each county shall implement regulation of sewerage and wastewater treatment systems by July 1, 1987 and submit to the Director of Health, for approval, a full and complete description of the program it proposes to establish.
- (2) Subsection (c) of Section 342-19, which provides for approval by the Department of Health of county plans to administer their own sewerage and wastewater treatment programs, is deleted.
- (3) Provision is made that the Department of Health shall have administrative control and responsibility for sewerage and wastewater treatment systems until July 1, 1987, or until such time as the counties receive sufficient funding to assume complete administration of the program, whichever comes first.

Your Committee believes that these measures clearly express the intent of the legislature that the counties assume administration of sewerage and wastewater treatment programs as soon as possible and that regardless of the circumstances, the transfers must be totally effected by July 1, 1987.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1231, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1231, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 828      Health on H.B. No. 465

The purpose of this bill is to impose a mandatory fine of \$250 for littering and a mandatory order requiring the person caught violating the law to pick up and remove litter.

Currently, ordinary litter violators are fined or must pick up and remove litter, while major offenders may be subject to both penalties.

Your Committee has amended the bill by restoring the original statutory language which provides for a fine of not more than \$250 for each offense or an order to pick up and remove litter or both. 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. 465, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 465, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 829

Health on H.B. No. 488

The purpose of this bill is to allow therapeutic animal visits to long term health care facilities.

Your Committee finds that the therapeutic benefits of pet therapy are well documented. There is growing evidence which shows the strength of the human/companion animal bond and the beneficial results accruing to patients who are permitted visitation by pets. Pet therapy generally refers to programs developed in cooperation with humane societies where healthy and carefully screened animals are brought to facilities to visit with patients in monitored areas. The majority of these programs across the nation involve long term care facilities. Some of these programs are currently being carried out in local health care institutions through cooperation of the institution and the humane society, and these programs are tailored to the needs and concerns of each institution.

This bill would allow institutions to continue to offer pet therapy programs in cooperation with the Humane Society, and to allow pets for visitation under certain conditions.

Your Committee has amended the bill by clarifying that animals refers to animals of the kind commonly kept as household pets, and by providing that the institution shall determine the suitability of the pet for visitations, the location of the visit, and the policies governing the visit. Also, your Committee has extended the animal visitation privileges to all hospitals, and has provided that the visitation may require the animal owner to provide documented proof that the animal is in good health before entry is permitted.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 488, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 488, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 830

(Majority) Tourism and Recreation on H.B. No. 479

The purpose of this bill is to designate the humuhumu-nukunuku-a-pua'a as the official fish of the State of Hawaii.

As a result of H.R. No. 5 (1984), the Marine Option Program of the University of Hawaii and the Waikiki Aquarium conducted a poll and publicity campaign to recommend to the Thirteenth Legislature a candidate for designation as the State fish. Of the over 60,000 ballots that were cast the top vote getters were: (1) the humuhumu-nukunuku-a-pua'a (16,577 votes), (2) the manini (8,742), (3) the lau-wiliwili-nukunuku-'oi'oi (8,543), and (4) the hina lau-wili (6,206).

Mr. Les Matsuura, an educational coordinator with the Waikiki Aquarium, presented a video tape which provided background information and showed the highlights of the State fish campaign.

Mr. Sherwood Maynard, Director of the Marine Option Program University of Hawaii, provided additional background information on the State fish campaign. He noted that this campaign achieved the objective of educating the public about Hawaii's marine environment, some of the life forms it contains and some of the natural and human pressures which affect its ecology.

Your Committee heard testimony from students from Ahuimanu, Maemae, Manoa, Puohala, and Royal Elementary Schools. Though several fish candidates were represented by these students, the humuhumu was well supported. Other fish that were represented include the manini, lau-wiliwili-nukunuku-'oi'oi (Long Nose Butterfly Fish), hinalea-lau-wili, kumu, moi, aweoweo, and the kala.

Also submitting testimony was Dr. Edward D. Stroup who supported the manini as the State fish. He claimed that the manini is plentiful in the island and is easier to pronounce. He felt the name of the State fish should be pronounced correctly and in its entirety and did not feel that this would be the case with the humuhumu-nukunuku-a-pua'a.

Mr. Bob Neuweiler, representing the Hawaii Fishing News, was a serious supporter of the 'O'opu. He pointed out that the 'O'opu has a rich historic and cultural heritage as it was an important source of food for the ancient Hawaiians. In addition, the 'O'opu played an important part in the ancient athletic events. Runners would race to Waipi'o valley to catch an 'O'opu from Hi'ilawe Falls, and bring the fish back alive and lay it in a wooden dish before the chief.

Mr. Neuweiler cautioned that while the humu was the "choice of the people", it did not receive a majority of the statewide votes. In order to provide other fish candidates an

opportunity to represent Hawaii, he suggested that the State fish serve a 5 year term of office after which the performance of the incumbent could be evaluated and the selection process renewed.

Your Committee amended the bill to designate a five year term of office for the humuhumu-nukunuku-a-pua'a as Hawaii's State fish, after which a new public selection process would be conducted. Your Committee believes that this could have a positive effect through increased public knowledge about our Hawaiian fishes and yield important educational benefits for people of all ages. In addition, such a selection process would hopefully be less emotional and stimulate greater public discussion and participation.

Your Committee further notes that adult proponents of other fish candidates have been reluctant to publicly support the fish of their choice in deference to the emotional upsurge of involvement in the Legislative process by members of our subteen population.

Finally, your Committee finds that the 5 year period is a sufficient period of time to test whether the humuhumu-nukunuku-a-pua'a would receive widespread public support or cause disenchantment, confusion and guffaw as residents and visitors alike stumble and crumble as they attempt to pronounce the name.

Your Committee further amended the bill to correct the spelling of the proposed State fish to delete spaces and add the appropriate hyphenation.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of H.B. No. 479, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 479, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.  
Senator Chang did not concur.

SCRep. 831            Consumer Protection and Commerce on H.B. No. 502

The purpose of this bill was to reduce the time period within which a tenant is deemed to have wrongfully quit the dwelling unit.

Currently, Section 521-44(d), Hawaii Revised Statutes, provides that if a tenant is absent from the dwelling unit for a continuous period of thirty days without written notice to the landlord, the tenant is deemed to have wrongfully quit the dwelling unit. This bill would reduce the thirty-day period to fourteen days.

Your Committee received favorable testimony from the Hawaii Association of Realtors and from Chaney, Brooks & Company. They testified that this bill would minimize losses incurred when tenants wrongfully quit a rental unit. For instance, if a landlord must wait the existing thirty-day period, the security deposit allowed to be retained by the landlord may cover the rent but any damages to the unit or clean-up expenses may never be recovered.

Your Committee also heard testimony from the Office of Consumer Protection to the effect that no complaints or inquiries from landlords or tenants regarding the thirty-day period have been received. Also, the Office of Consumer Protection expressed reservations regarding the harsh results, such as termination of tenancy and forfeiture of the entire security deposit, on a tenant, who by oversight or ignorance of the requirement, failed to notify the landlord.

After due consideration of the concerns expressed by interested parties, your Committee believes that the wrongful termination provision should apply only to persons who have not paid their rent on time. Thus, your Committee has amended the bill by changing the continuous period of absence to twenty days and adding a provision to delete the applicability of the provision to tenants who pay their rent on time but are absent from the dwelling unit for more than twenty days without notice to the landlord. The twenty-day period should allow landlords sufficient compensation for damages, clean-up, or other expenses since one-third of the retained security deposit may be used for this purpose. The remaining two-thirds of the security deposit should cover rent for the twenty-day period of absence in which no action may be initiated.

Your Committee also heard from the Hawaiian Humane Society requesting that pet discrimination provisions disallowing a landlord from permitting selected tenants to keep pets while not permitting other tenants to do so be added to the Landlord-Tenant Code.

Your Committee agrees that pet discrimination among tenants in the same dwelling unit complex is not equitable and fair, and thus has amended the bill to include a new section that provides nondiscriminatory language similar to the provisions contained in S.B. No. 205, S.D. 1.

Your Committee's intent is to allow landlords to decide whether or not pets may be kept in a rental unit. However, all tenants should be treated equally, i.e., all should be allowed to keep pets or all should be prohibited from keeping pets. There is no intent to allow any exceptions or exemptions based on circumstances previously existing. Thus, if one tenant is allowed to keep pets, then all tenants within the same dwelling complex owned by the landlord must be permitted to keep pets. These provisions also apply to owners who live in the dwelling unit complex.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 502, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 502, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Kawasaki and A. Kobayashi.

SCRep. 832                      Consumer Protection and Commerce on H.B. No. 236

The purpose of this bill is to amend Section 514E-10, Hawaii Revised Statutes, which sets forth the registration requirement for time share companies in the State.

There was general support for the bill from the Department of Commerce and Consumer Affairs. The Department testified that the bonding requirement imposed by Section 514E-10, Hawaii Revised Statutes, is intended to cover any violation or default of an acquisition agent or plan manager or any of their employees of the duties and responsibilities under each position. However, the present \$10,000 blanket required is insufficient to provide adequate protection to purchasers who may suffer loss as a result of any potential violation, particularly where a substantial number of purchasers is involved. Additionally, as presently worded the statute does not clearly impose this requirement for each time share plan with which the acquisition agent or plan manager is registered. Thus, a plan manager providing management services for several time share plans would only be required to post a single \$10,000 bond to cover its activities with respect to each of these plans. In the event the plan manager is found to have committed any wrongful or criminal act or omission affecting one or more of these plans, the \$10,000 amount of the bond may prove to be inadequate to afford purchasers under each plan the relief which they may request.

Your Committee finds that the Director of Commerce and Consumer Affairs should determine the nature of bond required, the amount of the bond, and whether or not separate bond coverage should be obtained for each time share plan with which the acquisition agent and plan manager are registered so as to provide reasonable and adequate protection to time share purchasers.

Your Committee has amended the bill by changing the effective date from upon approval to September 1, 1985. This change provides the Department additional time to adjust to the new provisions.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 236, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 236, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Kawasaki and A. Kobayashi.

SCRep. 833                      Health on H.B. No. 160

The purpose of this bill is to generally amend Chapter 326, Hawaii Revised Statutes, by replacing words and phrases which connote outdated social conditions and gender references with words and terms which better reflect statutory intent and common parlance. In addition, the bill provides that no one may take pictures of Hansen's Disease patients without the patient's permission except for professional purposes or for identification purposes by the Department of Health, and increases the pool out of which the sheriff at Kalaupapa may be selected.

Your Committee finds that the proposed changes are consistent with the Legislature's intent to amend statutory law to reflect contemporary times. Your Committee further finds that the provision on picture taking and the relaxed criteria for selecting a sheriff are consistent with the best interests of Hansen's disease patients at state facilities.



Your Committee has amended the bill by deleting the provision that would allow Department of Health personnel to take pictures for identification purposes 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. 160, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 160, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 834            Agriculture on H.B. No. 1243

The purpose of this bill is to amend Section 421-1, Hawaii Revised Statutes (HRS), to permit aquaculturists to form aquaculture cooperative associations.

Presently, Chapter 421, HRS, provides for the formation of cooperative associations for agricultural products, including floricultural, horticultural, viticultural, forestry, nut, coffee, dairy, livestock, poultry, bee, and any farm or plantation products. It does not, however, provide for aquaculture.

Your Committee is in concurrence with the Department of Land and Natural Resources that it is in the best interest of the State to promote economic diversification through the encouragement of diversified agriculture and aquaculture.

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

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1243, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1243, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Hee and Toguchi.

SCRep. 835            Agriculture on H.B. No. 112

The purpose of this bill is to amend Section 147-71, Hawaii Revised Statutes, by amending the definition of eggs so as not to include eggs cooked in the shell, and to amend the procedures for imposing penalties to give alleged violators the option to waive the right to a formal hearing.

Presently, the grade standards for shell eggs are generally not applicable to cooked in-shell eggs. Your Committee received testimony from the Board of Agriculture stating that the Attorney General's Office has interpreted the statutes to apply to both uncooked and cooked chicken eggs in-shell. This amendment is therefore proposed to clarify the definition of eggs.

The testimony from the Board of Agriculture further stated that the amendment to allow the waiver of a hearing is proposed because there could be instances when the proposed penalty is minimal or the alleged violator will admit guilt, making a formal hearing unnecessary or not worth the cost.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 112 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 Hee and Toguchi.

SCRep. 836            Agriculture on H.B. No. 492

The purpose of this bill is to protect the honey bee industry by prohibiting the importation of honey bees and equipment, unless certification by the Department of Agriculture is obtained indicating that the equipment is free of disease and mites.

Your Committee finds that there are two parasitic honey bee mites, the *Varroa jacobsoni* and the *Acarapis woodi*, that are presently infesting the honey bee colonies in several North American states. The infestation of honey bees by these mites have significantly shortened the life span of honey bees because the bees become malformed or their vital systems begin functioning abnormally, causing a rapid and widespread decrease in honey bee populations and a decrease in honey production.

Your Committee received testimony from the College of Tropical Agriculture and Human Resources of the University of Hawaii stating that prohibiting the importation of bees from certain areas would hinder the chances of these mites infecting Hawaii's bees. Although your Committee is aware that the use of first class mail to import bees to Hawaii makes it virtually

impossible to intercept bees which may be infected, nevertheless, your Committee believes that a ban on importation of bees will curb the possibility of mites infecting Hawaii's bees.

The testimony from the College of Tropical Agriculture and Human Resources of the University of Hawaii further stated that a ban on bee equipment should be imposed if the equipment does not meet the standard for certification of treatment or the standard of treatment by the Department of Agriculture quarantine officials. Your Committee finds that used bee equipment may be infested with mites and unless treated properly may transmit these mites to Hawaii's bee colonies.

Your Committee has amended the bill by providing for the exception of bee semen. Your Committee recognizes that if at some time the bee industry wishes to expand, the inclusion of bee semen in the ban would prevent this expansion. Therefore, the exception of bee semen from the ban is warranted.

Your Committee has further amended the bill by deleting the last sentence of the first paragraph of Section 1 of the bill and making nonsubstantive language changes in the proposed new paragraph banning the importation of honey bee and used bee equipment.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 492, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 492, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Hee and Toguchi.

SCRep. 837                      Agriculture on H.B. No. 111

The purpose of this bill is to strengthen the Plant and Non-Domestic Animal Quarantine law, Chapter 150A, Hawaii Revised Statutes, by clarifying the terminology regarding possession, propagation, or harboring of prohibited items and making possession of prohibited plants and animals, in addition to the importation thereof, unlawful; to clarify the enforcement authority of plant quarantine inspectors; and to make technical changes which have no substantive effect.

Your Committee received testimony from the Board of Agriculture stating that the number of prohibited plants and animals being brought into the State has been ever increasing. This is partly attributable to a lax and unclear law. Presently, the law does not adequately address illegal possession of plants and animals. This bill addresses these concerns.

The testimony from the Board of Agriculture further stated that this bill will clarify the enforcement provisions, which are obscure or inadequately covered in the current law. This bill will amend Chapter 150A by providing for the enforcement authority of plant quarantine inspectors to issue citations and summons; provide a penalty for violation of certain sections of the law; and provide a penalty for failure to obey a summons issued by an inspector.

Your Committee has amended the bill by deleting the qualifying words, "intentionally or knowingly" on page 17, line 11.

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

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 111, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 111, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Hee and Toguchi.

SCRep. 838                      Labor and Employment on H.B. No. 176

The purpose of this bill is to change the title of the State Manpower Advisory Committee to the State Advisory Commission on Employment and Human Resources, and to define and clarify its duties and functions.

In order to receive approximately 2.8 million dollars in federal vocational education funds, the State must comply with the Carl Perkins Vocational Education Act of 1984, which Act requires the establishment of a State Council on Vocational Education. Your Committee finds that the State Advisory Commission on Employment and Human Resources, as provided in this bill, will adequately serve that function.

Your Committee has amended the bill by providing that the Commissioners shall be appointed for three years beginning on July 1 and ending on June 30, and by changing the title of the

Commission's administrative head from "executive secretary" to "executive director". Your Committee has further amended the bill by making technical changes which have no substantive effect.

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 176, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 176, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 839            Labor and Employment on H.B. No. 674

The purpose of this bill is to strengthen the statutes relating to reemployment and recall lists in public employment by updating terminology and incorporating section 76-40, Hawaii Revised Statutes, into section 76-25, since both govern reemployment and recall lists.

Your Committee has made nonsubstantive technical amendments to this bill.

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 674, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 674, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 840            Labor and Employment on H.B. No. 522

The purpose of this bill is to correct a drafting error in Act 85, Session Laws of Hawaii 1984, which prohibits private and public employers from setting mandatory retirement ages.

Act 85 as it presently reads exempts terms and conditions of retirement, pension, employee benefit, and insurance plans from discriminatory practices only if they are based on age. The intent of Act 85 was to exempt the operation of all terms and conditions of the various plans and not merely those based on age. This bill corrects the error.

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

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 522, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 522, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 841            Economic Development on H.B. No. 989

The purpose of this bill is to authorize the Chairperson of the Board of Land and Natural Resources, rather than the Board itself, to approve the mortgaging, or creation of a security interest in, any lease, license, permit, or other instrument issued by the Board. Section 171-22, Hawaii Revised Statutes, presently requires the consent of the Board itself for the mortgaging or creation of a security interest in instruments issued by the Board.

Your Committee concurs with the testimony supporting this measure as providing a means to expedite the eight to ten consent to mortgage requests submitted to the Board each month. Authorizing the Chairperson to consent to these requests should help to reduce the Board's workload, thereby allowing more time for other matters requiring the Board's consideration.

Addressing a similar matter relating to the amendment or waiver of conditions restricting the use of land, your Committee has inserted a new section 2 into this measure to allow the Board to amend or waive restrictions on the use of public lands leased for commercial or industrial use under Chapter 171, Hawaii Revised Statutes.

Section 171-63, Hawaii Revised Statutes, currently allows the Board to amend or waive the conditions contained in any conveyance document governing public lands sold in fee simple, which restricts the use of these lands, upon the grantee's or patentee's payment of the difference between the fair market value of the land based upon its restricted use and the fair market value with the restrictive condition amended or waived. Your Committee believes that the public interest is served by applying the same provisions currently existing in subsection 171-63(a), Hawaii Revised Statutes, to leases of public lands.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 989, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 989, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 842            Economic Development on H.B. No. 188

The purpose of this bill is to make it unlawful after December 31, 1986 for any person to use or possess under certain conditions, throw nets with stretched mesh of less than two inches.

Your Committee recognizes that the present use of throw nets with stretched mesh of less than two inches allows the taking of juvenile fish before they grow to adult size, affecting the reproductive capability of certain fish species. The widespread non-commercial use of these nets may be one of the causes of the depletion of desirable species in certain areas of the State. Although your Committee agrees that conservation measures are necessary to prevent the depletion of desirable species, particularly along our shorelines, your Committee also recognizes that a phased prohibition on first the sale, and then the use of these nets is necessary to allow fishermen adequate time to comply with this conservation measure without undue hardship. Consequently, your Committee has amended this measure to provide that throw nets with stretched mesh of less than two inches may not be offered for sale or sold after December 31, 1989, and that such nets may not be used, or possessed under certain conditions, after December 31, 1999. Your Committee believes that conservation of our fish resources, particularly in shoreline areas, is a matter of public concern. However, the phased prohibition of the sale and use of these nets recognizes the potential hardship which could be caused by an earlier prohibition date upon our non-commercial throw net fishermen.

Your Committee has also 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. 188, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 188, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 843            Economic Development on H.B. No. 195

The purpose of this bill is to authorize the Department of Land and Natural Resources (DLNR) to retain and use confiscated items including equipment, aircraft, vehicles, vessels, or articles forfeited to the DLNR by a court under Section 701-119, Hawaii Revised Statutes, the Penal Code. The current statute only authorizes the court to forfeit confiscated material to the DLNR to be destroyed or sold at public auctions.

Your Committee supports the intent and purpose of this measure and concurs with the DLNR testimony that it be authorized to retain and use items which may assist the department in carrying out its operations more efficiently and effectively without the expenditure of public funds.

Your Committee has amended section 1, page 2, lines 5 and 6 of the bill to authorize other state agencies to also retain and utilize material seized and forfeited under Section 199-7, Hawaii Revised Statutes.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 195, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 195, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 844            (Majority) Economic Development on H.B. No. 1547

The purpose of this bill is to allow the use of a bullpen trap up to 2,000 feet in length; to increase the time that a bullpen trap may be left fishing in the same place from 12 hours to 14 hours, and to prohibit the use of bullpen traps within 500 feet from the shoreline as defined in Chapter 105A.

Your Committee has seriously considered testimony regarding this bill and supports increasing the allowable length of bullpen traps from 750 feet to 2000 feet and allowing bullpen traps to remain in place in excess of the twelve hours currently authorized.

Your Committee has amended subsection (c) of section 188-28.5, Hawaii Revised Statutes, to

allow bullpen traps to remain in place for not more than sixteen hours and has inserted a new subsection (d) to prohibit the use of bullpen traps within 500 yards from shore west of Kaunakakai Wharf, Molokai, and within 200 yards from shore east of Kaunakakai Wharf, Molokai.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1547, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1547, H.D. 1, 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. 845      Economic Development on H.B. No. 1054

The purpose of this bill is to permit the total cost of relocating utility facilities in improvement districts to be apportioned among the affected utility companies, the county and the specially benefited properties within an improvement district.

Your Committee concurs with testimony by utility companies supporting this measure as clarifying existing law and insuring that all utility companies receive equitable treatment. Your Committee particularly notes that a gas utility has not been reimbursed for the cost of relocating gas lines due to public improvements, amounting to approximately \$450,000 over the last 5 years, and that denial of any reimbursement has been based on the justification that the gas lines did not have to be relocated from overhead to underground locations.

Your Committee has amended section 1, page 1, line 16 of the bill by inserting the words "replaced or reconstructed" after the word "relocated" to maintain consistency within the section as it relates to the types of activities for which costs can be allocated among the utilities, the county and the specially benefited properties.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1054, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1054, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 846      Consumer Protection and Commerce on H.B. No. 223

The purpose of this bill was to revise the securities law to allow greater protection for the investing public. The revisions include authorization to permit the Commissioner of Securities of the Department of Commerce and Consumer Affairs (DCCA) to issue cease and desist orders, allow investors an extended period to void sales made in violation of the securities law, and establish separate civil and criminal penalties with stiffer penalties and to extend the statute of limitation.

Your Committee heard testimony from the DCCA and the Honolulu Police Department. The DCCA noted that in terms of economic effect, securities fraud is capable of draining millions of dollars from the economy's capital formation market place resulting in impeding new businesses from hiring employees and paying taxes. In terms of the devastating social impact, securities fraud has resulted in leaving the elderly destitute with the loss of life savings and family discord. Thus, imposition of stiffer criminal penalties in an attempt to deter sophisticated schemes from preying on unwary Hawaii investors is needed.

Your Committee notes that the DCCA stated that it prefers the companion Senate measure, S.B. No. 169, S.D. 1, which is substantially similar to this bill. Your Committee has accordingly amended the bill to substitute the Senate version with an attendant amendment on page 2, line 21 of S.B. No. 169, S.D. 1 that changes the word "may" to "shall". The Senate version was also amended to correct stylistic and technical errors.

Your Committee on Consumer Protection and Commerce 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 except Senators Kuroda and Young

SCRep. 847      Consumer Protection and Commerce on H.B. No. 231

The purpose of this bill was to clarify the law by amending the term "dealer" to include "auction".

The Department of Commerce and Consumer Affairs testified in favor of this bill because there is some confusion as to whether an "auction" can be construed to mean a "dealer". This question was raised for the first time when, in 1983, the Motor Vehicle Industry Licensing Board attempted to proceed against an "auction" for alleged violations of Chapter 437, Hawaii Revised Statutes. The Board was then advised by the Attorney General's office that the statute be amended to clarify the matter.

Your Committee received opposing testimony from the Car and Truck Renting and Leasing Association (CATRALA). The Association's concern was that the language was not clear enough to adequately determine whether their association would fall under the expanded definition of "dealer". Your Committee was assured by the Director of the Department that CATRALA would not and was not intended to fall within the proposed definition of "dealer".

Your Committee has made a nonsubstantive technical amendment to the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 231, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 231, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.

SCRep. 848            Consumer Protection and Commerce on H.B. No. 353

The purpose of this bill was to amend Section 666-3, Hawaii Revised Statutes (HRS), by incorporating therein the definition of "common nuisance".

Your Committee finds that Section 666-3, HRS, provides for the forfeiture of tenancy where the tenant creates or causes a common nuisance and refers to Section 727-1, HRS, for the definition of common nuisance. Section 727-1, HRS, was repealed in 1972 and not replaced, and therefore reference to this section in Section 666-3, HRS, is obsolete.

This bill deletes references to the Section 727-1, HRS, definition of common nuisance, and provides for the definition of common nuisance in Section 666-3.

Your Committee has amended the bill by including nondiscriminatory provisions regarding pets in rental units.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 353, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 353, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 849            Consumer Protection and Commerce on H.B. No. 1270

The purpose of this bill was to require real estate salesmen and brokers to disclose the relationship of a broker to the buyer and seller of real estate.

Your Committee has amended the bill by deleting the original provisions and substituting the provisions from S.B. No. 449, S.D. 1.

The purpose of this new language is to require sellers or lessors of property situated in certain designated areas to inform prospective buyers or lessees that the property is so situated.

The designated areas include:

1. The boundaries of a special flood hazard area as officially designated on Flood Insurance Administration (FIA) maps;
2. The boundaries of the Airport Noise Control and Land Use Compatibility (ANCLUC) maps of any public airport;
3. The boundaries of the Air Installation Compatibility Use Zone (AICUZ) of any military airport, as officially designated by military authorities; and
4. The anticipated inundation areas designated on the Department of Defense's Civil Defense Tsunami Inundation Maps.

Your Committee finds that, as important as these designations are when considering the purchase of real property, such information has not been readily available to the consumer. Your Committee further finds that this bill will enable consumers to be better informed and

better protected against deceptive sales practices.

The bill as amended exempts property rented or leased for one year or less, allows for the enforcement of the proposed new chapter by the Office of Consumer Protection, and requires the respective counties to prepare and provide to the public for a small fee, a map which includes the four designated areas.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1270, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1270, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 850            Judiciary on H.B. No. 129

The purpose of this bill is to permit the Governor to fill a vacancy on the Board of Education for a member whose term expires at the next general election.

In 1981, the Legislature, apparently through inadvertence, repealed the provision for filling vacancies in situations where the vacancies occur for terms which end at the next succeeding general election. Accordingly, in light of the present language of section 17-6, Hawaii Revised Statutes, there is no statutory authority permitting the filling of such vacancies. This bill remedies the situation by authorizing the Governor to fill such vacancies for the unexpired terms by appointment.

Your Committee made technical, nonsubstantive amendments to the bill for clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 129, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 129, S.D. 1.

Signed by all members of the Committee.

SCRep. 851            Judiciary on H.B. No. 1386

The purpose of this bill is to amend H.R.S. §11-206(c) to specify the uses of campaign contributions by a candidate.

The Campaign Spending Commission presently has regulations permitting the donation of campaign contributions to community organizations or youth, recreational, or social groups. This bill will specify that the scope of permissible uses of campaign contributions shall be limited to donations to community service, educational, athletic, charitable, scientific, literary, or other appropriate organizations. It also clarifies that campaign contributions may be used for ordinary and necessary expenses incurred in the candidate's performance of official duties.

Your Committee amended the bill to indicate that the "community group" which may receive donations from campaign contributions shall be those which foster the candidate's community relations. This limitation will provide guidance in determining a permissible use of campaign contributions. It also included youth and recreational organizations as part of the enumerated community groups, and deleted athletic organizations as a superfluous item.

Your Committee also amended the bill to delete the provision that would have allowed the Campaign Spending Commission to designate by regulation other organizations to which the candidate may make donations with campaign contributions. The bill, as amended, establishes that standard.

Finally, your Committee made technical, nonsubstantive amendments to the bill for clarity and conformance with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1386, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H. B. No. 1386, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 852            Judiciary on H.B. No. 33

The purpose of this bill is to provide for the imposition of an extended term of imprisonment for certain felony offenses against children under the age of eight.

Under current law, Section 706-662(5), Hawaii Revised Statutes, the court may sentence a person to an extended term if he is convicted of certain crimes against: (1) those over age 60; (2) the blind; (3) paraplegics; or (4) quadriplegics. This law addresses the needs of specific groups of people who cannot protect themselves and also expresses society's condemnation of those individuals who commit crimes against persons in these groups.

Your Committee received testimony in favor of this bill from the Honolulu Police Department and the Department of the Prosecuting Attorney. Based on the testimony presented, your Committee amended the bill to clarify it by making changes to the language of section 706-662(5). The amendment makes it clear that an offender is subject to an extended term if he commits certain crimes against certain victims and, in the course of committing or attempting to commit the crime, inflicts serious bodily injury upon his victim.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 33, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 33, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 853 (Majority) Ways and Means on H.B. No. 463

#### A. PURPOSE

The purpose of this bill is to address a major insurance crisis confronting employers and businesses in Hawaii brought about by skyrocketing costs of workers' compensation insurance coverage in recent years. The 54 per cent premium increase (i.e., 29 per cent + 25 per cent swing) in 1983 initiated by insurance carriers threatens the economic well-being of many businesses and may even result in loss of jobs to Hawaii's people. The adverse economic impact has impelled employers, labor organizations, and diverse segments of our community to make the education of the costs of workers' compensation an issue of prime importance this legislative session.

Your Committee shares these concerns and is prepared to take bold and immediate action to correct an obvious imbalance of economic power represented by excessive and unwarranted increases in insurance premiums.

#### B. THE INSURANCE PROBLEM

In 1983 this legislature recognized the fundamental cause of the problem as a failure to consider investment income earned or realized by insurers, especially from loss reserve funds amounting to over 30 million dollars annually, in rate making. We, therefore, amended section 431-693, Hawaii Revised Statutes, (Act 263, Session Laws of Hawaii 1983) and commissioned the Legislative Auditor to do a wide ranging study of the workers' compensation insurance program which would examine:

"...in particular the advantages, disadvantages and financial impact and feasibility of each alternative system of providing workers' compensation insurance, and recommending the most desirable alternatives based on low cost to employers...."  
S.C.R. No. 61, S.D. 1, H.D. 1

The specifications for the study performed by Haldi and Associates promised to evaluate the insurance system. In his presentation to your Committee on Labor and Employment, Dr. Haldi assured us that the insurance industry is doing "very well", and some carriers "exceptionally well" during the last five years when interest rates were high and returns on investments profitable. This assessment was reconfirmed by Jack Webb, executive vice president of the California State Insurance Compensation Fund, who testified that if a state fund existed in Hawaii in 1983 when insurers were allowed a 54 per cent rate increase, employers insured through a state fund would have received a 10 to 12 per cent dividend. Unfortunately, the good health of the insurance industry from workers' compensation has been realized at the expense of employers and businesses who are mandated to purchase insurance, and ultimately to the consuming public at large to whom these high costs are passed on.

Relief to purchasers of workers' compensation insurance requires reforms which will provide a long-term and short-term solution to what is basically an insurance problem.

#### C. A NONPROFIT COMPETITIVE FUND

Your Committee is persuaded that a nonprofit insurance fund, which will compete in the



marketplace with approximately 140 carriers who currently sell workers' compensation insurance in Hawaii at inflated rates, is a meaningful alternative to the existing system of providing insurance. California, Arizona, and other states established competitive state funds at the turn of the century when workers' compensation laws were first enacted in this country. The viability of these funds and their constructive role in keeping insurance rates at reasonable levels have been amply described by Jack Webb of California and Jerry Lecompte of Arizona. Open competition with a nonprofit fund has attracted nearly 30 per cent of the employer market in California. A great percentage of insureds under the California fund are small businesses. The Hawaii market for premiums which exceeds 130 million dollars annually is comparable to Arizona's where a fund has well served the public's interest in maintaining premium costs at reasonable levels.

Your Committee has amended section 14 of the bill to create a nonprofit fund, modeled after the California and Arizona programs, whose purpose is to sell workers' compensation insurance at the lowest actuarial responsible price in competition with private insurers. A five-member board of directors appointed by the governor is charged with creating a "model" for the workers' compensation insurance industry and to determine and set minimum insurance premium rates. The fund shall be initially financed by a ten-year loan from the State until its fiscal self-sufficiency is achieved.

The urgency of the insurance crisis demands prompt and decisive action. In a few years the insurance fund is expected to alter the character of the workers' compensation insurance market for the benefit of insureds who currently have limited options in indemnifying themselves against casualties related to industrial accidents.

#### D.

#### THE BUSINESS ADVOCATE

Meanwhile, your Committee has carefully examined the process by which the insurance commissioner allowed the exorbitant rate increases of recent years and is in full agreement with the Committee on Labor and Employment that basic reform in our regulatory process is essential to aid purchasers of insurance. Under current law the commissioner is charged with the responsibility of considering and reviewing multiple filings for rate increases in the entire casualty line of insurance and depends upon data and the professional views of actuaries and other professionals provided by the insurance industry. Thus, whenever rate changes are proposed, the interest of purchasers of workers' compensation insurance are neither heard nor carefully considered.

In Illinois in 1981, Chicago attorneys representing employers brought an action to challenge a 23.8 per cent rate increase by insurers creating a workers' compensation crisis. At the trial court, Judge Murray found that more than 1 billion dollars in excess premiums were due Illinois employers because of excessive rates. The case was settled on appeal. While there is no reported reviewing court decision, briefs of the parties filed with the Illinois Supreme Court confirmed that the motives of insurers to inflate losses in the absence of auditing and regulation is evident. See, Brief for Plaintiff-Appellees, Coordinating Committee of Mechanical Specialty Contractors Association, Inc., et al. v. Philip R. O'Connor, Acting Director of Insurance, etc., et al. and The "CNA Companies", etc.; The "Commercial Union Assurance Companies", etc.; and All-State Insurance Company, Supreme Court of Illinois, No. 55450.

To avoid a recurring workers' compensation crisis, your Committee strongly endorses the establishment of the office of the business advocate by appropriating funds for effective regulation of the insurance industry. Armed with a team of actuaries and other professionals representing the interest of employers as opposed to that of the insurance carriers, the business advocate's function is to ensure an honest, fair, rational, and comprehensive administrative review of insurance rates.

The fact that more than a few states have adopted the concept of the business advocate confirms the ongoing need to recognize the conflicting economic interests of insurers from that of employers who purchase workers' compensation insurance. This economic reality presents itself squarely by the industry's resistance to allowing consideration of investment income in setting premium levels. Recently an investment income task force reported to the National Association of Insurance Commissioners at the 1984 proceedings of the Association that investment income has too often been ignored in rate making in all casualty lines of insurance. In states like Hawaii where the insurance commissioner is engaged in the direct approval of rates, the task force recommends "that the rate making/rate-review process includes a measure of profitability, based on a total return to equity analysis." Toward this end, one of the primary objectives of the business advocate is to fully implement Act 263, Session Laws of Hawaii 1983, which mandates that premium rates be set with meaningful consideration of insurer investment income.

E.  
OTHER COST REDUCTIONS

Your Committee has also studied the other provisions of the bill aimed at reducing statutory benefits and solving procedural problems at the level of the department of Labor and Industrial Relations to reduce the total cost of the workers' compensation program. As a preliminary note, your Committee observes that Dr. Haldi emphasized that Hawaii's statutory workers' compensation benefits are "among the lowest" when compared with those of other states. Dr. Haldi even proposed significant increases in weekly wage loss benefits, permanent partial disability payments, and death benefits, together with other recommendations in order to bring Hawaii's statutory benefit levels in line with national standards. While we are cognizant that Hawaii's statutory benefits are relatively low in comparison to those of other states, the need for cost reduction in the overall program requires sacrifices from injured employees, as well as employers, health care providers, attorneys, and other participants in the workers' compensation benefit delivery system.

By conservative estimates, your Committee believes that a net reduction in costs to the workers' compensation program of 10 to 15 per cent will be realized by the following changes to the current law affecting statutory benefits:

<u>SECTION OF BILL</u>	<u>SUBJECT MATTER AND HIGHLIGHTS</u>	<u>NATURE OF IMPACT ON BENEFITS AND ESTIMATES FOR COST REDUCTION</u>
3	Waiting period—increase from 2 days to 3 days and eliminate recapture provision	Projected cost reduction of 5%
5	Establishing guidelines for frequency of medical treatments and utilizations and regulating all health care providers	Target cost reduction of 3% to 5%
6	Regulating attorneys' fees and expert fees	Some cost reduction
7	Fraud—Increased penalties, suspending and terminating benefits	Projected cost reduction may be 1% estimated by Haldi in hearings
3 & 8	Mandating prompt hearings on temporary total disability cases right after medical stabilization and requiring prompt decisions within 60 days	Target cost reduction of 2% to 3%
9	Reducing reopening of cases from 10 years to 8 years	Some cost reduction
10	Accident prevention unit and certification program which results in premium reduction or dividends	Some cost reduction with reduction in number of accidents

Certain proponents of reform have demanded a change in the statutory presumption of compensability under section 386-85, Hawaii Revised Statutes. Your Committee is persuaded that no change in the presumption is warranted on a cost reduction basis. Dr. Haldi estimates that even his recommended change to the standard of proof would result in a net savings to the system of one or two per cent. Michael Camilleri of the National Council of Compensation Insurance verifies that change in the statutory presumption would only result in a cost savings of 2 per cent. Thus, your Committee believes that cost reductions have been appropriately directed to benefit areas discussed above. Moreover, the statutory presumption of compensability must be retained in Hawaii's law for other policy reasons which redound to the benefit of employers and insurers, as well as injured employees.

F.  
THE PRESUMPTION

The debate over the statutory presumption has taken on an emotional character filled with so-called horror stories and in some instances bordering on the fictional. Reform proponents of the presumption should be reminded that the Legislature's adoption of section 386-85, Hawaii Revised Statutes, developed largely in recognition of the fact that Hawaii's workers' compensation program eliminated the right to sue employers in common law actions for torts. Each day substantial jury verdicts are awarded in other civil cases, employers are compelled to one conclusion, i.e., that the value of workers' compensation awards are significantly less when compared to other similar civil cases. In view of contemporary pressures to adequately and fully compensate society's injured and disabled, the value of retaining the exclusive remedy provisions of section 386-85, Hawaii Revised Statutes, becomes problematic.

A delicate balance of social and economic considerations must be maintained to assure the viability of our workers' compensation program. On the one hand, injured persons in our society have a legitimate concern that they be fully compensated when injured as a result of the carelessness of others. On the other hand, the cost of production for employers must be reasonable in order that economic prosperity is achieved. In the overall economic and social equation, the statutory presumption is an essential quid pro quo for a statutorily defined system of benefits which in Hawaii is admitted "among the lowest" in the nation. Amending the presumption would undermine this fundamental premise upon which our current program of workers' compensation retains its legitimacy.

Your Committee has already endorsed cuts in statutory entitlement benefits to achieve a 10 to 15 per cent cost reduction to employers. To alter, in any way, the statutory presumption as interpreted by our Supreme Court in Akamine v. Haw'n Packing & Crating Co., 53 Haw. 406, would not be economically or socially justified.

Your Committee agrees with the humanitarian and remedial character of Hawaii's workers' compensation law. For more than three-fourths of a century, this principle has been appropriately applied by the Hawaii Supreme Court in the interpretation and application of chapter 386, Hawaii Revised Statutes.

Finally, your Committee is in total agreement with your Committee on Labor and Employment that the two-tiered approach adopted in H.B. No. 463, H.D. 2, is constitutionally defective. There is no rational basis to differentiate the two categories of injuries created by H.D. 2. Cases involving cardiovascular disease, cerebrovascular disease, hypertension, mental stress, or those involving degenerative tissue, organ or body part, are precisely those types of cases in which the statutory presumption is so critical since proof regarding the etiology of the disease may be unknown to medical science and evidence of continued exposure over a longer period of time to stressful and hazardous stimuli on the job is more readily available to the employer. Cases involving prolonged exposure to harmful stimuli resulting in injuries can be as serious as injuries arising from a single trauma.

There is surely no rational basis to differentiate one category of injuries from another based on the clear humanitarian and remedial purpose of Hawaii's workers' compensation law. We are, thus, compelled to reject H.D. 2 regarding the presumption as violative of Article I, Section 5, of the Hawaii Constitution and the equal protection clause of the U.S. Constitution.

G.  
OTHER MISCELLANEOUS AMENDMENTS TO S.D. 1

Your Committee has also made a number of miscellaneous changes, some of which are substantive and others technical in nature. These are as follows:

- (1) Section 1. Vocational Rehabilitation. Your Committee has amended the bill to establish as one of the multiple goals of vocational rehabilitation the restoration of the injured worker's earning capacity to "as nearly as possible" to the worker's pre-injury earning capacity level. While achieving the pre-injury level is not mandated in every case, rehabilitation services must strive to achieve this goal. The concept of "suitable work" has been retained since this phrase has been interpreted by the courts in unemployment insurance cases under chapter 383, Hawaii Revised Statutes, and has meaning for practitioners in the field. The purpose of this language is to assure the injured worker that vocational services will not be wasted in areas which are not compatible with the injured worker's education, skills, training, experience, age, background, and other relevant qualifications.
- (2) Section 3. Waiting Period. The bill has been amended to clearly require a three calendar day waiting period. Under current law, the waiting period is two days. By adding the word "calendar" we are clarifying what may otherwise be ambiguous. The start of the

waiting period in cases in which the injured employee works for part of the day prior to injury and disability shall be left to current practices in effect as described by the Director of Labor. Your Committee has rejected efforts to change the Senate Labor and Employment Committee's version of the recapture proviso, since double payment for wage loss should not be allowed. We believe the Labor and Employment Committee's language insures that recapture be fairly and equitably applied.

- (3) Section 5. Guidelines on Frequency of Treatment. The bill has been amended for technical reasons. We noticed that in S.D. 1 a paragraph regarding the promulgation of new medical fee schedules and fee schedules of other health care providers was inadvertently left out. Since Standing Committee Report No. 806, in item 4, addressed this issue, the omission must have been due to oversight. We intend by reinserting this provision that the Director renew the fee schedule and where appropriate set out separate fee schedules for health care providers other than medical doctors.
- (4) Section 5. Qualifications and Duties of Health Care Providers. The bill has been amended to delete the words "make a good faith effort to" in two parts specifying the duties of health care providers. We note that health care providers are required to conform with what are essentially guidelines. A violation of this section requires proof of bad faith. Thus, the deletion of the foregoing phrase is to reconfirm that compliance is mandated.
- (5) Section 6. Attorneys, Physicians, and Other Fees. The bill has been amended to exclude "in-house attorneys" from the regulatory scope of the section. This is justified since in-house attorneys do not charge their clients on an hourly basis according to workers' compensation cases handled. By limiting the exception to those who are directly employed by employers, carriers, and labor organizations, we intend that salaried staff members of these entities fall within the exception only.

We otherwise endorse the other provisions of the section as a cost reduction measure. We also note that there is no justification to exclude attorneys and experts hired by employers and carriers from regulation when attorneys representing injured employees are subject to regulation under the current law. We reject as lacking in merit the contention that this section violates the contract clause of the federal and state constitution. Since costs due to litigation are not currently monitored by the Director for those representing employers and carriers, and we are concerned about the increasing level of expenditures for attorneys' fees and experts' fees, we endorse the provisions of this section.

- (6) Section 7. Penalties for False Representation. Your Committee has amended this provision to make mandatory the penalty provision affecting the "suspension" and "termination" of benefits. We have done so by substituting the word "shall" for "may". While doing so we note that the amount of the monetary penalty is discretionary.

We have also carefully considered and rejected proposals to delete the word "solely" from this section. We note that the section is similar in wording to section 378-32, Hawaii Revised Statutes, where an employer is held responsible for unlawful discharge or discrimination if it can be established by the employee that the unlawful act occurred "solely" because the employee suffered a work injury. If the wording of section 378-32 is fair to the employer, the anti-fraud provisions of this bill are also fair to the alleged violator. Moreover, since we have made the suspension and termination of benefits mandatory, the required proof to establish fraud is surely appropriate.

- (7) Section 11. Regarding Second Injury Fund. Your Committee has amended section 11 by deleting the second injury fund provision establishing and defining the standard of proof in disputes arising under section 386- 33, Hawaii Revised Statutes. Apparently, disputants involved in second injury fund cases do not see a need to statutorily impose the burden of proof to a particular party and prefers not to have a legislatively specified standard of proof. Thus, we have deleted the provision and deferred to agency and judicial interpretations of the existing statute.
- (8) Section 11. Computation of Average Weekly Wages. In place of the second injury fund provision of section 11, we have substituted a proposal which changes the age which is used as the benchmark for setting the average weekly wage of a youngster who suffers disability from a work-related injury. Under current law, age 25 is the benchmark. We have modified this to age 30 since it is fair and reasonable in light of current patterns of employment in Hawaii. Section 386-51, Hawaii Revised Statutes, is therefore amended in paragraph (5) only.
- (9) Section 12. Standing to Intervene in Appeals. Under current law prepaid health care plan contractors are not allowed to participate in proceedings before the appellate board. We have amended this section of the bill to permit limited intervention. Health care plan

contractors are allowed under this bill to participate solely to assert their subrogation liens. We have amended the wording of this section to insure that a health care plan contractor not be allowed to intervene and participate in other disputes before the appellate board.

- (10) Section 15. Appropriations. Your Committee has included for each fiscal year of the fiscal biennium 1985-1987 appropriations of: \$100,000 for the business advocate; \$500,000 to be used as a line of credit for the Hawaii workers' compensation insurance state fund; and \$100,000 to the department of labor and industrial relations. These appropriations are not intended to be the full and final amounts, but are inserted for discussion purposes.
- (11) Section 16. Deductible Option for Medical Benefits in Insurance Policy. Your Committee has amended this section to add deductibles for \$400 and \$500, to afford employers greater latitude to benefit from the purpose of this section.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 463, 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. 463, H.D. 2, S.D. 2.

Signed by all members of the Committee.  
Senators McMurdo, Henderson and Soares did not concur.

SCRep. 854          Ways and Means on H.B. No. 1

The purpose of this General Appropriations Bill of 1985 is to appropriate funds for the operating and capital improvement costs of executive agencies for the 1985-87 fiscal biennium.

#### FINANCIAL AND ECONOMIC OVERVIEW

The most recent revenue projections which underlie proposed expenditures for the next biennium indicate that with a reasonable measure of spending discipline, general fund appropriations at the overall levels recommended by the governor can safely be made. The revenue estimates also indicate that a number of tax relief measures recommended by your Committee primarily for the purpose of enhancing the economic environment and stimulating business can also be accommodated along with a number of additional program appropriation decisions.

The latest (March 14) revenue forecast of the Council on Revenues estimated that general fund revenues will increase by 9.7 per cent in fiscal year 1984-85. This latest forecast is close to what was estimated in the executive budget submitted to the legislature in December (10.2 per cent). The actual general fund revenue experience in the first eight months through February of the current year showed an increase of 10.3 per cent over the corresponding period last year. This stable pattern of estimates and performance for the current fiscal year indicates that considerable credence and reliability can be attached to the projected surplus position of the State's general fund at June 30, 1985, and to the Council on Revenues' estimates for the next two ensuing fiscal years.

Consequently, unless there is a breakdown of spending discipline or unless there is serious disruption of Hawaii's economy, there can be reasonable assurance of the State's financial health over the next two years. In this regard, your Committee is determined to maintain spending discipline and to take positive and concrete steps to improve the business and economic climate in Hawaii.

Spending policies and decisions can never be divorced from the economy. As the governor stated in his budget message: "... the condition of the economy will continue to be the most significant factor affecting programs and their budgets." Your Committee has proceeded from this obvious truth to develop a range of measures under which various aspects and sectors of the economy will benefit immediately. Over the longer term, a stronger economic base can result, with a healthy influence on jobs and income, and secondarily, on revenues for government services.

The content and intent of these measures to assist business and the economy are detailed in the individual bills which have been passed by the Senate and sent to the House of Representatives where, it is hoped, due deliberation by that body will lead to final passage this session. Government financial policies are to be found not only in the appropriations made but also in its revenue and tax relief decisions. Therefore, it would be appropriate to summarize in this report the specific decisions which have been approved by the Senate which are designed to improve the climate for conducting business and for strengthening the economy.

1. S.B. No. 701, S.D. 2, reduces the general excise and use tax on capital goods by 1 per cent a year until January 1, 1989, when the sale or importation of capital goods to general excise tax licensees, public service companies, financial institutions, and insurance companies will be

totally exempt from such taxation.

2. S.B. No. 697, S.D. 1, exempts from the general excise tax law all tangible personal property which is exported out of the State, including specifically, computer software.

3. S.B. No. 241, S.D. 1, phases in a reduction of the 4 per cent general excise tax on intermediate lessors until it is reduced to 1/2 per cent on January 1, 1989; expands the general excise tax exemption for scientific contracts to include agricultural, astronomical, biomedical, and oceanographic; and expands the general excise tax exemption for ship building and repair to include all vessels operated for commercial purposes out of any harbor in the State.

4. S.B. No. 246, S.D. 2, provides for the incremental phasing out of general excise tax for those sales which are made to the counties and the exemption of such government service companies as MTL.

5. S.B. 1152, S.D. 1, exempts from the general excise tax those merchants associations which are organized to collect dues for only advertising and promotional purposes.

6. S.B. 239, S.D. 2, exempts from the general excise tax transactions between affiliated and controlled groups of corporations; exempts common paymasters making payments on behalf of other companies for such purposes as salaries, social security and unemployment taxes; and clarifies the department of taxation's "gross up" position so that businesses will not be taxed on money that they do not receive.

7. S.B. No. 656, S.D. 1, reduces the general excise tax for care homes and adult family board homes, many of which operate on a very marginal basis, from the current 4 per cent to 1/2 per cent.

In addition to the foregoing, several tax relief measures have been approved by the Senate which would directly affect individual taxpayers and consumers. These measures include:

1. S.B. No. 1185, S.D. 1, provides for the exemption of prescription drugs from the general excise tax.

2. S.B. No. 237, S.D. 2, increases the personal exemption for income tax purposes to \$1,040, amends the excise tax credit by extending the brackets to those between \$20,000 and \$29,000, increasing the credits, and focusing the relief provided to those with true low incomes by adopting the use of modified adjusted gross income and adopts new corporate income tax rates and brackets to reflect a more incremental approach.

Thus, over a significantly wide range, your Committee has sought to reduce the burden of the more onerous taxes on businesses, to provide incentives for a number of economic activities, and to give greater relief to individual taxpayers.

Your Committee recognizes that there are other important financial considerations which do not appear in the General Appropriations Bill. Collective bargaining contracts have not been successfully negotiated for all of the units, but it is hoped that action can still be taken in this session of the legislature on collective bargaining cost items arrived at for all of the units. Meanwhile, government employees should not be considered the only beneficiaries of appropriation actions which have been made or may be forthcoming. In many parts of the General Appropriations Bill, your Committee has placed a heavy emphasis on services to the public, and especially human services and health prevention programs.

#### CAPITAL IMPROVEMENTS PROGRAM OVERVIEW

During this legislative session, your Committee has encountered a problem of extensive executive and judicial capital improvement budget requests, while the source of funding in general obligation bonds remained constant. For the fiscal biennium 1985-87, these requests of \$344 million exceed the previously authorized but unissued projects of \$302 million. With anticipated general obligation bond issuances of \$675 million over the lifetime of the capital improvements, your Committee was faced with a margin of only \$29 million. Subsequently, governor's messages for supplemental projects, such as gyms for several high schools and an additional correctional facility at Halawa further reduced the debt margin to \$5.5 million for the biennium. It is from this nominal margin which capital improvement projects that are deemed of high priority by the legislature must be funded. Thus, your Committee was forced to closely scrutinize each project requested by the governor in an effort to increase the State's debt margin to accommodate these legislative priorities. As a result, your Committee was able to reprioritize capital improvement funding requests to adequately meet both executive and legislative capital improvement needs.

#### BUDGET OVERVIEW

In the ensuing sections of this report, your Committee highlights some of its appropriation decisions, and where appropriate, expresses its intent and concerns.

### ECONOMIC DEVELOPMENT

Tourism. Tourism has experienced strong growth in the last two years and has contributed to the modest improvement in the State's economic outlook of the last several months. Your Committee is cognizant of the importance of continued support of the tourism industry and has provided that support in the form of a \$4.1 million appropriation to the Hawaii Visitors Bureau for the fiscal year 1985-86. It is necessary to provide for a general fund appropriation only for the next fiscal year, because by fiscal year 1986-87, the increased state revenues from the proposed hotel accommodation tax can in part be earmarked for the support of the Hawaii Visitors Bureau. This proposed tax will also provide for the promotion of Hawaii as a tourist destination area and supplement direct services, such as police, fire, and sewer services. Your Committee is also committed to the support of local festivities for the community which are also an attraction for visitors and has increased its funding support for Aloha Week activities.

High Technology. Your Committee recognizes the vast potential for high technology industries in the State and has provided additional funds to the high technology development corporation for marketing and feasibility studies for project development. Funds for high technology research have been provided to the Pacific international center for high technology research (PICHTR). Your Committee is committed to supporting research in this promising field but is also cognizant of the importance of administratively manageable growth. PICHTR has proposed administrative changes to increase its potential to become a major center for high technology research in the Pacific region. Your Committee looks forward to the realization of this potential.

Agriculture. The necessary emphasis has been placed on the control of pests and the prevention of flora and fauna diseases. Funds for additional agricultural inspectors are provided to address the increase of potential exposure to harmful pests, plants, and diseases due to the increase of direct flights from the mainland to neighbor island destinations. Additional support to combat harmful pests, plants, and diseases is in the form of funds for research on biocontrol of webworms, wilt disease of crops, and treatment of nematodes; and the increase of laboratory and seed inspection staff capability.

Product Promotion. Support for agricultural development and promotion of local products continues to be a major consideration for your Committee. Your Committee has provided funds for the promotion of papayas, local seafoods, pineapples, and agricultural commodities to further the development of diversified agriculture industry. With the further decline of the sugar industry, your Committee has a strong commitment to provide a stimulus to the growth of alternative agricultural industries.

### EMPLOYMENT

Your Committee notes two major areas of expanded emphasis during the coming biennium. First, throughout its review of programs related to employment, your Committee found a more intense effort to maximize efficiency and productivity. To this end, your Committee has authorized twenty-one new positions and has provided funds for information processing equipment in several programs. Your Committee also notes a heightened emphasis on preparation and training for those residents who are entering or re-entering the labor force. Your Committee has therefore provided resources in recognition and support of this focus.

In line with the focus on preparation and training for entering the work force, your Committee provided funding in each year of the biennium for the dislocated worker portion of the Job Training Partnership Act, to assist those individuals facing serious barriers to employment.

State Fire Council. Your Committee has found that since its creation in 1978, the state fire council, which is responsible for advising the counties, the governor, and the legislature on fire prevention and protection and life safety, has not been assigned administratively to any of the State's principal executive departments. Your Committee concurs with the recommendation of the attorney general to place the state fire council administratively within the department of labor and industrial relations. To this end, your Committee has provided additional resources for the operation of the state fire council, pursuant to Senate Bill No. 27.

Personnel Services. Your Committee supports continuing efforts to streamline the classification and compensation processes through an information management system.

Career Development Programs. Further reaffirming commitment to the preparation and training for youth and adults entering the work force, your Committee has provided additional funds for counseling, career exploration, and on-the-job training activities in each year of the

biennium, to be obtained through a purchase of service contract with a private provider.

#### TRANSPORTATION

Highway Fund. Your Committee is gravely concerned with the financial condition of the state highway fund. In recent years, the fund's permanent sources of revenues have not been adequate to meet the operating and maintenance costs of Hawaii's roads and highways. As a temporary remedy to this situation, the legislature in previous sessions had reduced moneys for special maintenance of our highways, and allowed for the transfer of general excise tax revenues on the sale of fuel to supplement the ailing highway fund. However, these measures are only temporary solutions, and any deferment of this problem will allow further deterioration of our state's highway system, thus increasing long-run costs and compounding the impact of any solution once chosen. Your Committee has reviewed the recommendations of the department of transportation's task force assigned to study the problem of the state highway fund's solvency. Based on this administration's proposal and the recommendations of your Committee on Transportation, your Committee has recommended a solution that would allow for the maintenance of our highway on a planned eighteen-year cycle, and provide sufficient revenues to allow the highway fund's solvency through fiscal year 1990-91, while apportioning the costs among all highway users in the most equitable manner possible. In addition, your Committee has thoroughly examined the highway division's program expenditures in an effort to efficiently allocate resources where they are needed most, and reduce expenditures in lower priority areas that unnecessarily deplete the highway fund. As a result, your Committee believes that these proposed increases in revenues with corresponding decreases in operating expenditures, will allow the safe transportation of our citizens on our state's highways, and provide for the long term stability of the state highway fund.

General Aviation Reliever Airport. Your Committee is very concerned with the safety problems resulting from the mix of commercial and general aviation aircraft at Honolulu International Airport. In search of a solution to this problem, both federal and state agencies have reviewed and made recommendations on several possible sites for a general aviation reliever airport, including Dillingham airfield, Barbers Point airfield, and the Poamoho area. Your Committee has studied these recommendations carefully, and based on factors such as the costs of constructing a new airport facility, the likelihood of federal support, and the state's commitment to protecting prime agricultural lands, your Committee believes that Dillingham airfield is the most appropriate site for a general aviation reliever airport on Oahu. Facilities and site improvements were made in recent years to improve safety and to upgrade the site for general aviation activity.

In the past, a major obstacle to the designation of Dillingham airfield has been a Federal Aviation Agency (FAA) guideline that the reliever airport be within thirty minutes driving time to Honolulu International Airport. However, your Committee notes that this requirement is a "rule of thumb" used by the FAA, rather than a mandate by federal law. Your Committee believes therefore, that the immediate safety considerations and the inherent cost advantages of improving an existing airfield justify the selection of Dillingham airfield. To accomplish the goal of eliminating safety risks resulting from the mix of commercial and general aviation traffic at Honolulu International Airport, your Committee has provided \$5 million for the improvement of Dillingham airfield.

#### ENVIRONMENTAL PROTECTION

Ground Water Contamination. Pesticide contamination of our ground water resources is a persistent and deep concern. To stay on top of this problem, continued funding has been provided for the office of environmental quality control's coordination of all affected agencies involved in the prevention, monitoring, and mitigation of ground water contamination.

Hazardous Materials. Your Committee has provided funds to support a cooperative agreement between the federal Environmental Protection Agency and the state department of health to provide compliance inspections of generators and handlers of hazardous wastes.

Pesticides. Your Committee recognizes the State's dual responsibility of supporting its agricultural producers by providing assistance to reduce crop losses due to insect pests, weeds, and diseases, and at the same time, assuring the health of the community and the safety of the environment. Your Committee is cognizant of the heavy burden placed on local producers to maintain a profitable level of operations. However, recent detection of chemicals in milk and water supplies and the banning of pesticide use by the Environmental Protection Agency have shifted the emphasis for the monitoring and regulatory function to the State. Your Committee has thus provided funds to the department of agriculture for personnel to conduct additional field inspections. Your Committee further realizes that appropriate usage of pesticides should be addressed and has provided funds for educational programs for farmers and other pesticide users. It is your Committee's intent that through constructive and cooperative efforts, careful use of pesticides can effect optimal agricultural production without compromising



the health and safety of the community.

Forest and Wildlife Resources Management. Your Committee is also concerned about the protection of forest and wildlife resources and to address this concern, funds have been provided to the department of land and natural resources for the preparation of an environmental impact statement to assess eradication methods of marijuana.

State Water Code. Act 170, Session Laws of Hawaii 1982 established the advisory study commission of water resources to conduct a review of Hawaii's water resources and existing state and county laws relating to water resources and to formulate a state water code. This water code, embodied in and pursuant to Senate Bill No. 564, was presented to the 1985 legislature. Your Committee recognizes the urgent need for a water management system that will provide for the systematic, rational, and equitable allocation of the State's valuable and limited water resources. Your Committee realizes the complicated nature of water resource legislation and through Senate Bill No. 564 has recommended an effective date of June 30, 1986 to allow the state, counties, and other interested parties time to prepare the necessary regulations and organizational support for implementation of the code. Your Committee has provided funds for preliminary organizational tasks in fiscal year 1985-86 and full implementation of a state water code in fiscal year 1986-87.

## HEALTH

Hepatitis B Screening and Treatment. The hepatitis B virus infection continues to be a persistent problem among certain sectors of our population especially the institutionalized population. Your Committee has provided funds for the purchase of vaccine to immunize the affected high risk population groups and for reporting and follow-up procedures.

Sexual Abuse Treatment. Your Committee has provided additional funds to assist sex abuse treatment centers statewide. These centers provide their clients with the essential treatment and counseling and the emotional, medical, and legal support to deal with their traumatic experience.

Food Contamination Detection. Funds have been provided to allow the department of health to purchase sample food products to test for contamination and pesticides. This will make it possible to monitor a wider range of food products for contamination and provide greater public protection.

Congenital Metabolic Diseases. Your Committee has provided funds to re-establish the department of health's authority to regulate the testing of newborns for congenital metabolic diseases (i.e., phenylketonuria (PKU) and hyperthyroidism) in the crippled children services branch program. These funds will be used to support one full-time position to carry out promotion, education, coordination, monitoring, and follow-up activities.

Case Management—Frail and Elderly. Due to the continued success of the case management coordination project for the frail and elderly on Maui, your Committee has continued funding of this program for the next biennium.

Care Homes and Boarding Homes Safety. In promoting safety in care homes and adult family boarding homes, funds are provided statewide to inspect care homes and adult boarding homes by the county fire inspectors.

## SOCIAL SERVICES

Child Abuse and Neglect. There has been much public concern over the alarming growth in child abuse and neglect cases, as evidenced by local and national media attention. Recent estimates by the department of social services and housing (DSSH) show an alarming 18 per cent annual increase in child abuse and neglect cases. By 1987, the department estimates the caseload will reach 6,000 cases. Your Committee recognizes the need to address this problem. The child protective service units are receiving a massive infusion of resources amounting to some sixty positions and \$1.3 million in fiscal year 1985-86 and still another ten positions and \$1.5 million in fiscal year 1986-87.

However, it is your Committee's view that emphasis should be on the prevention of abuse and neglect. Early detection and intervention can prevent children from being neglected and abused, and improve the well-being of families. Because of the high correlation between child abuse and criminality, such preventive measures can mitigate any serious future problems. Therefore, your Committee has provided additional funds for the purchase of various child abuse and neglect prevention services. These purchases of service will focus on primary and secondary prevention, which your Committee feels is not presently being adequately addressed.

Your Committee has also provided funds in the department of health for early intervention,

prevention, and respite for high risk individuals, particularly for parenting teenagers.

Child Care Licensing. Your Committee is cognizant of the problems in child care licensing, as evidenced by public concern over recent sexual abuse incidents. To maintain and ensure the required standards of child care facilities in our State and to provide for the protection and safety of Hawaii's children, your Committee approves of the additional licensing positions granted to the DSSH.

Financial Assistance. It is a concern of your Committee that the budget methodology used by the DSSH for the various money payment programs results in significant historical variances between projected and actual expenditures. To avoid these large variances, the department is requested to refine and standardize its budgetary data base, and to modernize its projection methodology in formulating future budget estimates.

Your Committee recognizes the need for a more sophisticated welfare information system to ensure that eligibility standards are being met and to reduce the percentage of determination errors to within acceptable federal standards. Therefore your Committee has provided funds for a Hawaii automated welfare information system to accomplish these goals.

Foster Care. Foster care parents are faced with ever increasing costs to support their foster children. As payment rates were last increased in 1982, your Committee has provided funds to increase the foster board payments, and requests the DSSH to conduct a study to determine the adequacy of these payment levels.

Health Care Payments. Hawaii's Medicaid program has increased from \$6.6 million in fiscal year 1966-67 to a projected \$211.7 million in fiscal year 1986-87. It is necessary to ensure that an accurate and reliable projection methodology be established to maintain control over soaring medical costs. The DSSH has been actively pursuing the implementation of prospective payment systems (PPS) for long-term care and hospital in-patient services. The PPS, once implemented, should allow for more accurate budgetary estimates. Your Committee feels however, that because of the complexity involved, more effort should be directed toward forecasting health care payments. Your Committee has therefore provided additional positions to the DSSH to provide expertise and assistance in overseeing the State's health care payment program.

Long-Term Care Alternatives. Your Committee believes that the pilot nursing home without walls project is a viable and cost-effective alternative to the high cost of institutionalization. Your Committee approves of the project's continuance and requests the DSSH to continue to seek similar alternatives to institutionalization which would expand upon current cost containment efforts.

Youth Development Project. Funds have been provided to continue the pilot youth development project. This is a project under the auspices of the youth development and research center, school of social work, university of Hawaii at Manoa, which is designed to test and assess the effects of school-based delinquency intervention. The pilot project is located in Hilo where elementary grade children and teachers in feeder schools to high delinquency rate intermediate schools are being involved in school-based delinquency prevention programs. The project will be in its third year of testing and it is expected that future assessments will eventually determine whether school-based prevention should be continued or expanded.

#### LOWER EDUCATION

Early Provisions for School Success (EPSS). The EPSS program exemplifies the theory that early identification and intervention, rather than later remediation, is more educationally effective and financially efficient. The program is highlighted by assessment of kindergarten students and new first graders, followed by supplemental assistance by one hundred support teachers. Funds have been provided to maintain the current level of services.

School Priority Fund. Your Committee is in support of the school priority fund, which allows each school flexibility in the use of the fund above and beyond each school's basic needs. It is the intent of the Committee that the school priority fund be used to meet the unique needs of each school and that the needs common to all schools should be met through the regular budget.

Basic Academic Skills Improvement System (BASIS). Your Committee recognizes the need of the intermediate student in the BASIS program. The general strategy is to continue the prevention of academic failure program and the core learning improvement program to address the needs to improve basic skills. It also encompasses the coordination of intervention and enrichment services at the intermediate grade levels.

Performing Arts Center. Providing an alternative outlet for aggressive youngsters and opening doors for shy and quiet students are the objectives of the Performing Arts Center. New

opportunities will be explored in developing collaborative skills and self-development, thereby giving the teachers a chance to see the students in a fresh context.

Teacher Improvement Program. Your Committee recognizes the need to continually upgrade the quality of instructional personnel to maintain effective levels of teaching. In order to keep a pool of competent, properly certified individuals it is critical to recruit qualified instructors and administrators. Your Committee recommends new programs for recertification, quality instruction, and school administration instruction. It is your Committee's intent to provide extra in-service training thereby allowing certificated employees the opportunity to grow professionally.

Student Activities. Taking into account the Senate position on the hotel accommodation tax, your Committee has provided funds to offset the hotel accommodation tax costs for students traveling inter-island for various events requiring hotel stays.

Speech Pathologists and Therapists. Your Committee has consolidated all speech pathologists and therapists into one program. Such consolidation will integrate the speech pathologists, who conduct the student evaluations with the therapists, who provide direct services to the students, resulting in a more efficient delivery of services.

Statewide Testing Program. Your Committee finds that diagnostic test information is presently underutilized by the classroom teacher due to the slow processing of test results. Such delays cannot adequately improve instruction or resolve the learning problems of the student. Your Committee has provided additional resource support to accelerate the processing of tests and provide assistance to teachers in analyzing and interpreting these test results.

School Attendance Review Board Pilot Project (SARB). The SARB program is intended to provide coordinated community services to meet the demands of students with school attendance or behavioral problems. Recognizing these critical needs, funds have been provided for support personnel to the board.

School Facilities. Your Committee feels that the physical atmosphere within the public school system is as equally important as academics. Recognizing the need for the State to protect its substantial investment in its school plant and to insure that existing facilities are safe and functional, a total of \$15 million in the first year and \$11 million in the second year has been authorized for the purpose of repair, maintenance, and renovation of school facilities.

Public Libraries. Funds have been included to initiate an on-line public access catalog to integrate Oahu's high school, university, and state libraries. In addition, a braille computer system is being funded for the library system.

#### HIGHER EDUCATION

Your Committee recognizes that as the sole public institution of higher learning in the State, the university of Hawaii plays a unique and vital role. As a demonstration of support to the University as it awaits the arrival of the new president, Dr. M. Cecil Mackey, an additional \$5 million for each of the next two years has been appropriated to the University's programs.

Your Committee has used the University's strategic plan in determining the allocation of these funds. In order to accommodate and foster a commitment to excellence, special attention has been paid to several key areas. These include a need to strengthen the basic foundation of the University through maintenance of physical facilities, equipment inventories, and support staff levels; the addition of expanded instructional programs; the implementation of systems and services which keep pace with modern technological advances; and the support of university programs which directly address problems and areas of statewide concern.

Equipment and Plant Improvements. A total of \$1.2 million has been provided to the university system in each year of the biennium for the replacement and purchase of instructional equipment. Your Committee has also funded numerous repair and maintenance projects and new facilities support positions to the university system.

Expanded Programs. Your Committee has funded new programs, including visitor industry research, the North Hawaii food service and hotel operations training program, an expanded training program for dental hygienists, and the establishment of a research/demonstration agricultural experiment station on Molokai.

Technological Advancement. An emphasis has been placed on state-of-the-art technological systems. Your Committee has provided \$1.4 million in the first fiscal year and \$0.9 million in the second fiscal year to implement a library automation system. In addition, the second phase of the computerized student registration and records system and the additional funding for the academic computing system have also been provided.

Areas of Statewide Concern. As an integral part of the State of Hawaii, the University is in a unique position to apply instruction and research which can be of direct help to areas of statewide concern. To this end, your Committee has augmented vocational education funds in the event of the loss of federal funding, bolstered student counseling to meet the needs of underserved target groups, and funded such agricultural programs as the pesticide hazard assessment program, the North Hawaii pasture and diversified crop program, and the Molokai agriculture program.

School of Medicine. With the support that has been given to the University, there must also be a realization that as for any state agency, there must be an adequate level of accountability, and all programs must meet the test of continued usefulness and cost effectiveness. For this reason, your Committee has requested that a legislative audit be conducted of the University's graduate school of medicine, to ensure that state support for this program is properly warranted.

#### CULTURE AND RECREATION

Performing and Visual Arts. Your Committee has serious concerns regarding the accountability of funding for purchases of service contracted by the state foundation on culture and the arts. Your Committee recommends that the foundation develop a responsible funding plan and solicit additional proposals from all eligible private and public agencies before assessing requests for proposals during the next biennium.

#### PUBLIC SAFETY

Medium Security Facility. The problems of overcrowding in the State's correctional facilities have led your Committee to provide \$11.5 million to construct an additional 248-room medium security facility at Halawa and to provide funds for improvements to various correctional facilities statewide. The construction of a new correctional facility is not without controversy, but with the growing prison population brought on by the public's demand for mandatory and stiffer sentencing, your Committee has determined that a new facility is needed in the interests of both the general public and those who are incarcerated.

Correctional Problems. In response to the problems associated with the rapidly growing inmate population in Hawaii's prisons, your Committee has provided funds for additional adult correctional officers for both Oahu and neighbor island correctional facilities.

In light of the U.S. Justice Department's criticisms of Hawaii's prisons, your Committee has provided \$100,000 in each fiscal year to supplement and improve the existing adult correctional officers training program. Without necessarily having to accept or challenge the Justice Department's contention that the constitutional rights of prisoners have been violated, your Committee believes that where problems exist and improvements are justified, they should be pursued. Efforts have also been made to increase the medical and dental services available to inmates, and to upgrade the vocational and educational programs in the prisons.

To insure adequate levels of inmate safety, your Committee has addressed concerns relating to the deterioration of state correctional facilities. In reaction to these concerns, your Committee has included funding for repair and maintenance of plumbing and electrical systems, roof repairs, and fumigation.

#### INDIVIDUAL RIGHTS

Within the individual rights area lies the difficult and sometimes conflicting task of protecting the consumer without unduly hindering commercial activity. Your Committee is very concerned about the recent problems with the industrial loan and insurance industries and other industries. Your Committee, therefore, has channeled appropriate measures to strengthen the regulatory activities and capabilities of government to protect consumers. Some of these positive measures are as follows:

Office of the Consumer Advocate. Your Committee recognizes the difficulty in auditing the regulated industries due to the growing need to allocate expenses between regulated and unregulated operations. Part of the problem lies in the division's difficulty in retaining qualified personnel to conduct its advocacy activities. Therefore, your Committee has provided additional funding in each year of the biennium for the upgrading and/or reallocation of selected positions within the division to achieve comparability with comparable personnel in other state departments.

In order to promote efficiency in the division's operations, your Committee has provided additional funding in each year of the biennium for a fully integrated information processing system.

Banking Services. Recent failures in the industrial loan industry have called your

Committee's attention to the urgent need to enhance the bank examiner's supervisory and enforcement activities. Therefore, your Committee has provided additional resources to strengthen the monitoring functions of the banking services division. Your Committee is optimistic that these resources will provide much-needed support to the division's activities.

#### GOVERNMENT-WIDE SUPPORT

Information Processing and Information Resource Management. Virtually every department has requested funding for computer hardware, software, and related expenses. Your Committee strongly supports computerization in the interest of streamlining operations within the respective departments, and thereby, more effectively and efficiently serving the public. Your Committee has found that over the years, the services of the electronic data processing division have not grown adequately to meet the tremendous information processing requirements of the various departments. Therefore, the departments independently acquired a multitude of diverse, often incompatible, data processing equipment. And therein lies the problem. In the upcoming biennium, a local area network was proposed to rectify this situation. The proposed network would have connected the data processing capabilities of all state agencies in the state capitol complex. Further, a lump sum amount for computer purchases was centrally budgeted, to be allocated later to the various departments. However, your Committee was very disturbed to find that interdepartmental and intradepartmental coordination and planning were sorely lacking for both the local network and for the centrally budgeted funding for computer purchases. Your Committee therefore recommends a closer examination of long-range planning and coordination for information management in the State. To this end, your Committee requests that a comprehensive study on electronic data processing management be conducted by the legislative auditor, with a preliminary report submitted to the 1986 regular session of the legislature and a final report, with recommendations, submitted to the 1987 regular session. Your Committee also recommends a freeze on central computer expansion until such time as the study by the auditor is completed and the findings and recommendations have been presented.

State Boundary Determination. The state and federal governments are in dispute over the boundaries of the State of Hawaii. Your Committee supports the objectives of the public lands management program which concern eventual resolution of this dispute. Your Committee has therefore provided funds for conducting the legal and historical research necessary for the legal challenge expected from the federal government.

Legal Services. Your Committee recognizes the attorney general's responsibility of representing the State in legal disputes and providing counsel to all state departments. However, your Committee is concerned about the poor management practices discovered in the process of reviewing the department's budget. Your Committee has found that the majority of the temporary positions being requested for conversion to permanent status have not been previously authorized by the legislature. Moreover, as these positions were filled, funding was not reflected in the budget of the attorney general's office. As a result of this lack of accountability, your Committee has not recommended conversion of these unauthorized positions.

Also, the attorney general's obligation to service non-general funded programs has compounded the department's personnel and fiscal management problems. Where possible, your Committee has adjusted the budget of the attorney general to more accurately reflect the true means of financing for various deputies and clerical staff.

Pursuant to Section 70A of Act 285 of the Session Laws of Hawaii 1984, the attorney general has only partially complied with legislative intent by developing administrative policies regarding expenditures from the litigation fund. A main concern of your Committee as reflected in that section was to eliminate the attorney general's practice of billing general funded programs for litigation expenses or the hire of special deputies. However, the quarterly expenditure report submitted to the legislature has shown that general funded programs continue to be billed by the attorney general for litigation expenses and the hire of special deputies. Your Committee is gravely disturbed that the department has not been adhering to the guidelines created.

Your Committee feels that the proper management of the litigation fund is an essential responsibility of the attorney general, but because of the department's lack of commitment to properly administer these funds, your Committee has deleted litigation funds in the second year of the biennium. During the next fiscal year, your Committee strongly recommends that the attorney general project the litigation and special deputy expenses for the fiscal year 1986-87 which would truly reflect the litigation needs of all general funded departments. This would also promote the necessary communications between these departments and the attorney general to collectively resolve all litigation matters encountered by the State. If proper justification is provided for such expenditures, your Committee will recommend adequate funding in the second year of the biennium.

PURCHASES OF SERVICE

The numerous applications submitted by private agencies for public funding, pursuant to Chapter 42 of the Hawaii Revised Statutes, have been reviewed by your Committee. Subsequently, your Committee has concurred with the governor's recommended levels of funding for these agencies, except where the Senate subject matter committees have justifiably adjusted funding levels for specific types of services delineated in the provisions of the budget bill.

To promote the social well-being of our citizens, your Committee has adequately provided funding through these providers for the major areas of employment, transportation, health, social services, education, cultural arts, and public safety.

RECOMMENDATION

In conclusion, your Committee has thoroughly reviewed the competing demands and concerns of our state and strongly believes that this budget bill has addressed these major concerns.

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

Signed by all members of the Committee.

SCRep. 855                      Ways and Means on H.B. No. 404

The purpose of this bill is to appropriate moneys to the Office of Hawaiian Affairs (OHA) for its operations.

Your Committee finds that, rather than providing a lump sum appropriation as in the past, the bill displays OHA's budget request by program appropriation. This approach allows for a more accurate and expedient review of OHA's budget. To provide the necessary flexibility in the administration of OHA's programs, the bill includes a provision authorizing the chairperson of the OHA trustees to transfer sufficient funds and positions between programs for the expeditious implementation of OHA programs.

Your Committee has amended the bill to reflect OHA's original budget request, and to make other nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 404, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 404, H.D. 2, S.D. 1.

Signed by all members of the Committee.

SCRep. 856                      Ways and Means on H.B. No. 99

The purpose of this bill is to appropriate funds for the Judiciary for the 1985-87 fiscal biennium.

In the process of formulating recommendations on the Judiciary biennium budget, your Committee was faced with the difficult task of reconciling the constitutionally set expenditure ceiling, which limits the growth of the Judiciary, with the expanding responsibilities of the Judiciary. Although your Committee recognizes that much of the expansion experienced by the Judiciary directly reflects the public's demand for stricter laws, we were required to consider the legal as well as fiscal implications of such an expansion.

Your Committee feels strongly that because the Judiciary is only one component of the entire judicial process, its budget request must be viewed within the context of other agencies such as the police department, the public defender's office, and the corrections division. In comparison to these agencies, the growth of the Judiciary is extensive. Within a span of seven years the Judiciary operating budget has tripled from \$15.6 million in fiscal year 1978-79 to a requested \$49.6 million in fiscal year 1985-86. The first year request of the 1985-87 fiscal biennium represents a 30.4 per cent increase over the last fiscal year's appropriation. Your Committee is concerned that if the Judiciary continues to grow at its present rate, other agencies which are involved in the judicial process, but are not developing as rapidly, may be adversely affected.

During the 1985 legislative session the Senate did not receive satisfactory justification for the Judiciary's biennium requests. As a result your Committee is even more hesitant to grant substantial budgetary increases. In our review we also learned that the ceiling originally

established for the Judiciary was an overestimation which exceeded the true ceiling by \$2 million.

As communicated in discussions with the Judiciary, your Committee realizes that the ceiling may be placing artificial restraints on a growing agency that expands at the people's request. However, until the constitution is amended and the ceiling is adjusted to compensate for sudden growth patterns, your Committee is obligated to stay within the lawful ceiling or exceed it only by amounts justifiable to the entire State.

In our final evaluation, your Committee recognizes that the Judiciary is a separate branch of government and should be extended a certain degree of latitude to allow them to determine the most effective way of utilizing funds appropriated by the Legislature. Because of this, your Committee has granted the Judiciary a lump sum appropriation of \$40.8 million and 1,315 positions in fiscal year 1985-86 and \$43.0 million and 1,389 positions in fiscal year 1986-87.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 99, 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. 99, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 857            Ways and Means on H.B. No. 60

The purpose of this bill is to appropriate funds for sugar research and development, including research on alternate crops, provided that the Hawaiian Sugar Planters' Association provides a dollar-for-dollar match of funds.

Research on alternate crops and by-products of sugar are important for the future of Hawaii's sugar industry. It not only provides for the subsistence of the sugar industry at the present time, but also provides a hopeful future for Hawaii's sugar industry.

Your Committee made technical, nonsubstantive amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 60, 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. 60, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 858            Ways and Means on H.B. No. 184

The purpose of this bill is to establish an aquaculture advisory council to advise the board of land and natural resources on statewide aquaculture development.

The council would carry out various functions, including coordinating state activities, periodically reviewing the progress and status of state programs, and providing a forum for the discussion of development problems and issues. The council would be composed of representatives from both the public and private sectors of Hawaii's aquaculture community to provide broad and diverse input into state decision-making.

Your Committee finds that for the State's fast-developing aquaculture industry, coordination and communication are areas in need of constant attention. An aquaculture advisory council would offer a much-needed formal mechanism to bring together key government, university, and private-sector groups who are active and interested in aquaculture development for Hawaii.

Your Committee has clarified the reference to the division of aquatic resources.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 184, 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. 184, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 859            Ways and Means on H.B. No. 39

The purpose of this bill to extend the expiration date of the special handling fees special fund, created pursuant to section 416-97, Hawaii Revised Statutes, for an additional three years until June 30, 1988 and to expand the types of documents that may be processed by the expedited services.

Your Committee has made technical nonsubstantive amendments to correct technical and

typographical errors.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 39, 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. 39, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 860                      Ways and Means on H.B. No. 1056

The purpose of this bill is to amend chapter 431, Hawaii Revised Statutes, by adding a new section to provide for the establishment of a revolving fund to be used by the insurance commissioner of the State of Hawaii to compensate independent contractor examiners.

Your Committee finds that there are approximately 701 insurance agencies doing business in the State and that the commissioner is charged with the responsibility of monitoring each agency's operations. The establishment of a revolving fund will provide the commissioner the needed flexibility to hire independent contract examiners. Funding of additional examiners is essential to uncover potentially problematic insurers.

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. 1056, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1056, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 861                      Ways and Means on H.B. No. 1059

The purpose of this bill was to appropriate the sum of \$250,000 for fiscal year 1985-1986 to the insurance commissioner to conduct a comprehensive review of the insurance laws of the State and to submit proposed legislation to simplify, clarify, update, and consolidate the insurance laws of the State.

Your Committee has amended this bill by: (1) reducing the appropriation, which will be matched by the insurance industry, to \$125,000; and (2) making technical nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1059, 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. 1059, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 862                      Ways and Means on H.B. No. 1271

The purpose of this bill is to provide the real estate commission with the flexibility and the means to carry out its educational mandate under section 467- 19, Hawaii Revised Statutes, by amending chapter 467, Hawaii Revised Statutes, in the following manner: reallocation of the amount deposited in the real estate education fund from \$5 to \$20 for each original license issued by the department of commerce and consumer affairs and from \$10 to \$20 for each biennial renewal of a real estate license, and providing for a temporary moratorium on such renewal contributions and a commission review of licensee contributions if the real estate education fund balance exceeds \$1,200,000 at the end of any given fiscal biennium.

Your Committee agrees with the real estate commission that the reallocation of revenue as proposed by the bill will enable the education fund balance to be maintained at a level for the commission to carry out its statutory educational mandate while providing a procedural safeguard against the accumulation of unnecessary large sums in the real estate education fund.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1271, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee .

SCRep. 863                      Ways and Means on H.B. No. 1275

The purpose of this bill is to provide civil service status to public utilities commission (PUC) assistants and to allow the chairperson of the PUC to appoint PUC assistants as needed



regardless of the population of the county.

Your Committee supports this measure as a means of providing greater assurance that the PUC will be able to attract and retain qualified staff to address the public utility concerns of residents of neighbor island counties. This measure provides that PUC assistants will be civil service employees without loss of salary, seniority, prior service credit, vacation, sick leave, or other employee benefits or privileges. The measure also converts existing PUC assistants to civil service status without the necessity of examination.

Your Committee finds that this bill is only one example of many this session converting temporary personnel to permanent civil service personnel with all rights and benefits appertaining thereto. It has become a way of doing business for state government to hire individuals on a temporary or noncivil service basis for a period of three, four, or five or more years, and then "reward" them with permanent civil service status. Your Committee finds that this method of operating state government must be studied during the 1985 interim and that your Committee on Ways and Means and the Committee on Labor and Employment should study this problem and related civil service procedures governing temporary and permanent positions. Your Committees will report on their findings to the 1986 regular session.

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

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1275, 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. 1275, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 864            Ways and Means on H.B. No. 1246

The purpose of this bill is to extend the present tax exemption on the sale of gasohol to June 30, 1992, and to eliminate the provision which would limit the exemption to gasohol produced within the State from biomass effective July 1, 1985. The bill similarly extends tax credits on solar or wind energy devices and heat pumps to December 31, 1992, with the provision that if the federal energy tax credits are not extended beyond December 31, 1985, the above-mentioned credit will be allowed to terminate as of December 31, 1985, as originally scheduled.

Your Committee finds that reducing the State's reliance on imported oil through the production and use of alternate fuels such as ethanol is a major state goal, and that the use of ethanol in a gasoline fuel mixture known as gasohol will aid in achieving this ambition. Since Hawaii has no commercial-size ethanol producing plants in operation, your Committee finds that extending the current tax exemption to include mainland-produced ethanol is in the public interest.

Your Committee has amended this bill by adding a section amending the tax rates imposed on certain insurers. Your Committee finds that the United States Supreme Court has declared the imposition of different tax rates on domestic insurance companies and foreign insurance companies to be unconstitutional. This decision was rendered on March 26, 1985, and your Committee has not had sufficient time to study the opinion. In order to allow time for such consideration, the amendment to the tax rates imposed on insurance companies does not provide for new rates. The insertion of such new rates may occur at a later time after further study of the court opinion.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1246, 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. 1246, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 865            Ways and Means on H.B. No. 614

The purpose of this bill is to repeal section 46-21.5, Hawaii Revised Statutes, which prohibits the various counties from increasing the salaries of their top-level elected and appointed officials.

Act 129, Session Laws of Hawaii 1982, established the Public Officers and Employees Compensation Review Commission to study the compensation of elected and appointed state and county officials. The Commission was required to formulate and recommend a compensation schedule containing appropriate salaries for these officials. Act 129 also added section 46-21.5 to the Hawaii Revised Statutes.

Your Committee finds that Act 129 was not intended to permanently "freeze" county officers' salaries but was intended to preserve the status quo to allow the Commission to conduct its study. Since the Commission has completed its study, section 46-21.5 should be repealed.

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 H.B. No. 614, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 866 (Majority) Ways and Means on H.B. No. 1131

The purpose of this bill is to clarify the qualifying standards for any organization applying for a grant, subsidy, or purchase of service agreement.

This bill allows an exception in the qualifying standards for a grant, subsidy, or purchase of service to organizations which demonstrate the necessary program experience.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1131, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator Machida.  
Senators McMurdo and Soares did not concur.

SCRep. 867 Ways and Means on H.B. No. 166

The purpose of this bill is to enable the department of health to reinstitute its program of regulating the testing of newborns for congenital metabolic diseases. The bill further appropriates \$22,829 to fund one position to carry out a monitoring and follow-up program.

This bill requires that tests for phenylketonuria, hypothyroidism, and any other hereditary metabolic disease be administered to newborn children in accordance with rules adopted by the department of health. Exceptions would be granted for religious reasons.

Your Committee has amended the bill by deleting the appropriation.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 166, 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. 166, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 868 Ways and Means on H.B. No. 263

The purpose of this bill is to allow the State to retain state tax refunds from persons who are delinquent on support payments for children who are not recipients of welfare assistance.

Prior federal law mandated the department of social services and housing to withhold state tax refunds from persons who are in arrears in child support payments only when the children are receiving welfare assistance. Congress recently enacted P. L. 98-378, the federal Child Support Enforcement Amendments Act of 1984, which requires the state child support enforcement agency to extend child support enforcement assistance to all children, whether they are recipients of welfare assistance or not, effective October, 1985. The intent of Congress was to assure that all children will be provided equal child support enforcement services, including the interception of state tax refunds. Tax refund interception is one of the most effective methods of collection of child support.

Your Committee believes that strong child support enforcement laws are critical to protecting the well-being of Hawaii's children. Such laws avoid the need by some families to resort to welfare assistance to maintain a minimum standard of living. These laws also provide additional support for other children who will no longer have to suffer a lengthy delay in receiving support because of a protracted court battle over the issue.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 263, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 869 Ways and Means on H.B. No. 354

The purpose of this bill is to increase the salaries of the justices and judges and the administrative director and deputy director of the state court system. The bill also provides that (1) any district court judge appointed temporarily to serve as a circuit court judge shall receive a per diem compensation based on the monthly rate of compensation of a circuit court judge; (2) any supreme court justice, intermediate appellate court judge, or circuit court judge who is confirmed by the senate for another term of office shall be compensated at a higher rate than other justices and judges; and (3) the Act shall take effect only if S.B. No. 498, which provides for senate confirmation for justices and judges to remain in office after the first term and the elevation of such confirmed judges to senior status with higher salaries, is ratified by the voters.

In July, 1984, the commission on judicial salaries was established jointly by the governor, chief justice of the supreme court, president of the senate, and the speaker of the house of representatives for the purpose of reviewing and recommending adjustments to the salary schedules for justices and judges. In November, 1984, the commission issued its findings and recommendations in a report entitled, "Report of the Commission on Judicial Salaries". The commission concluded that the present salary structure for the justices and judges is "woefully inadequate" and is neither "fair" nor "just" or "reasonably calculated to achieve the goals of judicial compensation". The commission established that compensation should: (1) be commensurate with judicial responsibilities; (2) provide security for the judge and the judge's family; and (3) attract and retain successful and experienced practitioners to the bench.

Your Committee has amended the bill by replacing all the dollar amounts for salaries to be effective July 1, 1987, with the figure of \$25. Since the salaries in this bill will be tied to salary increases for governmental officials currently being considered in other bills before the legislature, your Committee used the hypothetical figure of \$25 with the understanding that more realistic figures will be provided at a later date. Your Committee has also made technical, nonsubstantive amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 354, 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. 354, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 870            Ways and Means on H.B. No. 208

The purpose of this bill is to authorize the Hawaii community development authority (HCDA) to issue \$15 million of revenue bonds to finance the development of public facilities to assist in the redevelopment of community development districts.

Under the provisions of chapter 206E, Hawaii Revised Statutes, HCDA is required to plan, locate, and develop public facilities to support the development of the Kaka'ako community development district. Of immediate concern to the authority is the development of public parking garages. Your Committee finds that HCDA lacks sufficient economic resources to provide public parking structures and other necessary facilities. By authorizing the use of revenue bonds for public facilities in general rather than specifying a particular facility, such as parking structures, HCDA is given the flexibility needed to structure revenue bond financing.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 208, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 871            Ways and Means on H.B. No. 209

The purpose of this bill is to enable the county governments in Hawaii to undertake a tax increment financing program wherein a county may establish tax increment districts, commit certain real property taxes, and issue tax increment bonds for the financing of public improvement in redevelopment districts.

Your Committee finds that the State of Hawaii may benefit significantly from tax increment financing as a supplement to the traditional method of general obligation bonds for raising funds for capital improvement projects. However, tax increment financing must not result in adverse financial impact on any county and its redevelopment agency to repay bonds. Normal inflationary increases in property taxes and costs of providing additional county services for new projects developed within a designated redevelopment district should be considered as recompense to the county government. This bill provides for such compensation by authorizing the county director of finance to establish an adjustment rate, or rates, that will allocate the tax increment amounts so that the county may be compensated not only for the base amount but also for inflationary increases and projected cost increases for servicing new developments

in the tax increment district.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 209, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 872            Ways and Means on H.B. No. 997

The purpose of this bill is to make a \$2 million appropriation for the State's rental assistance program.

Your Committee finds that, with key federal subsidy programs no longer being funded for new construction, the State should help subsidize the development of affordable rental units.

The rental assistance program, created under part III of chapter 356, Hawaii Revised Statutes, provides subsidies to qualified owners of rental projects in order that rents on all or a portion of the units in an eligible rental project can be maintained at affordable levels.

Your Committee believes the \$2 million appropriation will assist the development of new units, which then could be made available at rents affordable to those of low and moderate incomes. The principal is to be used to subsidize the rents.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 997, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 873            Ways and Means on H.B. No. 49

The purposes of this bill are to (1) continue the cost-effective, long-term, essential home care services to Medicaid-eligible patients, through the nursing home without walls program and (2) expand such services to the neighbor islands.

Your Committee agrees that this innovative program which provides personal care services, home health aide services, homemaker and chore services to ill or disabled persons who are eligible under the medical assistance program, and who would otherwise require placement in a hospital or residential care facility for an extended period of time is in the public interest. During its first two years, the nursing home without walls program clearly demonstrated its cost-effectiveness and ability to maintain the independence of the elderly and severely disabled.

Your Committee also agrees that while a major goal of the project has been demonstrated there are still some pending issues necessitating a continuation of the program for another two years.

Your Committee has reduced the ceiling of the average statewide cost of institutional care for the counties of Hawaii, Kauai, and Maui from 100 per cent to 90 per cent of Medicaid. Your Committee has amended the bill by making a technical, nonsubstantive amendment.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 49, 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. 49, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 874            Ways and Means on H.B. No. 101

The purpose of this bill is to establish a new office, the Office of Community Services (OCS), within the Department of Labor and Industrial Relations for administrative purposes and to merge within it the Office of Progressive Neighborhoods Program (PNP), the Hawaii Office of Economic Opportunity (HOEO), the Refugee Assistance Office (RAO), and the State Immigrant Services Center (SISC).

Your Committee finds that the primary purposes of this bill are to facilitate and enhance the development, delivery, and coordination of effective programs for those in need through research-oriented activities and to provide assistance to governmental and private agencies in the human services field. In addition, the merging of the various agencies would integrate related human service programs presently in the Office of the Governor and assign them to a single department whose purposes and functions are compatible.

Your Committee has amended the bill by providing that the salary of the executive director

is to be \$46,800 a year and making technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 101, 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. 101, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 875            Ways and Means on H.B. No. 436

The purpose of this bill is to amend chapter 346, Hawaii Revised Statutes, by: (1) providing personal care services to medical assistance recipients whose physical disabilities are of a degree that would require placement in an intermediate care facility if the personal care services were not provided; (2) expanding the definition of "personal care services" to include assistance with medication which is ordinarily self-administered as well as assistance with mobility and transfer activities; and (3) providing that the ceiling for payment for personal services be one hundred per cent of the average monthly medical assistance payment for a recipient in an intermediate care facility.

The availability of personal care services which encompass "hands-on" assistance with daily living activities such as grooming, bathing, and feeding has proven to be a major factor which allows disabled and elderly persons to live more independently in the community, thereby avoiding unnecessary hospitalization. In addition, it is anticipated that, in the long run, the provision of personal care services will save the State a considerable amount of funds which may be utilized to meet other needs of the elderly and disabled.

Your Committee has amended the bill by changing the ceiling for personal care services from one hundred per cent to ninety per cent of the average monthly medical assistance payment for a recipient in an intermediate care facility.

Your Committee has further amended the bill by making a technical, nonsubstantive change for the purpose of clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 436, 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. 436, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 876            Ways and Means on H.B. No. 134

The purpose of this bill is to provide fund authorizations and appropriations for collective bargaining cost items, including the cost of salary adjustments negotiated between the State and bargaining unit representatives for the fiscal biennium 1985-1987.

Fund authorizations and appropriations by the legislature are necessary, in accordance with section 89-10(b), Hawaii Revised Statutes, to cover the expected cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1985.

Since an agreement for the bargaining units is not expected to be reached in time to include the cost items in the 1985-1987 biennium budget, this measure is necessary.

Your Committee has amended this bill by increasing the appropriation amounts from \$1 to \$2.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 134, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 134, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 877            Ways and Means on H.B. No. 144

The purpose of this bill is to provide fund authorizations and appropriations in the amount of \$1 for Unit 11 collective bargaining cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1985-1987.

Fund authorizations and appropriations by the legislature are necessary, in accordance with section 89-10(b), Hawaii Revised Statutes, to cover the expected cost of implementing the

collective bargaining agreement negotiated between the State and the bargaining unit representative for the fiscal biennium commencing July 1, 1985.

Your Committee has amended this bill by appropriating the necessary amount of special funds to pay for the costs of the contract settlement between the State and Unit 11.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 144, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 144, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 878            Ways and Means on H.B. No. 146

The purpose of this bill is to provide fund authorizations and appropriations for wage and other adjustments in fiscal biennium 1985-1987 for executive, judiciary, and legislative officers and employees excluded from collective bargaining.

Section 89C-2, Hawaii Revised Statutes, provides that the compensation, hours, terms and conditions of employment, and other benefits for public officers and employees who are excluded from collective bargaining shall be adjusted by the chief executives of the State or counties, the board of education, the board of regents of the University of Hawaii, the legislative auditor, the director of the legislative reference bureau, the ombudsman, or the chief justice of the Hawaii supreme court, as applicable. Further, section 89C-5, Hawaii Revised Statutes, provides that any such adjustments which constitute cost items shall be subject to appropriation by the legislature.

Your Committee is in agreement that adjustments will be necessary for employees excluded from collective bargaining.

Your Committee has amended this bill by increasing the appropriation amounts from \$1 to \$2, by making technical, nonsubstantive amendments, and by adding the Ethics Commission to the enumeration of legislative agencies.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 146, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 146, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 879            Ways and Means on H.B. No. 147

The purposes of this bill are to establish the amounts of the state and county contributions to the health fund for officers and employees not covered by collective bargaining, as provided by chapter 89C, Hawaii Revised Statutes, and to provide appropriations to fund the State's contribution for fiscal biennium 1985-1987.

Act 254, Session Laws of Hawaii 1984, authorized collective bargaining negotiations to determine the amount of employer contributions to the health fund for employees covered by collective bargaining, the negotiated amounts becoming effective July 1, 1985. The Act also authorized the chief executives of the State and counties, the board of education, the board of regents of the University of Hawaii, the legislative auditor, the director of the legislative reference bureau, the ombudsman, and the chief justice of the Hawaii supreme court to establish the amount of employer contributions to the health fund for officers and employees excluded from collective bargaining in accordance with processes outlined in chapter 89C, Hawaii Revised Statutes. For officers and employees not covered by either of the foregoing provisions, the Act provides that adjustments to the amounts of employer contributions to the health fund shall be made by legislative enactment.

This bill will permit timely adjustments to the amount of employer contributions to the health fund for officers and employees not covered by collective bargaining or the provisions of chapter 89C, Hawaii Revised Statutes, and provide appropriations for that purpose.

Your Committee has amended this bill by increasing the monthly contribution and appropriation amounts from \$1 to \$2. Technical, nonsubstantive changes were also made.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 147, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 147, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 880            Ways and Means on H.B. No. 174

The purpose of this bill is to abolish the Hawaii employment relations board and transfer its functions to the Hawaii public employment relations board effective January 1, 1986. The latter would be renamed the Hawaii labor relations board.

Your Committee heard testimony on S.B. No. 77, the companion bill to this measure and agrees that abolishing the Hawaii employment relations board and merging its functions into the Hawaii public employment relations board is a logical progression that will provide effective services to those in private employment at less cost to government.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 174, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 881            Ways and Means on H.B. No. 89

The purposes of this bill are: (1) to require operators of motor vehicles to be restrained by a seat belt assembly and to ensure that their passengers in the front seat are so restrained or are restrained by a child passenger restraint if under the age of four; (2) to provide exemptions from these requirements; (3) to provide that these requirements do not change existing laws, rules, or procedures concerning civil actions for damages for personal injury or death resulting from a motor vehicle accident; (4) to penalize each violation of these requirements by a fine of \$24; (4) to require the insurance commissioner to enforce a mandatory reduction of at least ten per cent on any liability insurance for motor vehicles equipped with seat belt assemblies; (5) to authorize law enforcement officials to issue verbal warnings to persons who would be in violation of this mandatory seat belt law for one month preceding the effective date of this Act; (6) to require the state Department of Transportation and the county police departments to conduct a program of public education to encourage use of seat belts; (7) to require the Department of Transportation and the Insurance Commissioner to report to the legislature twenty days before the 1990 legislative session on the effectiveness of this Act; and (8) to state the legislature's position that this Act should not be interpreted in any way to counteract or to rescind federal requirements for automatic crash protection systems in new motor vehicles. The provisions of this bill requiring public education programs and allowing warnings to be issued to motorists are effective upon approval. The requirements for mandatory seat belt usage and insurance reductions are to take effect on July 1, 1986. This Act is to be repealed as of June 30, 1991.

Your Committee finds that seat belts are a cost-effective and efficient way to reduce the number and severity of injuries and the fatalities resulting from motor vehicle accidents. Your Committee believes that a law requiring seat belt usage by front seat passengers will increase the number of people who wear seat belts and thus will promote the safety and welfare of the entire State.

Your Committee concurs that the savings realized by insurance companies as a result of this bill should be shared with consumers through the mandatory reduction in liability premiums. The provision requiring the Department of Transportation and the Insurance Commissioner to report to the 1990 legislative session will allow an assessment at that time of the efficacy of this bill, including its effect on public safety and insurance rates, thus affording the legislature the opportunity to make further adjustments as necessary.

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. 89, 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. 89, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 882            Ways and Means on H.B. No. 281

The purposes of this bill are to: (1) extend from June 30, 1987, to June 30, 1991, the transfer to the state highway fund of general excise tax revenues from the sale of liquid fuel; (2) increase the state vehicle registration fee from \$1 to \$10 annually; (3) increase and make more equitable the state vehicle weight tax; and (4) increase the state liquid fuel tax from 8-1/2 cents a gallon to 10-3/4 cents a gallon.

The state highway fund is the source of funding for the construction, repair, and maintenance

of state highways. The department of transportation indicates that current levels of revenues for the state highway fund are not sufficient to meet the highway needs of the State. Your Committee finds that the highway user taxes should be increased as proposed in this bill to maintain the financial viability of the state highway fund and is in agreement with the sentiments of the Committee on Transportation as expressed in Senate Standing Committee Report No. 773.

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. 281, 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. 281, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 883                      Ways and Means on H.B. No. 363

The purpose of this bill is to raise the drivers' education fund underwriters' fee from \$1.25 to \$2 per insured vehicle and to equally apportion the funds collected between the judiciary for its driver education program and the department of education that administers a driver education program for high school students. Currently, the department of education receives sixty per cent of the funds and the judiciary is allotted forty per cent.

Your Committee finds that during the past five years, the judiciary's driver education program has expanded substantially as a result of an increase in the number of referrals from the courts. Further, the program has recently initiated an educational outreach into the schools and community to promote good driving habits and to inform the public of the dangers involved in drunk driving.

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. 363, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 363, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 884                      (Majority) Ways and Means on H.B. No. 1350

The purpose of this bill is to increase the renter tax credit for income tax purposes for persons with income not exceeding \$29,000 and allowing a deduction of six per cent of the rent paid for taxpayers with income greater than \$29,000 but not exceeding \$40,000 in computing taxable income; in the case of the general excise tax exempting prescription drugs, prosthetic devices, surgical and medical appliances, and food products for human consumption, exempting the goods sold for delivery or shipped outside the State, exempting manufacturers and producers from the one-half of one per cent tax, increasing the general excise tax to six per cent; repealing the use tax; and providing increased grants-in-aid to the counties in return for granting real property tax reductions.

Your Committee has reviewed this bill and finds it to be a radical revision of the tax policies and tax equities of this State. Your Committee sympathizes with the Committee on Finance in that the Legislature has waited three years for the Tax Review Commission to report in order to assist the Legislature in making the necessary decisions regarding tax policy and equities in the State of Hawaii. Like the Committee on Finance, upon reading the submission of the Commission, your Committee found it to fall far short of being acceptable. As House Bill No. 1350 is such a major piece of legislation in a session which may result in tax revisions being enacted, your Committee feels compelled to discuss the concepts contained in the bill at length, before discussing the amendments being made to the bill.

#### Income Tax Amendments

This bill provides a totally new deduction for renters with adjusted gross income greater than \$29,000 but not exceeding \$40,000 who pay more than \$1,000 in rent. The deduction is equal to six per cent of the rent paid. In addition, the present renter tax credit is amended to increase the adjusted gross income ceiling to \$29,000 and by tripling the credit to \$150 per qualified exemption. The combination of credits and deductions is intended to offset the increase of the general excise tax from four to six per cent. This renter tax relief is parallel to the increase in real property tax exemption the counties are to give in return for increased grants-in-aid.

The rent deduction given appears to be generous—six per cent of rent paid during the taxable year. If one performs simple analysis, however, it is not generous but inadequate. If a person



earning \$30,000 a year pays rent of \$6,000, the person obtains a rent deduction of \$360. If the person is single and has no other deductions, the person pays taxes at a ten per cent rate. This translates the deduction into a \$36 reduction in taxes. To make matters worse, the lessor will pay two per cent more in general excise taxes—\$120—which will be passed on to the lessee. The lessee then is \$84 in the hole overall. Many of our young people are not assisted by such a deduction at all. Many of them are married, both working, and not unexpectedly earning more than the deduction income limit of \$40,000. These people are even harder hit by the bill as there is no real property tax subsidy for their properties and the rent collected by their lessors is subject to a six per cent tax which will surely be passed on.

#### General Excise Tax Amendments

1. The bill exempts the sale of prescription drugs, prosthetic devices, surgical and medical appliances, and food products for human consumption from the general excise tax. It appears that the intent of this proposal is to reduce the cost of the exempted items to the final consumer. A review of this bill in its entirety leads your Committee to believe that such a reduction is unlikely to occur. For example, in the case of the sale of food by supermarkets, the probable result is no decrease and a possible increase. Many of our supermarkets pay lease rent, either for the building or the land. Under this bill the general excise tax on leases increases from four to six per cent. This extra two per cent tax on the lease will be passed on to the renting supermarket increasing the cost of doing business by that two per cent.

Furthermore, in other states which exempt food from their sales tax the tax is imposed at the point of purchase and easily kept track of. The general excise tax, however, is imposed on gross proceeds. Any exemption from the general excise tax, particularly in a store such as a supermarket selling many items other than the exempted item, requires substantial additional bookkeeping on the part of the seller. This is even more true of the small stores. The cost of such bookkeeping may be more than the tax exemption is worth to the consumer for the consumer will pay for such bookkeeping. If this is the result, consumers may pay more and not less for their food under this bill. Finally, it will cost the department of taxation more to audit businesses selling food and other products in order to determine that they are paying the proper amount of general excise tax on nonfood products.

2. The bill exempts the sales of goods sold for delivery or shipped outside the State. This exemption is similar to the Senate position taken in Senate Bill No. 697.

3. The bill exempts both manufacturers and producers from the one-half of one per cent general excise tax imposed on such activities.

4. The bill increases the general excise tax from four to six per cent. As presently drafted, the bill has a highly regressive tax impact. The sale of fast foods, such as hamburgers, ice cream cones, and shave ice as well as the low, middle, and high class restaurants, will have the six per cent tax imposed on them. In addition, such basics as clothing, medical services furnished by hospitals and the medical and dental professions, and the like will be taxed at the increased six per cent rate.

Finally, although one cannot determine with precision the exact extent of pyramiding, it is clear that the general excise tax pyramids. The elimination of the tax on manufacturers and producers will only modestly alleviate one of the aspects of pyramiding. The more onerous aspect of pyramiding, that of the taxation of transactions between general excise licensees at the four per cent level is not addressed. Each time a licensee purchases a product or service the tax is imposed at four per cent or six per cent under the bill. Each licensee, who sells at retail, passes this tax on to the purchaser who pays the passed on tax as well as the tax imposed on the licensee's gross income which is also passed on to the purchaser. The result to the final purchaser is clearly more than six per cent under the increased tax. This two per cent increase is illusory, due to pyramiding; the increase may be three or four per cent or more depending on the particular chain of transactions. As the counties also pay the general excise tax on goods and services they purchase from the private sector, the real property tax subsidy provided by this bill will be reduced to some extent by the increase in general excise taxes.

5. The bill repeals the exemption of pulp and paper from the general excise tax. This is the same as the Senate position in Senate Bill No. 241.

#### Repeal of the Use Tax

The bill repeals the use tax. The use tax is imposed as an offsetting tax on goods imported into the State. As such, it equalizes businesses doing business in the State and businesses shipping goods into the State. Under the present law, goods, no matter whether sold in the State or brought into the State, will have imposed on them a four per cent tax. In this manner businesses and individuals are not encouraged to purchase items obtainable in the State outside the State. The repeal of the use tax and the concomitant increase of the general excise tax to

six per cent erases this equalization and as a result encourages both businesses and individuals to purchase from out-of-state sources. For example, some persons purchase cars in other states in the hope that they can reduce the price of the car by escaping the general excise tax. If these persons ship the car directly into the State upon purchase, however, they pay the offsetting use tax and thus obtain no saving. Under this bill many more persons will purchase their cars outside the State in order to avoid the six per cent general excise tax they would pay if they purchased the car in State. This is but one example of the result of eliminating the use tax.

#### Amendments Concerning the Real Property Tax

The bill proposes to pay the counties grants-in-aid in a revenue sharing plan approved by the legislature if the counties exempt from real property taxes all real property in the county owned and occupied by individuals as their principal homes in an amount equal to \$175,000. It is not clear whether this amount is to be in addition to the present home exemption of \$20,000, or whether the home exemption is to be increased to \$175,000, or even if it is a home exemption. Also unclear, if this is an increased home exemption, is how the county is to treat those persons with multiple exemptions for age. For example, persons age sixty to seventy have a double home exemption of \$40,000. Are these persons to receive an exemption of \$350,000 under the bill?

Of even greater importance, however, is the use of state moneys to grant tax relief to a certain class of real property owners. The Tax Review Commission found the real property tax to be underutilized by the counties. Whether or not we agree with the Commission, it is clear from Commission figures that the real property tax burden has not risen appreciably on owner occupants during the last ten years since real property tax rates have decreased over the ten-year period. (Your Committee is aware that assessments have risen to maintain county revenues during this same period.) In addition, figures for 1983 issued by the United States Department of Commerce place Hawaii as thirty-fifth in terms of real property tax burden among the states. In 1974, Hawaii was thirty-sixth in real property tax burden. Additionally, to deal with real property taxes in the manner proposed by this bill is to relieve the counties of a responsibility they requested from the 1978 Constitutional Convention and will make the counties even more dependent on the State instead of independent. It might even be said that this proposal is anti-home rule. This proposal also ignores a basic tenet of tax policy that an accountability relationship should exist between those policymakers who raise the moneys and those who spend the moneys. If the State furnishes the moneys and the counties spend it, where then is the accountability? When the State assessed properties and the counties set the tax rate before the counties took over control of the real property tax, the State was constantly blamed for the real property tax burden by real property owners. If the State becomes involved with the real property tax again, the counties will take the credit for low taxes and the State will take the blame for failing to continue to provide this subsidy at the same level as the real property assessments continue to rise and the amount of taxes real property owners must pay again begins to climb.

Another result this bill fails to consider is that the reduction in real property taxes paid also results in increased federal and state income taxes paid by those who deduct their real property taxes when they itemize their deductions for income tax purposes. Almost all of us who own real property itemize and reduce our income taxes. Whether this reduction in deductions for income tax, particularly the federal income tax, offsets the reduction in real property taxes is questionable.

#### Overview

Overall this bill as received by your Committee results in a very large revenue increase at a time during which the State has a large surplus. Your Committee finds it hard to justify such a tax increase at this time out of no real necessity.

In addition, such a tax increase will result in a large amount of revenues above the expenditure ceiling. The ceiling may be exceeded by a two-thirds vote of the legislature. As the Committee on Taxation and Finance of the 1978 Constitutional Convention stated in its committee report "[t]he two-thirds vote requirement and the public disclosure requirement were designed to provide safeguards against the legislature exceeding the spending limit without an extraordinary legislative consensus and public knowledge that a genuine need exists." In a revenue surplus situation, how can we justify such a need?

The fact that this bill as written is regressive and will further hurt our low- and middle-income people and those on fixed incomes is another consideration. Finally, the United States Department of Commerce which ranked Hawaii thirty-fifth in real property tax burden ranked Hawaii sixth in total tax burden in 1983 and fourth in 1974. Your Committee finds that it is the total tax burden of our citizens with which must be dealt. The creation of a more regressive system which will not reduce the total tax burden for our people nor change taxes

around with no resultant decrease in the total tax burden is not the answer. To this end, your Committee is amending this bill to provide new revenues, while at the same time providing some tax relief to our citizens and reducing the total tax burden for individuals, creating more equity in the system, and encouraging businesses to do business in Hawaii which will result in more revenues to the State.

As amended this bill will provide the following:

#### Income Tax Amendments

The income tax amendments proposed by your Committee are those proposed in Senate Bill No. 237 and will reduce the income tax burden on individuals, add equity to and expand the present system of excise tax credits, and modernize and make more equitable the corporate income tax.

Personal exemptions are increased from \$1,000 to \$1,040 which will reduce the income taxes imposed on our taxpayers and increase their present income as received in their paycheck. This increase is also the same as that provided by the federal government for 1985 in Internal Revenue Code through indexing.

The income brackets and credits allowed under the excise tax credit are also adjusted. The new brackets and credits address the effect of inflation and increase the number of people who are eligible to claim the credit by extending the brackets to those between \$20,000 and \$29,000. At the same time the use of modified adjusted gross income is being adopted to determine eligibility. Modified adjusted gross income was used in the income tax law for the predecessor of the excise tax credit. With the increase in credits, it is only proper that modified adjusted gross income be used to determine eligibility so that only the deserving may claim these credits based on disposable income and not on taxable income. By adding to adjusted gross income nonreported but disposable income such as pension and exempt interest income and deductions from gross income such as individual retirement account deductions, only those actually in need of these credits due to actual low income will be allowed to claim them.

The income brackets and tax rates for corporations suggested by the Tax Review Commission are being adopted. The present corporate rates have been in effect since 1965 and the \$25,000 cut off for small corporations has been in effect since 1958. The time for adjustment is long overdue. Although at the highest income level for corporations—\$100,000 and over—there is a slight income tax increase of .565 per cent, income tax deductions created since 1965 and other amendments provided by this bill more than offset this slight tax increase.

The credit allowed for the sale of dangerous items is being repealed. The credit for dangerous drugs apparently has never been claimed since its enactment in 1970 and should be repealed.

#### General Excise and Use Tax Amendments

The general excise tax amendments proposed by your Committee will act as a breath of fresh air to business and industry in Hawaii by creating exemptions to encourage the expansion of business, by exempting certain transactions and purchases, and by allowing methods of doing business in an efficient manner without a tax on the results of such methods. These amendments will result in increased revenues to the State through business activity and in a lowering of the pyramiding tendencies of the general excise tax, thereby reducing costs to the final purchaser. The counties will also gain from the amendments contained in this bill and as a result may be able to provide real property tax relief. Finally, new revenues will be provided by a tax on transient accommodations. These revenues will be used to assist the tourist industry by increasing state spending for that industry. This increased state spending coupled with other amendments in this bill will more than offset any repercussions from the increased tax.

The effective dates for all general excise tax amendments, except for the exemption of prescription drugs after June 30, 1985, have been made January 1, 1986 upon the recommendation of the Department of Taxation. This will allow the Department sufficient time to change its forms and to educate the affected taxpayers.

Taxation of Transient Accommodations These provisions are contained in Senate Bill No. 1190. This bill provides for a tax on the furnishing of transient accommodations starting at six per cent and going to eight per cent. For many years, representatives of the tourist industry have requested the Legislature to provide the necessary funds to adequately support advertising and promotion of Hawaii as a visitor destination. The Legislature has had to balance these requests with the desire to provide human services so necessary to the people of Hawaii. As human services are vital, they have taken a large portion of the state revenues. The

Legislature foresees that these human services requirements are not going to cease and it appears that they will require even more funds in the future. The Legislature also realizes that in order to be competitive in the tourist market the expenditures to maintain and increase that market must be increased. In order to furnish moneys for such expenditures it is only proper that the industry furnish these moneys which will be returned to it through increased advertising and tourist destination support. The result is a tax on the furnishing of transient accommodations which has been debated in Hawaii for the past fifteen years.

Studies indicate that a hotel room tax is commonly imposed by many mainland cities and foreign tourist destinations. Proponents of the room tax argue that on the mainland, hotel tax rates range from one to fifteen per cent, generally with little or no adverse effect on the visitor industry. In the past with adequate revenues, the Legislature recognizing that Hawaii's economy is highly dependent on tourism, has been wary of imposing a room tax that could place our visitor industry at a competitive disadvantage.

Your Committee feels that the increased support to the industry generated by the tax will far outweigh the possible slight loss of competitive advantage. The Tax Review Commission found, based on consultant studies on the subject, that an additional one per cent tax on the gross receipts of hotel and condominium rentals will decrease the total visitors by .35 per cent (15,750 visitors, assuming 4.5 million total visitors per year). Visitor arrivals are forecast to grow over the next few years. Coupled with the moneys provided by this tax for media expenditures and other tourism support, it does not appear that the industry will be significantly affected, in fact it will expand. Furthermore, there is a need to generate revenues to support the industry on projects such as:

1. Tourism advertising and promotion.
2. Acquisition of land for state parks and recreation areas and the maintenance thereof.
3. Upgrading and maintaining infrastructure in visitor destination areas.
4. Establishing and operating a world class convention facility.

Such projects, if adequately funded, could ensure the long-term stability of the tourist industry and ultimately the vitality of Hawaii's economy.

The input of the industry on the expenditures for such projects is provided through the creation of a Hawaii tourist board composed of industry members. The board is required to make recommendations regarding the expenditure of revenues from this tax which accumulate in the general fund.

The infusion of money to the industry coupled with the other amendments in this bill assisting all businesses in the State will far outweigh the tax being imposed.

Exemption of Capital Goods. These provisions are contained in Senate Bill No. 701. The imposition of the general excise tax on the sales of capital goods adds to the cost of doing business in this State and in turn adds to the cost of consumer and other products. The same may be said for the imposition of the use tax on the importation of such capital goods into the State. Both of these taxes, imposed largely at the four per cent rate, make it just that much harder to start a business in Hawaii and to continue such a business. This reduction and exemption is necessary to stimulate business in Hawaii. Although tax revenues will be reduced by adopting this bill, the economic activity generated by the exemption will provide additional income and payroll taxes and increased general excise taxes from the increased sales of goods due to lower prices.

In order to reduce the revenue impact of this exemption it is being phased in over a three-year period by reducing the general excise tax and use tax by one per cent a year.

Exemption of Exports. These provisions of House Bill No. 1350 are being retained and they are also found in Senate Bill No. 697. When goods are sold by a retailer for delivery outside the State there is no tax since the seller is placing it into interstate commerce. On the other hand, if the retailer conveys the goods to an out-of-state buyer who takes delivery in the State, the retailer will pay the four per cent general excise tax even though the buyer will be immediately transporting the goods out-of-state. Another inconsistency occurs with respect to the export of manufactured goods. Section 237-13(1) and (2), Hawaii Revised Statutes, provides that the 0.5 per cent tax is imposed on the goods (whether sold or not) prior to entry into interstate or foreign commerce. As a result, all goods sold by the manufacturers and producers have a tax of 0.5 per cent imposed on such sales while retail goods shipped out-of-state are totally exempt.

This exemption corrects these inconsistencies by exempting all tangible personal property exported out of the State, regardless of the condition that the property is in, and whether or not

the property is sold before or after it enters interstate or foreign commerce.

This exemption will have a small impact on state tax revenues if it is accepted that an increase in the volume of exported goods will represent an inflow of new economic wealth, i.e., money coming into the State to pay for new goods sold. The new economic wealth will mean an increase in revenues to the State via payroll and property taxes that are included in the cost of tangible personal property exported.

This exemption will allow Hawaii to be more price competitive in the world market. This is particularly true of property which is taxed in Hawaii and then taxed again in another state when sold at retail. Since in most instances the cost of goods sold reflects all prior costs and taxes, goods sold in another state from Hawaii will cost more than goods produced in that state assuming both types of goods have equal costs of manufacture, other than the general excise tax.

Such increased costs are highlighted in the case of customized computer software specifically exempted by this amendment. Since such software represent services according to the department of taxation, the tax on such software in Hawaii is at the four per cent rate. When such software is sold, for example, in California the price of such software includes the four per cent tax and incurs a six per cent sales tax in California. The accumulation of taxes makes it most difficult for Hawaii software to compete in the California market.

Exemption of Sales to the Federal Government. These provisions are contained in Senate Bill No. 1210. The exclusion from the general excise tax provided for federal cost-plus contractors is repealed and instead the amounts received by contractors with respect to sales to the federal government are exempted from the general excise tax.

This amendment will permit the local contractor who bids on federal government contracts to be more competitive with out-of-state contractors. Currently, local contractors are at a disadvantage in bidding for federal work because mainland contractors do not include the general excise tax in their bids, nor pay this tax to the state tax office. Because the local contractor must include the general excise tax in the contractor's bid, the local contractor in most cases is not able to receive federal work. In 1983, the federal government offered \$171,469,000 in work and local contractors received \$68,587,000 of that amount.

Exemption of Prescription Drugs. These provisions of House Bill No. 1350 are being retained and they are also found in Senate Bill No. 1185. The retail sale of prescription drugs is exempted from the general excise tax if they are prescribed by a practitioner licensed by law to administer the drug and if they are dispensed by a licensed pharmacist. This exemption will assist our lower income and elderly populations which must purchase prescription drugs. It will be of particular assistance to those who are chronically ill and will alleviate the high cost of living in Hawaii. Unlike food and other consumer goods, prescription drugs are a controlled substance, and the necessary paper work is already in existence to allow for easy auditing.

Reduction of General Excise Tax on Care Homes. These provisions are contained in Senate Bill No. 656. The general excise tax on care homes and adult family boarding homes is being reduced from four per cent to one-half of one per cent of the gross income from such activities. In many instances the monthly payments to care homes and adult boarding homes, which care for the elderly, developmentally disabled, and handicapped are inadequate considering that out of such payments, the care home operators are expected to provide food, living accommodations, laundry, recreation, transportation, and twenty-four-hour care and supervision to their residents. Many of these homes have entered into purchase of service agreements with the State to provide these services. A reduction in the tax will reduce the amount of state funds provided and even more important will reduce the cost of obtaining these necessary services to our elderly population and their children who must provide for their parents.

Efforts to Assist the Counties. These provisions are found in Senate Bill No. 246. Realizing that the counties do not wish to raise the politically sensitive real property rates to properly utilize the tax and not willing to increase revenue sharing until such increases occur, this bill tries to assist the cash flow of the counties in another manner. The sales of goods and services to the counties are exempted from the general excise tax. This tax exemption will assist the cash flow of the counties by reducing the amounts paid for the general excise taxes.

The second exemption is provided to certain government service companies. The main beneficiary of this exemption will be the MTL corporation which operates the bus system for the city and county of Honolulu. Presently, the Department of Taxation considers amounts reimbursed (the county subsidy) to MTL by the city and county for actual expenditures associated with the operation of the bus system as gross income to the corporation and taxable under the general excise tax. In addition thereto, revenues from the fare box are also taxable under the general excise tax. The taxation of both these amounts increase the total cost of

operating MTL. The taxation of both reimbursements and fare box revenues increase the total cost of the bus system.

Your Committee finds that by exempting the county and the MTL corporation from the payment of general excise taxes the counties will obtain fiscal relief which can be passed on to real property owners in the form of reduced real property taxes.

Easing the Taxation of Businesses The following amendments are being made to ease the burden of doing business in Hawaii. They will result in little if any revenue loss that will be more than made up from increased business activity.

1. Affiliated and Controlled Groups of Corporations. These provisions are found in Senate Bill No. 239. The exemption of transactions between affiliated and controlled groups of corporations from the general excise is provided to remove an inequitable situation created between the income tax law and the general excise tax law. These groups of corporations are closely related to each other and in some instances not truly independent. For example, in the case of an affiliated group of corporations there is a parent and a subsidiary corporation where the subsidiary must be owned eighty per cent by the parent. The controlled group of corporations are similarly interdependent. Under the state and federal income tax laws, transactions between such corporations are not taxed and in the case of an affiliated group of corporations they are allowed to file a consolidated tax return. This is not the situation under the general excise tax law. As a result, corporations in Hawaii are not able to use a beneficial method of operating due to the general excise tax law without incurring unnecessary tax consequences. This inequity creates an artificial barrier to doing business in Hawaii and should be eliminated.

2. Common Paymasters. These provisions are found in Senate Bill No. 239. The exemption granted common paymasters is also to eliminate an artificial barrier to doing business in Hawaii. In a common paymaster situation, a group of corporations may share employees among themselves and choose one of the member corporations to pay the employees as the most efficient method of doing business. The other corporations reimburse the paying member corporation for their share of the salaries, social security, and other payments made regarding such common employees. Similarly, in the case of a related group of corporations, one corporation may have a very efficient payroll system and be chosen to perform payroll functions for all members of the group, for which it is reimbursed. The state and federal income tax law do not tax such reimbursements, but the general excise tax law does tax such reimbursements. This is an inequitable situation and should be eliminated in order to allow business to do business more freely and effectively in Hawaii.

3. Gross Up. These provisions are found in Senate Bill No. 239. A clarification of the departmental principle of "gross up" is required due to the artificiality of the principle. This principle is used by the department to provide that if a company uses an outside third party, whether or not there is an apparent agency relationship, to sell the company's services, any commissions the department attributes to the third party will be added to the gross proceeds of the company using such third party, even though the company never receives the money. Such additions to gross proceeds are subject to general excise taxation. For example, if a tour company offers a tour at \$20 and advertises such fact and an independent person sells a ticket on that tour for \$15, the department attributes the difference between \$20 and \$15 as commissions paid to the independent person and includes the \$5 difference in the gross proceeds of the tour company. The department applies the concept even though the company never sees the extra \$5 and may have no control over the price at which a person sells the ticket. This principle is inequitable and carries a broader implication for businesses which use the discount and independent agent concepts. This is particularly true in Hawaii where many of the hotels and other tourist activities package their services with discounts.

4. Tax on Sublessors. These provisions are found in Senate Bill No. 241. The general excise tax on sublessors is reduced to one-half of one per cent, except for the final sublessor who pays the four per cent rate. This reduction will result in an overall reduction in the cost of doing business and will result in lower prices charged to the consumer in many cases. When there is a series of leases, presently each lessor pays four per cent. In a series of three leases, the tax passed on to the final lessee may be twelve per cent or more due to the pyramiding of taxes. This pyramiding has an onerous effect on all businesses in Hawaii, and the time is long overdue to address this problem by reducing the tax on intermediate lessors. This reduction is phased in over a three-year period.

5. Scientific Contracts. These provisions are found in Senate Bill No. 241. The present exemption for scientific contracts is expanded to all such contracts in the State and the definition of scientific facilities is reordered and updated to reflect present day activity. This expansion and updating will encourage research activities in this State and result in more clean industry developing in Hawaii.

6. Shipbuilding and Ship Repair. These provisions are found in Senate Bill No. 241. The exemption for shipbuilding and ship repair is expanded to all surface vessels operated for commercial purposes out of any harbor in this State. This expansion will encourage the present industry to expand and will allow it to compete with such areas as California which does not have a tax on this service similar to Hawaii. With its unique position in the middle of the Pacific, Hawaii should be able to attract many of the fishing vessels operating in this area. Extending this exemption will also assist Hawaii's ailing fishing industry by reducing repair costs to that industry.

7. Manufacturer of Pulp and Paper. The exemption for the manufacturer of pulp and paper is repealed as obsolete. This repeal is contained in House Bill No. 1350 as received and in Senate Bill No. 241.

8. Merchants Associations. These provisions are found in Senate Bill No. 1152. An earlier position of the Department of Taxation is restored by this exemption. The exemption exempts from taxation the advertising media, promotional, and advertising costs for such associations. In 1968, the Department of Taxation advised the Ala Moana Center Association that dues contributed for these costs were considered by the department as reimbursements and not subject to the general excise tax. In 1979, the Department of Taxation issued Tax Information Release 67-79 superseding this opinion and made such dues contributions taxable. This decision was based on a misreading of In Re Aloha Motors, Inc., 56 Hawaii 321 (1975).

Your Committee does not agree with the department that this situation is the same as that in the Aloha Motors case which involved only the manufacturer and Aloha Motors. In addition, in the Aloha Motors case, Aloha Motors itself obtained additional monetary consideration from the customer for the warranty work which was reimbursed by the manufacturer.

In the case of merchants' associations, three parties are involved. The individual members, the association acting as a conduit for the member's dues, and the third party advertiser who does the advertisements. The associations obtain no additional monetary consideration for placing the advertisements, it merely pays the money over to the person performing the advertisements.

In conclusion, your Committee finds that the revenue result of this bill will be a reduction of revenues equalling \$12.1 million, but if Senate Bill No. 495 which would implement a lottery is enacted the loss will be only \$2.1 million. Even though this bill results in a revenue loss, your Committee feels that because there is a state surplus once again for the tenth year in a row the reduction in revenues will not result in a reduction in state programs. In addition, your Committee feels that the people of this State are the ultimate beneficiaries since a reduction in taxes helps all of us. The enactment of this bill, however, over a period of time will not result in less revenues. Due to the economic enhancing measures included in this bill the revenues to the State will increase far above the revenues the State is able to project under the present tax system. Business will be able to expand and the growth rate of the tourist industry as a result of the moneys used to advertise and support tourist destination areas will increase. The final results of this bill are increased revenues to the State, less taxes paid by our people, and a better business climate.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1350, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1350, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.  
Senator Soares did not concur.

SCRep. 885                      Transportation on H.B. No. 490

The purpose of this bill is to provide the examiner of drivers with the discretionary authority to waive the actual demonstration of driving ability for any applicant for a Hawaii driver's license who is at least eighteen years of age and who possesses a valid driver's license issued to the applicant by any other state in the United States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, or a province of the Dominion of Canada.

Your Committee held hearings on S.B. No. 1365, the Senate companion to this measure.

Under present law, the examiner of drivers is required to conduct a road test for every applicant seeking to obtain a Hawaii driver's license whether or not the applicant is a licensed driver in another jurisdiction. Hawaii is currently one of only five states that requires out-of-state driver's license applicants to actually demonstrate driving ability prior to being issued a driver's license.

Your Committee finds that most out-of-state licensed applicants for a Hawaii's driver's license satisfactorily demonstrate their driving ability the first time they take the road test. Your Committee also finds that Hawaii is a party to the Driver's License Compact and therefore has the ability to obtain licensing information from the National Driver Register, providing the examiner of drivers with information on applicants whose driving histories indicate that they may pose a threat to the safety of Hawaii's driving public.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 490, 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. 886            Transportation on H.B. No. 720

The purpose of this bill is to amend Section 286-2, Hawaii Revised Statutes, relating to when a vehicle may be declared a total loss.

Your Committee found that an insurer may declare a vehicle to be a total loss if the cost of its repair exceeds its fair market value. Under current law, an individual may not make repairs to such a vehicle unless one of the following conditions holds:

- (1) The individual posts a \$25,000 bond and obtains a repair dealer's license; or
- (2) The vehicle's suspension system, engine, or transmission has sustained no material damage.

The bill amends the current law by allowing the second condition to extend to a vehicle whose frame or unitized structure has sustained no material damage.

Your Committee heard favorable testimony from the department of transportation and the Honolulu police department.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 720, 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. 887            Transportation on H.B. No. 838

The purpose of this bill is to add two sections relating to trailer registration to Chapter 286, Hawaii Revised Statutes, to: (1) provide for the issuance of certificates of registration for trailers; and (2) establish procedures for the transfer of such certificates of registration. In addition, the bill would allow the counties to impose a fee for the transfer of these certificates.

Your Committee heard favorable testimony from the department of finance, city and county of Honolulu, and from the Hawaii Transportation Association. The department testified that while current law provides for the registration of trailers, this law is inadequate because it does not give guidelines regarding trailer registration certificates. The department also noted that presently, fees are not imposed on transfers of trailer registration certificates, while fees are imposed on certificate transfers of other vehicles.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 838, 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. 888            Transportation on H.B. No. 284

The purpose of this bill is to repeal the law relating to the drawbridge across the second channel into Honolulu harbor.

Your Committee has held a hearing on S.B. No. 126, the Senate companion to this measure.

Your Committee finds that this bill is consistent with actions taken by the U.S. Coast Guard and the department of transportation. On June 29, 1983, the Commandant of the U.S. Coast Guard issued a permit to the department of transportation to (1) construct a two-lane fixed bridge across the Kalihi channel, and (2) to convert the existing John H. Slattey Bascule Bridge to a fixed bridge.



Effective December 2, 1983, the U.S. Coast Guard Regulation on the Bascule Bridge was revoked due to the conversion of the drawbridge to a fixed bridge. The Bascule Bridge has been transferred to the department of transportation's highways division from the harbors division. The proposed bridges are now part of FAP (Federal Aid Projects) Route 64 - Nimitz Highway to Sand Island Park.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 284, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 889                      Transportation on H.B. No. 519

The purposes of the bill are: (1) to increase the storage fees on unattended vehicles towed from private and public property from \$3.50 per 24-hour period to \$6.00; and (2) to include a provision in Section 290-11, Hawaii Revised Statutes, adding a mileage fee of \$2.50 per mile on tow over 5 miles.

Your Committee finds that current statutory provisions, enacted in 1982, were approved utilizing the airport parking fee per 24-hour period as a basis for increasing the storage fees from \$2.00 to \$3.50. Since that time, however, the airport has increased the charge to \$6.00.

Your Committee heard testimony from the Hawaii Automotive and Retail Gasoline Dealers' Association favoring an increase in storage charges. The \$6.00 maximum would be a more realistic reflection of the actual cost of storing a vehicle.

The Association has also testified that neighbor island towing companies are reluctant to service areas that are not within close proximity to their premises because they receive inadequate compensation for their services due to the low ceiling on allowable towing charges. The provision to add a mileage fee of \$2.50 per mile in tows over five miles would address the problem of the lack of available towing services in outlying areas.

Your Committee, however, believes that there should be a limit for mileage fees. Accordingly, the bill has been amended to limit such charges to \$25.00.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 519, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 519, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 890                      Human Services on H.B. No. 776

The purpose of this bill is to regulate child care facilities in order to protect children against inadequate or irresponsible care.

As received by your Committee, this bill provides for mandatory but simplified registration of providers caring for two to five children in their home; requires compliance with minimum fire, sanitation, health, supervision, and child protection requirements; establishes guidelines for visitation and inspection; provides for the adoption of rules for family child care homes and the development of standards to assure that applicants and employees be of good reputation and character; and authorizes the Department of Social Services and Housing to establish family child care systems and incentives for registration.

After carefully considering the facts at issue and the testimony, your Committee has decided to amend the bill by deleting the substance and inserting therefor the substance of S.B. No. 1361, S.D. 1, which defines a child care facility as a place where three or more children are cared for, regardless of whether a fee is charged for the service. Your Committee believes that all child care facilities should be licensed for the protection of our youngsters, but that safety and child development are not determined by the presence of a fee for services. Your Committee also believes that excessive regulation may inhibit otherwise qualified individuals from becoming child care providers. This bill clarifies the authority of the DSSH to regulate child care facilities without imposing overly stringent standards on providers.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 776, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 776, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano and Holt.

SCRep. 891                      Human Services on H.B. No. 434

The purpose of this bill is to specify that care homes and adult family boarding homes shall, for the purpose of regulation under county codes and ordinances, be considered a single family dwelling if living accommodations are provided for up to five persons, provided that not more than two of those five are incapable of self-preservation.

Your Committee finds that this bill will help to ensure adequate protection and safeguards for the life and safety of the residents being cared for in these domiciliary homes.

Your Committee has amended the bill by deleting the paragraph that allows the Department of Social Services and Housing and the Department of Health to adopt more stringent administrative rules for life safety than are provided in county fire codes.

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

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 434, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 434, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 892                      Human Services on H.B. No. 262

The purpose of this bill is to discontinue general assistance payments to children living in licensed foster family homes and child care institutions.

Testimony submitted by the Department of Social Services and Housing (DSSH) stated that financial assistance to children in foster homes or child care institutions is being provided by the DSSH through the Department's child welfare program. Part of the funding for the child welfare program is provided by the federal government under the foster care provisions of the Social Security Act.

Your Committee finds that this is a housekeeping bill to eliminate duplication by deleting the provision for general assistance payment for children living in licensed family homes or institutions as these children are already provided for in the child welfare foster care program.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 262, 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. 893                      Government Operations on H.B. No. 1061

The purpose of this bill is to allow local liquor commissions to grant liquor licenses to applicants who have been convicted of a felony in those cases where the applicant can demonstrate, to the satisfaction of the Commission, that a prior conviction should not be held as an absolute bar to the granting of a license.

Currently, the law imposes an absolute bar to any application of a liquor license in the event of a prior felony conviction, personal or corporate. There are some circumstances in which this can be unduly harsh. The proposed amendment to allow the Liquor Commission to make a determination after weighing all the facts is a more equitable and just course of action.

Your Committee has amended the bill by inserting a new section 3 which adds a new statutory section to Chapter 281, Hawaii Revised Statutes, to limit the retail sale of intoxicating liquor. This amendment prohibits a licensed class 4 retail dealer from selling liquor to any person under nineteen years of age. A class 4 retail dealer is currently authorized to sell liquor for consumption off the dealer's premises. The prohibition on the sale of intoxicating liquor by all licensees to a person under the age of eighteen years is not affected by the proposed amendment. Other licensees authorized to sell liquor may do so only for consumption on the premises. These licensees can observe the behavior of patrons and, as required by present law, refuse to serve patrons who are under the influence of liquor. Your Committee finds that a person who purchases liquor from a class 4 retail dealer is not likely to be under similar supervision while drinking. Consequently, the chances of an unsupervised person becoming intoxicated and posing a danger to others is increased greatly. The intention of your Committee in proposing this amendment is to allow a person of at least eighteen but less than nineteen years of age to purchase and consumer liquor only under the supervision of licensees who are legally required to refuse to service a person under the influence of liquor.

Your Committee supports this bill, as amended, as an alternative means of restricting the

access of high school students to liquor and thereby minimizing the danger to themselves and others.

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

Your Committee on Government Operations is in accord with the intent and purpose of H.B. No. 1061, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1061, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 894      Government Operations on H.B. No. 108

The purpose of this bill is to provide for the destruction of State warrants which have been paid and which bear any date three years prior to the date of destruction provided that microfilm copies of the warrants are made and maintained for a period of ten years.

Your Committee finds that this bill will help to reduce the cost of maintenance and space requirements for the storage of the physical warrants.

As received by your Committee, the bill proposed to remove the Director of Finance from the joint responsibility (with the Comptroller) for warrant destruction. Your Committee is in agreement with testimony presented by the Department of Accounting and General Services that the Director of Finance should retain joint responsibility and the bill has been amended accordingly.

Your Committee on Government Operations is in accord with the intent and purpose of H.B. No. 108, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 108, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hee.

SCRep. 895      Government Operations on H.B. No. 214

The purpose of this bill is to amend existing statutes relating to interdepartmental committees to provide for agency participation through "designated representatives."

Currently, there is no provision for a designated representative in the event a statutory designated committee member cannot be present at a meeting. Testimony submitted by the Governor's Agricultural Coordinating Committee, the Department of Land and Natural Resources, and the Department of Planning and Economic Development indicated that the proposed amendment will provide for continued participation by the member agencies in the absence of primary committee members (directors, chairpersons, etc.) through the use of designated representatives. This bill will allow the primary members to determine, on a case-by-case basis, the most efficient use of their staff and time.

Your Committee finds that in some instances designated representatives would be able to add more technical knowledge to a particular subject area. Therefore, primary committee members would still have a clear, relevant and informed picture of the activities of the committees even if they are unable to attend each meeting.

Your Committee has amended the bill by: (1) indicating that each of the four ex-officio members of the Hawaii Fisheries Coordinating Council shall only have one designated representative, and that each designee shall be knowledgeable and experienced in matters related to fisheries of the State; and (2) allowing in addition to the President of the University of Hawaii, each member of the Interagency Committee a designated representative.

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

Your Committee on Government Operations is in accord with the intent and purpose of H.B. No. 214, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 214, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hee.

SCRep. 896      Government Operations on H.B. No. 824

The purpose of this bill is to require the State and county governments to promptly pay for goods and services received.

Currently, Section 103-10, Hawaii Revised Statutes, prohibits agencies of the State or counties from paying for goods and services received no earlier than thirty days except with the comptroller's approval and no later than forty-five days after a statement is received or delivery of the goods or performance of the services whichever is later. This bill would require agencies to make payment no later than forty-five days after a statement is received or delivery of the goods or services and eliminates the thirty days restriction.

Your Committee has amended the bill by adding provisions requiring that any State agency which receives goods or services worth less than \$100 pay for such goods or services from the petty cash fund of the agency, and allowing the comptroller to grant exceptions to this requirement and to establish a higher threshold for petty cash payments.

Your Committee finds that the government should promptly meet its obligations and that the amendments to the law proposed by this bill will help to ensure such promptness.

Your Committee on Government Operations is in accord with the intent and purpose of H.B. No. 824, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 824, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hee.

SCRep. 897                      Judiciary on H.B. No. 401

The purpose of this bill is to authorize the court to order the surrender or forfeiture of an animal whose treatment was the basis of a cruelty to animals conviction and to prohibit a person convicted of such an offense from having custody of any other animal for a set period of time.

Your Committee heard testimony in favor of this measure from the Hawaiian Humane Society and the Department of the Prosecuting Attorney of the City and County of Honolulu.

This bill gives a clear indication that animals should be protected from further abuse. Your Committee recognizes that a court ordered hiatus in the custody of an animal would insure that there would be no further harm to the animal whose treatment was the basis of the conviction.

Your Committee amended the bill to allow the court to order the convicted person to forfeit or surrender other animals if there is substantial evidence that these other animals are also subject to the defendant's abuse or neglect. The bill was further amended to provide that the surrender or forfeiture may be under such conditions as the court may order. This amendment would allow greater flexibility to the court in imposing sanctions. The court is allowed to order permanent forfeiture of an animal if the case warrants such action.

Your Committee also amended the bill to delete the provision which specifies that the penalties contained in the bill are additional to those any other penalty provided by law. Your Committee finds that the provision is superfluous. As a matter of statutory construction, this new section should be interpreted as providing additional penalties.

Finally, your Committee made technical, nonsubstantive amendments to the bill for clarity and conformance with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 401, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 401, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Aki.

SCRep. 898                      (Majority) Judiciary on H.B. No. 153

The purpose of this bill is to provide immunity from civil suits and indemnification for civil liability for persons who 1) receive compensation for the performance of their duties while sitting on boards and commissions, or 2) serve on boards and commissions with land trust obligations.

Act 152, Session Laws of Hawaii 1984, section 26-355, Hawaii Revised Statutes, provides appointed, noncompensated members of boards and commissions with immunity from any civil action arising under state law, for damage, injury, or loss caused by or resulting from the member's performance or failure to perform an official duty. It expressly denies immunity to a

member who acted with a malicious or improper purpose. Act 152 also indemnifies members of boards and commissions from liability in any civil action arising under federal law, the law of another state, or the law of a foreign country.

The intent of Act 152 was to provide protection to "volunteer" members of boards and commissions from frivolous suits, suits extended as harassment, and more importantly, suits which may be intended to intimidate or influence board and commission members in their decision-making.

Your Committee finds that sound public policy reasons exist to revise Act 152:

1. Providing one class of appointed members protection and not another is inequitable when the classes are similar.
2. Extending immunity and indemnification will not give members the license to act improperly or maliciously because members would be personally liable for acts of commission or omission that are proven to be improper or malicious.

This bill repeals the present exclusion from coverage of members of boards and commissions with land trust obligations, such as the Hawaiian Homes Commission and the Board of Land and Natural Resources. It also repeals the exclusion from coverage of members of boards and commissions who serve without compensation, in order that ex-officio members of boards and commissions who are government officers will also be included.

Your Committee amended the bill to provide the same coverage for members of the Board of Trustees of the Employees' Retirement System. Although these members are elected, they are selected by the membership of the Employees' Retirement System, not the general public in elections under chapter 11, Hawaii Revised Statutes. These elected members also serve an important public interest as appointed members do and should be afforded the same protection or immunity and indemnification.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 153, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 153, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.  
Senators Abercrombie and Kawasaki did not concur.

SCRep. 899 (Majority) Judiciary on H.B. No. 194

The purpose of this bill is to protect the public's access to and enjoyment of Hawaii's beaches by adding a new section to chapter 183, Hawaii Revised Statutes. This section will prohibit the construction of structures or seawalls, dredging or grading, or other use of accreted land which interferes or may interfere with the future natural course of the beach. It will only apply to accreted land to which title has been obtained by judicial decree after the enactment of this bill.

Specifically, the bill:

- 1) Prescribes remedies and penalties for any violations of the new section;
- 2) Provides that an application to register land by accretion and an action to quiet title to land by accretion may be granted only if there is a clear preponderance of evidence that the accretion is natural and permanent;
- 3) Defines "permanent" as accreted land which has been in existence at least twenty years;
- 4) Places accreted lands within conservation districts unless otherwise designated by the Land Use Commission, under chapter 205, Hawaii Revised Statutes.

Your Committee heard favorable testimony from the Department of Land and Natural Resources, the Department of Transportation and the Department of Land Utilization, City and County of Honolulu. Your Committee finds that this bill will protect public's access to beaches, as well as to provide for the minimal interference with the natural processes of beach accretion and erosion.

Problems have arisen along Hawaii's shoreline where the sand movement is extensive. Some beachfront owners have taken advantage of calm years when the vegetation line advances seaward to secure title to the new land. At the present time, courts have no clear standard for determining when accreted land becomes permanent and stable. This bill will remedy the problem.

Your Committee amended the bill to clarify that an applicant for registration of land by accretion or a person bringing an action to quiet title to land by accretion shall prove by a preponderance of the evidence that the accretion is natural and permanent. This clarification better emphasizes the standard of proof that must be met in such cases. Your Committee also amended the bill to delete the word "clear" before the phrase "preponderance of the evidence", referring to the weight of evidence necessary to prove the case for accreted land. "Preponderance of the evidence" is a commonly known phrase for this standard of weight of evidence.

Your Committee also made technical, nonsubstantive amendments to the bill for clarity and conformance with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 194, 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. 194, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator Aki.  
Senators Kawasaki and George did not concur.

SCRep. 900            Energy on H.B. No. 949

The purpose of this bill is to provide that appeals of contested case hearings relating to geothermal land use shall be made directly to the Supreme Court of the State of Hawaii.

Under present law, appeals of contested case hearings must initially be made to the circuit court, as provided under chapter 91, Hawaii Revised Statutes, before an appeal can reach the Hawaii Supreme Court for final determination. This appeal process could take as long as three years during which time geothermal projects are suspended until final determination can be made. Your Committee finds this process to be overly long, inefficient, costly, repetitive, and detrimental to pending geothermal activities. Your Committee further finds that directing the first appeal to the Hawaii Supreme Court, as provided in this bill, would reduce the time and effort for a final judicial decision to be rendered on an administrative action and will not jeopardize the rights of aggrieved parties with legitimate claims to judicial review.

Upon further consideration, your Committee finds that direct appeals to the Supreme Court should be allowed only until such time as the newly instituted land use regulations for geothermal development are fully implemented by the State and the counties. Five years should be sufficient for this purpose; therefore, your Committee has amended the bill to allow direct appeals to the Supreme Court only until April 30, 1990.

Your Committee on Energy is in accord with the intent and purpose of H.B. No. 949, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 949, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 901            Economic Development on H.B. No. 193

The purpose of this bill is to consolidate provisions relating to wildlife in Chapters 183, 187, 191, and 192, Hawaii Revised Statutes, into a new Chapter 183D to improve the identification and accessibility of specific statutes. Existing statutory language has been amended to generally provide conformity among the wildlife provisions, particularly provisions relating to "Powers and Duties" (Section 183D-2) and "Rules" (Section 183D-3). The changes in Section 183D-2 and 183D-3 are made to more accurately represent a consolidated statement of existing Department of Land and Natural Resources (DLNR) responsibilities with regard to wildlife.

Current wildlife laws are scattered throughout Chapters 183, 187, 191, and 192. Your Committee agrees that these laws should be consolidated to make them more comprehensive and reflective of the Department's present responsibilities and structure.

Your Committee has amended page 21, line 21 of the bill by adding the words "intentionally, knowingly, or recklessly" after "shall" and by inserting Section "183D-39" into the listing of sections covered by the penalty provisions contained in Section 183D-5 of the bill. Your Committee has also made technical changes which have no substantive effect.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 193, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 193, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 902

Judiciary on H.B. No. 1163

The purpose of this bill is to allow children under fifteen years to be accompanied by a parent, guardian, or victim/witness counselor or other designated adult, while testifying at or attending a judicial proceeding.

Your Committee believes that a judicial proceeding, because of its formal setting, unfamiliar procedure, and adversarial nature, is often a traumatic or even terrifying experience for an adult. For a young child, a judicial proceeding is an even more traumatic and terrifying experience because of the child's youth and experience.

In order for a young child to participate in a judicial proceeding, particularly as a witness, it is often necessary for the child to be accompanied by an adult who can provide emotional support to the child. Unless this emotional support is provided, the child may refuse to attend or testify at a judicial proceeding. The refusal to testify may result in the inability to prosecute heinous crimes, particularly where the child is the victim of sex abuse or rape and the child's testimony is necessary for an indictment and subsequent conviction.

Your Committee amended this bill to lower the age that entitles a child to accompaniment at judicial proceedings from fifteen to fourteen years. The age of fourteen years is the threshold age that is protected in part V, chapter 707, Hawaii Revised Statutes, relating to sexual offenses. Your Committee also amended this bill to require that the accompanying person not interfere with court proceedings and not communicate with the child in any manner so as to not unduly influence the testimony of the child.

Your Committee further amended the bill to make it clear that the child shall have the right to be accompanied at grand jury proceedings. However, a grand jury does not have a presiding judge. Therefore, the bill was also amended to allow the presiding court officer in grand jury proceedings the same discretion as a presiding judge.

Finally, your Committee deleted as unnecessary reference to section 571-41(b), Hawaii Revised Statutes, as it relates to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1163, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1163, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 903

Judiciary on H.B. No. 1166

The purpose of this bill is to require the Department of Social Services and Housing to notify the victim's surviving immediate family member who has made a written request for such notice if the Department intends to admit an offender to a work furlough program, a conditional release program, or other similar program. The bill further provides that notice be given to the victim or surviving immediate family member thirty days prior to commencement of the program and that the Department may give notice to the victim or witness counselor program in the county where the victim or surviving immediate family member resides.

The bill would basically expand the rights of victims to notification under present law to include surviving family members. Presently, only victims are notified. Your Committee recognizes that surviving family members of homicide victims sometime suffer the same emotional trauma to that of victims of other crimes and may justifiably be concerned about the convicted person's whereabouts. This bill insures that correctional officials respond to requests for notification by surviving immediate family members, as well as victims.

Your Committee finds that some victims who have made written requests for notification have been notified about an inmate's release on the same day of the release because, under present law, there is no provision for advance notification. This situation is inconsistent with the apparent intent of the present law, which was to give victims advance notice so they could emotionally prepare for the eventual release of the offender. This bill requires the Department to give advance notice to victims or their surviving immediate family members prior to release of an offender.

Your Committee amended the bill to give emphasis to the fact that only those victims or survivors who submit a written request for notification are entitled to notification under this section. It also clarified that "surviving immediate family member" means certain specified survivors of the deceased victim. Finally, it made other technical, nonsubstantive amendments for clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1166, H.D.

2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1166, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 904            Judiciary on H.B. No. 329

The purpose of this bill is to provide mandatory penalties against a person found to be driving with a suspended or revoked license as a result of a previous conviction for driving under the influence of intoxicating liquor.

The bill adds a new section to chapter 291-4, Hawaii Revised Statutes. The new section prescribes a penalty of the suspension or revocation of a license for an additional one year period. It also prescribes a penalty of imprisonment from two to thirty days. Finally, it authorizes the court to impose a longer term of imprisonment upon a showing of good cause.

Additionally, the bill also amends section 286-104, Hawaii Revised Statutes, to extend the period for the revocation of a license to conform with the newly created section. Finally, the bill amends section 286-132, Hawaii Revised Statutes, to exempt a person found to be driving with a suspended or revoked license from paying a fine.

Your Committee heard testimony from the Department of Transportation, the Honolulu Police Department, Mothers Against Drunk Driving (MADD), and the state Judiciary in support of the bill. It finds the penalty of suspension or revocation of a license to be an effective deterrent to drunk driving. Your Committee amended the bill to strengthen the deterrent effect by requiring a minimum of a seven rather than two-day imprisonment for a person found to be driving with a suspended or revoked license. It also deleted the provision which would have exempted from paying a fine persons found to be driving with a suspended or revoked license. Your Committee believes that stronger sanctions are necessary to assure that drivers whose licenses have been suspended or revoked will be kept off our streets and highways.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 329, 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. 329, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 905            Judiciary on H.B. No. 333

The purpose of this bill is to amend section 706-625, Hawaii Revised Statutes, to allow the prosecuting attorney to apply to the court for a hearing to have issued an order adding to or modifying the requirements which were previously imposed on a defendant as a condition of probation or suspension of sentence. The bill also repeals section 706-628, H.R.S., relating to the revocation of probation or suspension of sentence and adds its provisions to section 706-625, H.R.S.

Under present law, the statutory provisions dealing with revoking probation or suspension of sentence and those dealing with modifying or increasing the conditions are unnecessarily fragmented. This bill consolidates the law with regards to the adding to or modifying the requirements of probation or suspension of sentence with revoking probation or suspension of sentence.

Your Committee amended the bill to make it clear that the court shall revoke the suspension of sentence or probation if the defendant is convicted of a felony or inexcusably fails to comply with a substantial requirement imposed as a condition of the order for suspension of sentence or probation. The court may revoke the suspension of sentence or probation if the defendant is convicted of a crime other than a felony.

Your Committee further amended the bill to correct drafting errors and to make nonsubstantive changes for clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 333, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H. B. No. 333, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 906            Judiciary on H.B. No. 28

The purpose of this bill is to permit videotaped testimony of a child victim to be used as



evidence in the prosecution of a child abuse or sexual offense case. The bill also proposes that the child victim may testify by means of a two-way closed circuit television to minimize the adverse effects that a judicial proceeding may have on a child victim.

Presently, there is no provision in the Hawaii Rules of Evidence which would allow a videotape of a child's testimony into evidence and therefore relieve the child of the burden of testifying in court.

This bill will be useful in protecting the child from the potentially forbidding setting of a public courtroom. Full cross-examination will be allowed and the trier of fact can observe the child. Direct confrontation between the defendant and the child is avoided to prevent the possibly chilling effect that the defendant's presence may present.

Your Committee heard testimony in support of the measure from Victim/Witness Kokua Services, Honolulu Police Department, Department of Social Services and Housing, and the office of the prosecuting attorney, City and County of Honolulu. All testifiers expressed concern about the many interviews the child must go through during the course of the prosecution in addition to the testifying at the trial. As a result, the proceedings may serve to further traumatize the child. Videotaping would reduce the number of times the child must relive the incident. Closed circuit television would reduce the trauma of the trial on the child victim.

Your Committee amended the bill to change the age of the child victims, who may be eligible to have their testimony videotaped, from fifteen years to less than fourteen years. The age of less than fourteen years is the threshold age of children who are afforded special protection in sexual offenses in the Hawaii Revised Statutes.

Your Committee also amended the bill to clarify that the videotape is subject to discovery. Additionally, it revised the bill to require that all persons present in the room, during the interview of the child, be identified and also be present to testify and be available for cross examination at the proceeding where the videotape is used. In cases where the closed circuit television is utilized, your Committee further amended the bill to require that the child be alone in a room while testifying, except for a court clerk, bailiff, or court social worker, who may be present only if their presence would contribute to the welfare and well being of the child while testifying. By utilizing unbiased court personnel, the child will not be unduly influenced in presenting testimony.

Moreover, your Committee amended the bill to require that the court supervise the video-monitoring to assure that the defendant's presence is not unduly emphasized throughout the testimony of the child. The bill previously read that the court need only supervise the defendant's presence up until the time the child identifies the defendant as the perpetrator.

Your Committee also amended the bill to correct drafting errors and to make technical, nonsubstantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 28, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 28, 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. 907

Economic Development on H.B. No. 1239

The purpose of this bill is to streamline the district boundary amendment approval process. Current statute requires the Land Use Commission (LUC) to act on district boundary amendment requests not less than 45 days nor more than 180 days after the close of the hearing on the request. This bill proposes to require LUC action within 45 days for requests where all parties recommend approval of the reclassification (non-controversial actions) and to require LUC action not less than 45 days nor more than 90 days after the close of the hearing in all other cases.

After due consideration, your Committee supports reducing the time period for LUC action on non-controversial applications to 90, rather than 45 days, after the close of the hearing. Your Committee concurs with LUC testimony that additional time may also be required in other cases. Therefore, your Committee has amended page 1, line 8 of the bill to grant the LUC 90 days, rather than 45 days, after the close of a hearing to act on non-controversial cases, and has amended page 1, line 12 of the bill to grant the LUC 180 days, rather than 90 days, after the close of a hearing to act on cases when all parties have not recommended approval. Given the proposed 90 day requirement for LUC action on non-controversial requests, your Committee believes it to be prudent to allow the LUC sufficient time to fully address all concerns brought before it by disagreeing parties.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1239, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1239, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.

SCRep. 908                      Transportation on H.B. No. 1393

The purpose of this bill is to amend Section 261-6, Hawaii Revised Statutes, to: (1) require that the \$100,000 grant from the airport revenue fund to the Civil Air Patrol be given pursuant to Chapter 42, Hawaii Revised Statutes; (2) specify that the current \$3,000 grant shall only be available to Hawaii-based squadrons and flight units; (3) allow the purchase of new equipment and for fuels and oils not otherwise provided to the organization by the federal government; and (4) allow assistants to the adjutant to perform certain administrative and fiscal duties.

Your Committee held a hearing in which testimony was received from the department of transportation, Colonel John Parrish, Jr., commander-Hawaii Civil Air Patrol and the Honolulu Airlines Committee. Additionally, your Committee reviewed department of transportation memoranda and an audit that was conducted on the Hawaii Civil Air Patrol.

Your Committee finds that the Civil Air Patrol is statutorily provided with a grant of \$100,000 annually from the airport revenue fund. However, in recent years, the Hawaii Wing of the Civil Air Patrol has exhibited a total lack of financial management of its operations and has shown little or no accountability for the state grant it receives.

To support this contention, your Committee finds:

(1) The Civil Air Patrol failed to submit a request for funding in 1983-84 and did not receive the \$100,000 state grant.

(2) In fiscal years 1977 through 1983, some \$1.169 million has been expended by the State on the Civil Air Patrol. Except for \$495,000 which was used to construct a hangar at General Lyman Field and a headquarters building at Honolulu International Airport, a memorandum from the department of transportation stated that it could not find out how \$674,000 was spent.

(3) The Civil Air Patrol's financial and property records were not properly kept and it was impossible to reconstruct such records.

(4) There was little or no financial controls on the \$3,000 grant given to individual squadrons or flight units in the Civil Air Patrol.

Your Committee believes that the Hawaii Civil Air Patrol has not fulfilled a fiduciary responsibility to the State for the state funding the organization receives annually. Because of its mismanagement of funds, your Committee finds that there is a need for stronger oversight of the funds given to this organization.

As a result, your Committee recommends the following amendments to the bill:

(1) The bill is amended to require that the Civil Air Patrol obtain its grant in accordance to the requirements of Chapter 42, Hawaii Revised Statutes. The bill is further amended to allow a grant to be given up to \$100,000. Currently, the Civil Air Patrol receives the \$100,000 grant specified by law. Your Committee believes that, given the poor financial management of state funds, the Civil Air Patrol should be required to justify its request to executive and legislative branches. Such annual review will assist in helping the organization strengthen its management and budgetary controls. The bill has been further amended to require that the Civil Air Patrol shall submit a request for funding for the 1986-87 fiscal year.

(2) The section allowing the Civil Air Patrol to buy new equipment has been deleted. Your Committee believes that any request for new equipment should be deferred until the organization has adequately demonstrated its ability to budget and manage the funds that are given to them. Additionally, your Committee believes that the Civil Air Patrol should increase its efforts in fundraising and soliciting contributions. The \$100,000 state grant provides most of the funding for the operations of the organization. Your Committee has received information which stated that Hawaii ranks third among the fifty states in financial support. The Civil Air Patrol testified that this was due to the support provided by private and corporate contributions. Your Committee believes that the Hawaii Wing should expand its fundraising efforts and should submit a plan to the 1986 Legislature that would show how it will increase private support to their organization.

Your Committee also heard from the department of transportation on this matter. The

department recommends that the Civil Air Patrol should develop a goal/objective/action master plan similar to a state functional plan. Your Committee concurs with the department's recommendation and believes that such a plan will be useful in evaluating the Civil Air Patrol program year-to-year. The department of transportation should provide advisory assistance in helping Civil Air Patrol structure this plan. The plan should be submitted to the 1986 legislature.

Your Committee is cognizant that a new wing commander, Colonel John Parrish, has been appointed to head the organization, and he has testified that there will be stronger fiscal controls and more efforts made to hold the Civil Air Patrol accountable. Your Committee believes that the provisions of this bill will better assist the organization in reaching these goals.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1393, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1393, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Chang.

SCRep. 909                      Transportation on H.B. No. 453

The purpose of this bill is to amend section 279E-3, Hawaii Revised Statutes, relating to the Oahu Metropolitan Planning Organization.

Your Committee heard testimony from Gordon Lum, Executive Director of the Oahu Metropolitan Planning Organization (OMPO).

The Oahu Metropolitan Planning Organization was established in 1975 by Act 180 in accordance with federal mandate. The purpose of OMPO was to encourage cooperation between the State and the City and County of Honolulu in planning transportation projects. As such, OMPO was given broad responsibilities, including the approval of transportation plans affecting urban areas on Oahu.

Act 180 provided that the OMPO policy committee consist of ten members from the state legislature and all nine members of the city council. For the committee to make decisions, a quorum of at least seven legislative and five council members is required.

However, after 10 years in existence, your Committee finds the committee size and quorum requirements to be unmanageable. Members of the policy committee, because of the requirements of public office or their own employments, find it difficult to afford meetings throughout the year. There have been times where failure to meet the quorum requirement has resulted in postponement of crucial decisions and the delay of federal funds for transportation projects.

The act also allows for a weighted voting system which provides an alternative to the majority vote system normally used by the policy committee. The weighted voting system allots votes according to the project being considered. State members are allotted more votes for issues concerning state projects; similarly, city members are allotted more votes for issues concerning city projects. However, your Committee learned that the weighted vote formula had not been used since OMPO was established.

Additionally, it was noted that the act which established OMPO did not give enough guidance regarding election of the OMPO chair position.

With regard to the problem posed by the quorum requirement, the bill, as amended by the House, addresses this issue by reducing the quorum needed for decision-making from twelve members to five members. Two of the seven must be legislative members and another two must be council members. In addition, the bill would allow matters to be placed on the agenda at the request of three members instead of five. Along with the lowered quorum requirement, the bill would allow decisions to be made by a simple majority count of the members present, rather than by a majority of all members of the committee.

With regard to the OMPO chair position, the bill clarifies the election procedure by stipulating that the chair position be rotated annually between members of the legislature and the members of the council.

Your Committee believes that while the bill is a step in making OMPO procedures more workable, consideration needs to be given to the size of the OMPO policy committee. Your Committee believes that a smaller policy committee would allow for more coherent communication between members, thus making for swifter decision-making. Your Committee has therefore amended the bill so that the policy committee will consist of the Senate and House transportation committee chairs, a representative from the city council, and one

designee each from the governor and the mayor. In keeping with these reductions, your Committee has set the quorum for decision-making at three members.

Your Committee also believes that allowing alternates to serve in the place of those appointed to the policy committee greatly alleviates problems arising from conflicts between policy committee meetings and outside obligations. Your Committee has therefore added a section to the bill which would allow the naming of alternates.

Finally, given that the weighted voting method has not been used since the inception of OMPO, your Committee has deleted this section from the bill.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 453, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 453, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Chang.

SCRep. 910 (Majority) Consumer Protection and Commerce on H.B. No. 40

The purpose of this bill is to eliminate the "drop dead" provisions in chapters 408 and 478, Hawaii Revised Statutes, that provide for the reversion of certain interest rates on July 1, 1985 as follows. In the case of loans governed by chapter 408, the rates would revert to the maximum rates in effect prior to May 31, 1980. In the case of credit cards, interest rates would revert to the rates existing prior to May 30, 1980 and, for other interest rate ceilings under chapter 478, to the ceilings in effect before June 28, 1982.

Your Committee concurs that these interest rate ceilings should not be reimposed. In addition, your Committee believes that existing interest rate ceilings should be eliminated as they apply to regulated lenders, retail installment sales, transactions of merchants, and credit cards and that provision should be made for the recomputation of interest for renegotiated agreements of sale. Your Committee finds that interest rates should be controlled by the marketplace rather than by arbitrary ceilings set by law.

Your Committee has amended this bill by deleting all limitations on interest rates in chapters 407, 408, 409 (for loans up to \$300), and 410, Hawaii Revised Statutes, and by exempting from the usury law any loan made pursuant to those chapters or by any regulated financial institution. Your Committee has amended this bill to repeal the interest rate ceilings applicable to credit cards, transactions of merchants, and to sales under chapter 476, Hawaii Revised Statutes, concerning retail installment sales. Your Committee also has provided that no interest should be charged on interest. The purpose of these changes is to lift interest rate ceilings. These provisions should not be construed as expanding or contracting existing authority for making loans nor as implying any new limitations, restrictions, or penalties.

Your Committee is aware that last year the Governor vetoed S.B. No. 2087-84 which bore considerable similarity to this bill now under review. Despite the Governor's concerns over the issue of interest rates on renegotiated agreements of sale, your Committee feels very strongly that legislative action is necessitated by the numerous instances in which buyers and young families in particular have faced prohibitive interest rates when attempting to renegotiate an agreement of sale. Your Committee notes that there has been ample notice to the public that the legislature is interested in this issue in view of the attempted enactment of S.B. No. 2087-84. Moreover, your Committee believes that sellers will be protected adequately if the interest rates for new agreements of sale are premised on the underlying mortgage for the property.

Accordingly, the provisions governing agreements of sale have been amended to allow, for any agreement of sale made after the effective date of this Act, an interest rate of four percentage points above the highest rate of interest charged on any mortgage on the property sold under the agreement of sale.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 40, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 40, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Young and Henderson. Senators Kawasaki and McMurdo did not concur.

SCRep. 911 Consumer Protection and Commerce on H.B. No. 227

The purpose of this bill was to provide additional safeguards to individuals purchasing cemetery plots or pre-need funeral or mortuary services.

The bill effects the following changes to Chapter 441, Hawaii Revised Statutes:

- (1) Requires that all trust funds be placed in and managed by trust companies licensed by the State. These companies operate under strict statutory controls and would provide the best protection for consumer funds.
- (2) Provides for the automatic suspension of any license when the required bond is not maintained, with forfeiture of the license if the bond is not reinstated within sixty days.
- (3) Sets forth certain minimum provisions which must be in all written contracts with consumers and provides that copies of these contract forms be on file with the Department of Commerce and Consumer Affairs (DCCA);
- (4) Clarifies that the actuarial study, audited financial statements, and trust agreements which are filed with the DCCA are available for public inspection. The bill further requires the consumer to be notified by the funeral authorities of the availability of these documents;
- (5) Adds provisions relating to the surrender of pre-need authority licenses and provides the DCCA with the authority to audit a licensee when the department believes that to be necessary;
- (6) Restructures the laws so that the requirements are more clearly set forth both for licensees and for the public. The bill also makes a number of technical changes to the chapter; and
- (7) Provides that disciplinary action may be taken for the failure to file the actuarial study or audited financial statement, failure to maintain the required bond or failure to maintain the trust funds as required by the chapter.

Your Committee received testimony from the Department of Commerce and Consumer Affairs in support of this bill, but requested that S.B. No. 173, S.D. 1 with some modifications be substituted in lieu of the provisions of this bill as the Department is more in accord with the intent and purpose of the Senate draft. S.B. No. 173 and H.B. No. 227 were introduced as companion measures.

Your Committee has adopted the Department's recommendations to substitute the S.B. No. 173, S.D. 1 provisions into this bill. In addition, the provision in S.B. No. 173, S.D. 1 on page 37, line 14 has been changed by deleting the words "listed on the New York Stock Exchange" and substituting the clause "which are either listed on a national securities exchange or traded over-the-counter on the National Market of the National Association of Securities Dealers, Inc., Automated Quotation System." Other nonsubstantive technical amendments have also been made.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 227, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 227, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, McMurdo, Young, Henderson and A. Kobayashi.

SCRep. 912      Consumer Protection and Commerce on H.B. No. 230

The purpose of this bill was to raise the bonding requirements for new motor vehicle dealers, used motor vehicle dealers, used auctions, and brokers; to make the bonding requirements uniform for the entire State regardless of the population of the county; and to require new motor vehicle dealers, used motor vehicle dealers, motorcycle or motorscooter dealers, brokers, salesmen auctions, auctioneers, manufacturers, factory branches, factory representatives, distributors, distributor branches, and distributor representatives to maintain bonding requirements or be subject to automatic suspension of licensure.

Your Committee has amended the bill by requiring: (1) used motor vehicle dealers selling 25 cars or less per month to maintain a \$25,000 bond; (2) used motor vehicle dealers that sell more than 25 cars per month to maintain a \$100,000 bond; and (3) dealers involved exclusively in selling motorcycles to maintain a \$5,000 bond instead of the proposed \$25,000 bond. Your Committee finds that these amendments should provide adequate protection for the consuming public without imposing great hardships on smaller businesses.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 230, H.D. 1, as amended herein, and recommends that it pass Second

Reading in the form attached hereto as H.B. No. 230, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Young and Henderson.

SCRep. 913 Consumer Protection and Commerce on H.B. No. 234

The purpose of this bill is to strengthen the law, clarify terminology, restate the functions of the Board of Examiners in Optometry, assure that an optometrist Board member will have practiced optometry for at least five years prior to appointment to the Board, delete obsolete licensing requirements and establish new licensing requirements, establish new examination requirements, clarify examination and reexamination procedures, and rearrange certain sections of the law.

This bill provides for the following:

- (1) Clarifies and updates the language and terminology of section 459-1;
- (2) Prevents an unlicensed person from using the title "O.D." and designates "contact lenses" as an alternative to "ophthalmic" lenses;
- (3) Deletes obsolete Board titles such as president and vice-president; and adds a description of functions of the Board of Examiners in Optometry;
- (4) Clarifies that the responsible agency for keeping and preserving the Board's records is the Department of Commerce and Consumer Affairs;
- (5) Gives the Board more flexibility in scheduling and administering examinations;
- (6) Updates provisions for qualification and procedural requirements for applicants for an optometry license, as well as, establishes the types of examinations an applicant must pass to obtain a license;
- (7) Adds a new cause for suspension or revocation of a license based on violations of the chapter or rules adopted by the Board and clarifies the language of some existing causes for suspension or revocation;
- (8) Retitles the provisions concerning advertising as section 459-10, after deleting the current revocation provisions of section 459-10 which are now sufficiently covered by section 459-9; and
- (9) Allows imposition of fines for violations of rules as well as statutory provisions.

Your Committee notes that the Senate companion measure, S.B. No. 180, S.D. 1, amended the administration's bill by including provisions of an FTC rule on the distribution of prescriptions to customers after an examination. Your Committee believes that lack of complaints or any current problems regarding obtaining prescriptions by customers militates against the necessity of including such provisions in the law at this time.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 234, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 234, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Kuroda, Young and Henderson.

SCRep. 914 Consumer Protection and Commerce on H.B. No. 311

The purpose of this bill was to curtail the advertising of transportation services by persons or entities which do not hold a valid certificate or permit issued by the Public Utilities Commission to perform these services.

This bill requires that advertisements in print or by broadcast medium include the motor carrier's applicable certificate or permit number. Further, the bill requires a publisher or producer of a print or broadcast advertising medium to refuse to publish or broadcast an advertisement for a motor carrier which does not provide proof of certificate or permit.

Your Committee received testimony from the Department of Commerce and Consumer Affairs, the Hawaii Transportation Association, and the Hawaiian Telephone Company and finds that this bill disallows unlicensed motor carriers from advertising and soliciting business which precludes an undue preference or advantage over companies registered under the Public Utilities Commission.

Your Committee has amended the bill as follows:

- (1) On page 1, line 3 - deleted references to aiding and abetting from the title and content of Section 271-8.5 because current language in subsections (b) and (c) is being repealed since the intent of these provisions is contained under Section 271-27, Hawaii Revised Statutes.
- (2) On page 1:
  - (a) Line 7 - deleted the word "under" and added the words "required by" in replacement thereof;
  - (b) Line 8 - bracketed the phrase "issued by the public utilities commission" and added the phrase "in the classification so advertised".

These clarifying amendments in items (1) and (2) are necessary to permit advertising of non-regulated or exempt activities by a person who is exempt from the motor carrier law.

- (3) On page 1, lines 13 through 16:
  - (a) Line 13 - deleted the brackets around the word "or", deleted the phrase "the describing of a motor carrier of passengers or property," and added the word "advertising" after the word "or";
  - (b) Line 15 - added the phrase "advertising other than in-column listings" after the second "or" in the line, and deleted the brackets around the comma;
  - (c) Lines 15-16 - bracketed the phrase "under a listing of motor common or contract carrier", and deleted the brackets around the comma on line 16.
- (4) On page 1 and 2, lines 16 and 1, respectively - deleted the phrase "for the purpose of inducing the use of such carrier,".
- (5) On page 2, lines 4 through 18 - recasted subsections (b) and (c)'s language and substituted the word "licensee" or a form thereof for the words "motor carrier" or forms thereof.
- (6) On page 3, line 10 - changed the effective date from January 1, 1986 to November 1, 1985.

This change coincides with the beginning of advertising sales for the neighbor island telephone directories and would enable license verification to commence with the new sales campaign.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 311, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 311, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Young and Henderson.

SCRep. 915

Consumer Protection and Commerce on H.B. No. 557

The purpose of this bill was to amend section 294-10(b), Hawaii Revised Statutes, by changing the method of determining the medical-rehabilitative tort threshold.

Currently, the threshold is subject to change each year based upon the no-fault claims experience for the preceding year. In essence, current law mandates that the Insurance Commissioner set a new threshold at a level below which 90% of all medical-rehabilitative claims for the previous year would fall. The 90% cut-off was constructed to permit only seriously injured claimants to bring a tort action arising out of a motor vehicle accident.

This bill would require a threshold that is calculated by using an indexing feature tied to the Honolulu consumer price index for medical care expenses as determined by the U.S. Bureau of Labor Statistics.

Your Committee heard favorable and unfavorable testimony regarding this bill and finds that utilizing a medical consumer price index feature is an acceptable method for determining the yearly medical-rehabilitative threshold limit. The primary concern focused on what threshold limit should be used as the base amount from which calculations for subsequent new limits may be determined. Your Committee believes that the base year to be utilized should be 1984. The

actual threshold limit for 1984 was \$5,200. The bill has been amended to incorporate this \$5,200 as the initial base amount to be used by the Commissioner in calculating any future medical-rehabilitative threshold limit pursuant to the provisions in this bill.

Your Committee further amended the bill by adding the phrase "increased or decreased by the product of the current medical-rehabilitative limit" on page 2, line 12 to correctly reflect that the percentage change in the medical care index is used to increase or decrease the medical-rehabilitative limit. Your Committee has made other technical changes which have no substantive effect.

Your Committee has also amended the bill by inserting all the provisions of S.B. No. 389, S.D. 1, which provides for an increase in no-fault benefit amounts and the liability and uninsured coverage amounts under the no-fault law, and a new optional "underinsured" motorist coverage provision.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 557, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 557, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Chang and Young.

SCRep. 916            Consumer Protection and Commerce on H.B. No. 743

The purpose of this bill was to amend Section 431-643(10)(B), Hawaii Revised Statutes, by providing a ten (10) day response requirement for insurers with respect to claims arising under their policies.

Your Committee heard favorable testimony from the Insurance Division of the Department of Commerce and Consumer Affairs. Your Committee also received testimony from the Hawaii Insurers Council which indicates that ten (10) working days is unreasonable to respond to all communications received from policyholders or from any other person who may have a claim under a policy. Furthermore, there may be situations in which unavoidable delays in communications whether verbal or written, will cause the insurer to be in violation of the statute.

Your Committee, upon further consideration, finds that a fifteen working day response requirement will ensure that consumers receive reasonably prompt responses and not place an undue burden on insurers. The bill has been amended accordingly.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 743, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 743, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Young and Henderson.

SCRep. 917            Consumer Protection and Commerce on H.B. No. 757

The purpose of this bill was to extend the term of the Elevator Mechanics Licensing Board until December 31, 1991.

Your Committee finds that the Elevator Mechanics Licensing Board provides a constant monitoring of elevator mechanics to ensure the safety of individuals utilizing elevator and escalator equipment. A continuing need for the existence of this board is in the best interest of the general public's welfare.

Your Committee further finds that the licensing requirements of elevator mechanics insures that these mechanics are qualified to assemble and maintain elevators in Hawaii. Without this requirement, untrained elevator mechanics would be able to work in Hawaii without any testing of their skills or knowledge.

In 1983, the Legislative Auditor recommended that the Board be sunsetted mainly because of their inactivity. Aware of the Auditor's recommendations, the Board was extended for two years rather than the usual six years, with the understanding that the extension would serve as a period of consideration of eventual repeal or continuation.

Your Committee finds after careful consideration, that the Board has demonstrated its usefulness to the elevator industry in the past two years by taking a more active role in working with the Department of Labor and Industrial Relations Inspection Division on unlicensed activity and with the Department of Commerce and Consumer Affairs on the mechanic's



examination.

Your Committee concurs with the testimony supporting this measure to extend the term of the Board to maintain the high standards of competency in our elevator industry.

Your Committee has amended the bill by amending Section 448H-5, Hawaii Revised Statutes, to require the Board to prescribe a nationally recognized examination augmented by locally developed material, to be used in testing for licensure with a passing grade for the examination to be not less than seventy percent. Your Committee believes that this amendment will continue to upgrade the standards of elevator mechanics and will provide a basis for the continued evaluation and consideration on whether to repeal or continue the Elevator Mechanics Licensing Board.

Your Committee has further amended the bill by changing the effective date from January 1, 1986 to "upon approval", and making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 757, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 757, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Young and Henderson.

SCRep. 918      Consumer Protection and Commerce on H.B. No. 759

The purpose of this bill was to extend the repeal date of Chapter 461 (Board of Pharmacy), Hawaii Revised Statutes, from December 31, 1985 to December 31, 1991.

Your Committee concurs with testimony from the Board of Pharmacy supporting extension of the repeal date and believes that the absence of statutory regulation of pharmacists would unnecessarily expose the public to possible harm.

Your Committee notes that the Board of Pharmacy supports granting reciprocity, for the licensing of pharmacists in this State, to qualified and licensed pharmacists from other states if a pharmacist has met licensing requirements equivalent to or more stringent than that existing in this State. Your Committee has added a new section 2 to this bill that amends Chapter 461, Hawaii Revised Statutes, by adding a new statutory section to authorize the Board to extend reciprocity to qualified pharmacists licensed by other states; provided that a pharmacist (1) possesses a current valid license, (2) has no pending disciplinary action or other unresolved complaints, and (3) the laws of the jurisdiction licensing the pharmacist grant reciprocal treatment to licensees of this State. Your Committee believes that the Board is being granted sufficient authority to establish professional standards for reciprocity at least as stringent as required for those applicants not licensed in other states who wish to be licensed pharmacists in Hawaii.

Your Committee has also amended this measure to be effective upon approval.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 759, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 759, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Young and Henderson.

SCRep. 919      Consumer Protection and Commerce on S.B. No. 839

The purpose of this bill was to amend the definition of an investment advisor.

This bill excludes from the definition of investment advisor, a person who:

(1) Is registered with the United States Securities and Exchange Commission under the Investment Advisors Act of 1940;

(2) Does not have custody of any client money, securities, or other assets;

(3) Does not collect fees from clients more than six months in advance of the end of the period for which such fees are intended to compensate the person for his services;

(4) Has discretionary authority over client money, securities, or other assets only to invest in securities in which the person has no ownership interest or is considered to have an ownership interest; and

(5) Does not advise a client whose money, securities, and other assets under management by

such person have a market value of less than \$250,000 per each separate account under management on the date of inception of the client relationship.

Your Committee heard favorable testimony from the Department of Commerce and Consumer Affairs.

Your Committee has made technical amendments which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 839, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 839, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Young and Henderson.

SCRep. 920           (Majority) Consumer Protection and Commerce on H.B. No. 995

The purpose of this bill was to exempt Native Hawaiians from the apprenticeship requirements of Chapter 452, Hawaii Revised Statutes, which regulates the practice of massage.

In many instances, Native Hawaiians who have mastered the art of "lomilomi" and other massage techniques are precluded from becoming licensed massage therapists because they are unable to meet the present statutory requirements. Many of these persons either practice illegally or without compensation.

Your Committee finds that there may be legitimate instances where individuals have learned and mastered a form of massage which provides beneficial results to clients in a safe manner. In such cases, your Committee believes the Board of Massage should have the flexibility to provide a waiver of apprenticeship requirements for individuals the Board determines as qualified without an apprenticeship period. Any waiver granted should be based on good cause and not be limited to one ethnic group.

Accordingly, your Committee has amended the bill by deleting references to native Hawaiians and adding language authorizing the Board of Massage to waive the apprenticeship requirement for good cause. In order to ensure that this authority is not abused, the Board is required to submit an annual report to the Legislature delineating the circumstances and basis for each waiver granted.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 995, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 995, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano and Young.  
Senator Kawasaki did not concur.

SCRep. 921           Consumer Protection and Commerce on H.B. No. 1354

The purpose of this bill was to clarify the hour when proxies must be delivered to the secretary of an association of apartment owners for meetings of the association.

Your Committee heard testimony in favor of the bill from the Hawaii State Bar Association, Real Property Section. The Association testified that this bill would amend the current law which bases a deadline on "days" to one based on "hours."

Your Committee, after due consideration, agrees with the amendments to provide that a proxy must be delivered no later than 4:30 p.m. on the second business day prior to the date of the meeting.

In addition, your Committee believes that the policy of some associations of apartment owners of allowing owners to have and keep pets in apartments, but prohibiting tenants from doing so, foster animosity and disharmony among residents living within an apartment building complex, and is discriminatory. Your Committee has amended the bill to obviate the problem of unequal treatment between the two classes of occupants by subjecting every apartment occupant to the same set of rules - either all may have pets subject to the same reasonable restrictions or prohibitions that management may impose or all are prohibited from having any pets. Provisions of S.B. No. 205, S.D. 1 have been added to this bill.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1354, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1354, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Young and Henderson.

SCRep. 922            Consumer Protection and Commerce on H.B. No. 1356

The purpose of this bill was to require members selected to the board of directors of the Hawaii Life and Disability Insurance Guaranty Association to be the appointed general agent or manager of the member insurer.

Your Committee heard favorable testimony from the Department of Commerce and Consumer Affairs and finds that this bill assures proper representation and operation of the Association. Your Committee finds that although it would be preferable to have a director from the home office of the insurer member, time and costs preclude such representation because of the distance involved. The next best alternative is to appoint the member's recognized manager or general agent.

Your Committee has made technical, nonsubstantive amendments to this bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1356, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1356, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Chang, Young and Henderson.

SCRep. 923            (Majority) Consumer Protection and Commerce on H.B. No. 1357

The purpose of this bill was to amend Section 431-296, subsection (a), Hawaii Revised Statutes, to allow a domestic life insurer to own and invest or have invested in its home office building and branch office buildings any of its funds in an aggregate amount not to exceed twenty percent of its admitted assets.

Presently, a life insurer is limited to the lesser of the foregoing formula or 50% of the excess of its admitted assets over liabilities relative to ownership/investments in home office or branch office property. Property/casualty insurers, on the other hand, are simply allowed to own/invest twenty percent of their admitted assets. Since twenty percent of assets are almost always more than fifty percent of surplus, the current formulas provide property/casualty insurers greater investment flexibility than life insurers. It is felt that property/casualty insurers should not have greater investment flexibility over life insurers, especially since the nature of the property/casualty business dictates that such insurers' assets be more readily liquid than life insurers'.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1357, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1357, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Young and Henderson. Senator Kawasaki did not concur.

SCRep. 924            (Majority) Consumer Protection and Commerce on H.B. No. 1360

The purpose of this bill is to give publicly held companies incorporated in Hawaii the flexibility to restrict or eliminate cumulative voting for the election of directors.

Currently, cumulative voting for directors is mandated for all companies incorporated in Hawaii, and may not be restricted or eliminated by provisions of the articles of incorporation or bylaws. Under cumulative voting, a stockholder has a number of votes equal to the number of shares owned times the number of directors to be elected, but need not cast the votes evenly among the candidates. A single stockholder owning a relatively small percentage of the

outstanding stock may cast all of his votes for a single candidate.

One practical effect of the existing cumulative voting requirement with respect to publicly held corporations is that an extremely wealthy stockholder or group of stockholders can cast all votes to elect a director or directors representing that stockholder's or stockholders' special interest rather than the interests of all stockholders. In this way, cumulative voting tends to undermine stockholder democracy in publicly held corporations. In addition, cumulative voting can be used as a tactical device by which an undesired director may be forced upon a board thereby impeding governance of the publicly held corporation.

Another result of cumulative voting not foreseen in 1945 when the existing law was adopted is that hostile takeover bids and greenmail are facilitated by the use of this device. In view of this, a number of Hawaii corporations have been considering reincorporating in states that permit restrictions on cumulative voting. A large number of corporations in recent years have reincorporated in Delaware and other states in order to avoid mandatory cumulative voting requirements. In fact, in 1984, Aloha Airlines incorporated its holding company under the laws of Delaware to avoid cumulative voting as part of an anti-takeover bid strategy. This bill would permit corporations to restrict or eliminate cumulative voting by so providing in their articles of incorporation and/or bylaws.

This bill would apply to those Hawaii corporations having equity securities registered pursuant to the Securities Exchange Act of 1934, as amended, which are listed on a national securities exchange or traded over-the-counter on the National Market of the National Association of Securities Dealers, Inc. Automated Quotation System, and would allow them to restrict or eliminate cumulative voting by provisions in their articles or incorporation and/or bylaws.

Your Committee finds that such publicly held Hawaii corporations should be permitted to restrict or eliminate cumulative voting by provision in their articles of incorporation and/or bylaws, to encourage the election of directors who would represent all stockholders in their deliberations, and to discourage the election of a director or directors who would exclusively represent the special interests of only one stockholder or a small group of stockholders rather than the interests of all stockholders.

Your Committee heard favorable testimonies from the Corporations and Securities Administrator of the Department of Commerce and Consumer Affairs, State of Hawaii, and representatives of Amfac, Inc. and Pacific Resources, Inc.

Your Committee on Consumer Affairs and Commerce is in accord with the intent and purpose of H.B. 1360, 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 Young.  
Senators Kawasaki and McMurdo did not concur.

SCRep. 925 (Majority) Consumer Protection and Commerce on H.B. No. 1366

The purpose of this bill was to clarify the effect of Act 167, Session Laws of Hawaii 1983, entitled the Hawaii Business Corporation Act, on existing articles of incorporation and bylaws of Hawaii corporations.

Your Committee has amended the bill by replacing the provisions to amend the Hawaii Business Corporation Act with a provision to amend the dental service corporations law to delete the requirement that at least one-fourth of all licensed dentists and dental surgeons in this State be members of a dental service corporation.

Testimony received by your Committee indicates that children and adults of Hawaii are suffering from an epidemic of dental disease. Public health statistics indicate that by age 30, at least 50 per cent of our population has gum disease, and that by age 50 or 55, at least 50 per cent of our population has lost some or all of their teeth. In addition, the statistics indicate that 40 per cent of all children in Hawaii under the age of 15 have never seen a dentist professionally.

Testimony presented also indicated that a main cause of the dental disease is that hundreds of thousands of our Hawaii residents do not see a dentist on a regular basis. It is felt that the principal reason for the lack of dental health care is because residents cannot afford Hawaii's very high dental costs. Moreover, many residents are not eligible for group dental insurance because they are not employed by large business organizations or by unions. It is believed that over 40,000 persons in Hawaii are not covered by dental insurance.

Chapter 423, Hawaii Revised Statutes, which was enacted in 1961 appears to have been

enacted for the principal benefit of a single dental insurance program, which does provide group dental services. A serious question has risen as to whether the requirement that at least one-fourth of all licensed dentists and dental surgeons be members of a dental service corporation is anti-competitive and a de factor monopolistic practice. This concern is supported by the fact that since the enactment of chapter 423 over twenty years ago, there is only one organization which has been formed and operating thereunder.

It is believed that the dental health of the community could be improved significantly if the State encourages the formation of dental service corporations offering prepaid dental plans by deleting the requirement from the present law that one-fourth of all licensed dentists and dental surgeons in this State be members thereof. By permitting the formation of more dental service corporations, a large portion of the public could be covered by dental plans, and dental costs should be reduced.

In view of the fact that this amendment expands the opportunities for the formation of dental service corporations, your Committee feels that there is a need to ensure that the interests of consumers are protected. Your Committee, therefore, has made an additional amendment to this bill to require dental service corporations to secure a fidelity bond in the amount of \$25,000.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1366, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1366, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.  
Senators Kuroda, Matsuura and A. Kobayashi did not concur.

SCRep. 926 (Majority) Consumer Protection and Commerce on H.B. No. 1489

The purpose of this bill was to amend Section 514E-30, Hawaii Revised Statutes (HRS), by limiting the State's authority to regulate out-of-state sales of time share interests located in Hawaii.

Your Committee received favorable testimony from the Department of Commerce and Consumer Affairs and Vacation Internationale.

Your Committee concurs with the testimony received and finds that presently, the law requires a developer of a Hawaii time share plan to provide a disclosure statement meeting the requirements of Section 514E-9(a), HRS, to purchasers even if the sale takes place out-of-state. In addition, the purchaser would also have a 5-day rescission right pursuant to Section 514E-8, HRS. In light of the fact that other jurisdictions may have their own disclosure requirements and rescission periods, an out-of-state purchaser could be subjected to several disclosure documents and conflicting rescission periods. Your Committee believes that such a situation may confuse the time share purchaser.

Your Committee also finds that although this bill allows a developer to use an out-of-state disclosure document with respect to the developer's out-of-state sales, it will ensure that out-of-state purchasers are protected in a manner which is equivalent to the protections offered to in-state purchasers.

Your Committee has made nonsubstantive amendments for the purposes of clarity and to correct typographical errors.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1489, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1489, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Young and Henderson.  
Senator Kawasaki did not concur.

SCRep. 927 (Majority) Consumer Protection and Commerce on H.B. No. 346

The purpose of this bill was to replace the existing statutes which govern the creation and operation of corporations with a new chapter to be referred to as the "Hawaii Professional Corporation Act".

Under present law, professional corporations are governed by and subject generally to chapter 416, Hawaii Revised Statutes, except where such provisions are in conflict with or inconsistent with provisions found specifically in part VIII of the same chapter. The Business Registration

Division of the Department of Commerce and Consumer Affairs testified in support of this bill and stated that the current statutory framework does not adequately reflect the significant differences between business corporations and professional corporations. Further, passage of the Hawaii Business Corporation Act (Act 167, 1983 Session Laws of Hawaii), a companion bill to the Hawaii Professional Corporation Act, necessitates passage of a statute governing professional corporations.

This bill provides that the minimum amount of professional responsibility security for the professional corporation shall be the product of \$100,000 multiplied by the number of shareholders of the professional corporation and provides that the licensing authority charge and collect a fee of \$10 for filing a statement of qualification.

Your Committee heard favorable testimony from the Department of Commerce and Consumer Affairs and the Statewide Human Services Action Council. The Department noted that new language which grandfathers currently existing professional corporations, articles of incorporation, and bylaws is required to preclude the hampering of operations of existing corporations when this Act takes effect.

Your Committee has accordingly amended the bill by:

- (1) Adding on page 28, line 12 of the following provision:

"Nothing in this chapter shall affect the validity of any action taken by any corporation, or shall impair or affect the validity of any provision of the articles of incorporation or bylaws adopted by any corporation, prior to the effective date of this chapter;" and

- (2) Adding on page 28, line 21 after the word "affect" the phrase:

"the validity of any provisions of articles of incorporation and bylaws which were adopted,".

Your Committee also amended the bill by:

Adding a new section that amends the dental service corporations law by deleting the requirement that at least one-fourth of all licensed dentists and dental surgeons in this State be members of a dental service corporation. The amendment also provides for maintenance of a \$25,000 surety bond to protect subscribers of any dental corporation plan.

Your Committee believes that the dental health of the community could be improved significantly if the State encourages the formation of dental service corporations offering prepaid dental plans. By permitting the formation of more dental service corporations, a large portion of the public could be covered by dental plans, and dental costs should be reduced.

In addition your Committee has made a technical nonsubstantive amendment to this bill by underscoring the section heading of proposed section -23.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 346, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 346, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.  
Senators Kuroda, Matsuura and A. Kobayashi did not concur.

SCRep. 928 (Majority) Consumer Protection and Commerce on H.B. No. 347

The purpose of this bill was to replace the existing statutes which govern the creation and operation of nonprofit corporations with a new chapter to be referred to as the "Hawaii Nonprofit Corporation Act."

Under present law, nonprofit corporations are governed by and subject to "all general laws enacted in regard to corporations," pursuant to section 416-19, Hawaii Revised Statutes. Passage of the Hawaii Business Corporations Act (Act 167, Session Laws of Hawaii 1983), a companion bill to this Hawaii Nonprofit Corporation Act, necessitates passage of a statute governing nonprofit corporations.

This bill provides that the "Hawaii Nonprofit Corporation Act" shall take effect, upon its approval, on July 1, 1987. The July 1, 1987 effective date would permit the Department of Commerce and Consumer Affairs to examine the potential effects of this bill on department operations. The bill also provides a fee of \$5.00 for filing a corporate statement or report, other than an annual report.

Your Committee heard favorable testimony from the Department of Commerce and Consumer Affairs. The Department noted that some language needs to be added which grandfathers existing non-profit corporations, articles of incorporation and bylaws. Without any validating language, existing corporation operations would be hampered. The Department suggested using the language from S.B. No. 668.

Your Committee has adopted the Department's recommendation and has amended the bill by:

(1) Adding on page 95, line 21 a comma after the word "corporation" and inserting before the word "prior" the clause:

"or shall impair or affect the validity of any provision of the articles of incorporation or bylaws adopted by any corporation,".

(2) Adding on page 102, line 15 after the word "affect" the clause:

"the validity of any provisions of articles of incorporation and bylaws which were adopted,".

Your Committee also amended the bill by adding a new section that amends the dental service corporations law by deleting the requirement that at least one-fourth of all licensed dentists and dental surgeons in this State be members of a dental service corporation. The amendment also provides for maintenance of a \$25,000 surety bond to protect subscribers of any dental corporation plan.

Your Committee believes that the dental health of the community could be improved significantly if the State encourages the formation of dental service corporations offering prepaid dental plans. By permitting the formation of more dental service corporations, a large portion of the public could be covered by dental plans, and dental costs should be reduced.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 347, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 347, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young,  
Senators Kuroda, Matsuura and A. Kobayashi did not concur.

SCRep. 929                      Consumer Protection and Commerce on H.B. No. 240

The purpose of this bill was to:

- (1) Clarify and specify the responsibilities of the Bank Examiner in light of Act 203, Session Laws of Hawaii 1982, which, among other things, established the Office of the Bank Examiner as an officer separate from the Director of Commerce and Consumer Affairs;
- (2) Change the names of the Bank Examiner to the Commissioner of Financial Institutions; and
- (3) Designate the Commissioner as the head of the Division of Financial Institutions.

Your Committee heard favorable testimony from the Department of Commerce and Consumer Affairs. This bill will eliminate confusion as to the authority of the Bank Examiner to regulate and supervise state-chartered financial institutions, create more accurate titles in conformity with similar positions and agencies in other states, authorize the Bank Examiner to promulgate rules to better administer and enforce state laws relating to financial institutions, and to subject foreign corporations holding industrial loan licenses to the same examination fee schedule that applies to other financial institutions.

The Department proposed a major amendment to the bill which would permit an out-of-state financial institution to advertise in Hawaii provided that it is federally insured and regulated by federal or state authorities. The provision would require disclosure in all local advertisements that the advertising institution is not regulated by the State, thus putting consumers on notice.

Your Committee, after due consideration, believes that in balancing the State's interest in keeping its capital within the State as much as possible against the rights of consumers to choose where to place their moneys, the recommendation should be adopted. Your Committee accordingly has amended the bill by adding a new section to effectuate the Department's suggestion.

In addition, your Committee has made the following technical amendments:

- (1) On page 8, line 11, a comma was placed after the word "available".

- (2) On page 53, line 21, the section number "409-28" was added to the enumerated sections.
- (3) On page 55, line 13, the section number "409-28" was deleted from the enumerated sections.
- (4) On page 55, line 16, the word "examiner" was corrected to "examiner".

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 240, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 240, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.

SCRep. 930                      Consumer Protection and Commerce on H.B. No. 755

The purpose of this bill was to extend the repeal date of Chapter 460 (Board of Osteopathic Examiners), Hawaii Revised Statutes, from December 31, 1985 to December 31, 1991.

Although the Board supports the intent and purpose of this bill, it requested that your Committee incorporate the substance of S.B. No. 199, S.D. 1 which was heard on March 4, 1985. S.B. No. 199, S.D. 1, which also extends the Board until December 31, 1991, also includes the substance of S.B. No. 214 in order to incorporate recommendations made by the Legislative Auditor.

As amended, this bill contains the following substantive provisions:

- 1) Defines the practice of osteopathy.
- 2) Eliminates the osteopathic physician license and instead provides for licensing as an osteopathic physician and surgeon.
- 3) Eliminates the requirement for one year of assistantship to a qualified osteopathic surgeon if graduated subsequent to 1943.
- 4) Eliminates the requirement of age and good moral character for licensing.
- 5) Provides for the acceptance of results of the Federal Licensing Examination in lieu of the state written examination.
- 6) Eliminates the three-year experience requirement for obtaining a license by reciprocity, provided that the applicant is licensed in a jurisdiction that has licensing requirements practically equivalent to this State.
- 7) Provides for the regulation of physician's assistants employed by osteopathic physicians.
- 8) Conforms statutory provisions relating to disciplinary action and information reporting requirements to similar provisions in Chapter 453, Hawaii Revised Statutes, which regulates the practice of medicine and surgery.
- 9) Changes the effective date of this Act from January 1, 1986 to its date of approval.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 755, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 755, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Young.

SCRep. 931                      Judiciary on H.B. No. 1285

The purpose of this bill is to require national criminal history record checks for all operators, staff, or employees, or prospective operators, staff, or employees of child care, detention, and correction or treatment facilities.

Public Law 98-473 provides for the allotment of federal funds for training of child care service operators, staff, state licensing officials, and parents if a state enacts legislation to require a nationwide criminal history record check for all operators, staff, or employees of child care facilities.



The bill provides that all operators, employees, and newly hired employees of child care facilities submit a statement under penalty of perjury, stating whether or not they have been convicted of any crime, the fine of which was not fifty dollars or less. These persons are then fingerprinted and criminal history record checks are made through the National Crime Information Center. The department may deny employment or licensing of a facility, as the case may be, if a person poses a threat to the welfare of children.

Your Committee amended the bill to require disclosure of convictions for crimes only under Chapters 707, 708, 709, 710, 711, or 712, Hawaii Revised Statutes, and not all crimes the fine for which is more than fifty dollars.

Concern was raised about the mandatory fingerprinting provisions of the bill. In order to provide more discretion regarding this issue, your Committee amended the bill to make fingerprinting discretionary with the supervising department.

Your Committee further amended the bill by adding a new section to provide the same criminal history record checks to other "child care facilities" such as the detention facilities run by the Judiciary, pursuant to section 571-33, and amending another section to expand the protections offered by this bill specifically to the Hawaii Youth Correctional Facility run by the Department of Social Services and Housing.

Your Committee also amended the bill to amend section 831-3.1, Hawaii Revised Statutes, which prohibits the disqualification of a person from state employment solely because of a prior criminal conviction. The amendment exempts from the provisions of the section child care facilities protected by the criminal history record checks proposed by this bill.

The bill was also amended to correct drafting errors, to clarify the language used in the bill, and to conform the bill with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1285, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1285, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Aki and Young.

SCRep. 932            Judiciary on H.B. No. 697

The purpose of this bill is to amend Section 296-71, Hawaii Revised Statutes, by expanding the types of criminal violations occurring in public schools that must be reported. It also provides immunity for school officials who report such violations.

Your Committee is concerned about the types of criminal activities in public schools which must be reported by students, school officers, or school employees to the appropriate authorities. A safe and secure school environment is necessary for effective teaching and learning. The bill will help to promote such an environment by ensuring that certain illegal activities will be reported.

Your Committee amended this bill by providing that the types of criminal activities which must be reported would include arson, murder, attempted murder, and rendering a false alarm. The inclusion of these crimes promote a proper and safe educational environment.

Your Committee deleted the provisions in the bill which would have provided immunity for reporting. It finds that the current law providing for indemnification is sufficient protection for those who report.

Your Committee also made technical, nonsubstantive amendments to the bill for clarity and for conformance with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 697, 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. 697, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Aki and Young.

SCRep. 933            Judiciary on H.B. No. 830

The purpose of this bill is to amend Chapter 291, Hawaii Revised Statutes, by adding a new part which prohibits any blue illumination device from being affixed, displayed, or utilized upon a motor vehicle, motor scooter, bicycle, or moped except for authorized law enforcement vehicles.

Your Committee finds that there is an increasing number of reports that persons are impersonating police officers by wearing uniforms, possessing false badges of authority, or displaying seemingly official equipment. Current law prohibits a person from impersonating a police officer. However, there is no present law which prohibits the use of blue lighted lamps on motor vehicles.

Your Committee is concerned with the possible enforcement problems associated with persons who may innocently drive vehicles with objectionable devices. Therefore, your Committee amended this bill to prohibit only those person who affix or cause to be affixed a blue illumination device from their motor vehicles. Your Committee is also concerned that the operator or the registered owner of the motor vehicle would be penalized for the act of another person in using prohibited devices. This bill will ensure that only the culpable person, the person who affixes or causes to be affixed the blue lamp, will be penalized under this section. Therefore, your Committee amended this bill to penalize only those persons who affix or cause to be affixed a prohibited device on motor vehicles. Your Committee also eliminated the unnecessary notions of "operable", "inoperable", "illuminated", and "nonilluminated" blue lamps.

Finally, your Committee made technical and nonsubstantive amendments to the bill for clarity and for conformance with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 830, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H. B. No. 830, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senators Aki and Young.

SCRep. 934            Judiciary on H.B. No. 558

The purpose of this bill is to amend section 294-30(a), Hawaii Revised Statutes, to allow reasonable attorney's fees and costs from an insurance company to an insured claimant who has effected a tort recovery and is later sued by the insurer for subrogation. It also permits reasonable attorney's fees to an insured claimant when the claimant's insurance company denies the claim and files suit against the claimant.

Section 294-30 attempts to equalize the inequitable situation which occurs when no-fault insurance benefits are denied by the insurance company. In most instances, the insured is a person with a moderate income and without the means to afford an attorney. Allowing the insured to recover attorney's fees and costs will better assure that the claimant will be able to protect his rights.

Your Committee made technical, nonsubstantive amendments to the bill for clarity and conformance with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 558, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 558, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Aki and Young.

SCRep. 935            Judiciary on H.B. No. 265

The purpose of this bill is to add definitions of a "person", "employer", "duty of support", "obligor", and "obligee" to the definitions for H.R.S. Chapter 571, relating to Family Courts. It also revises the definition of "status offender" to delete "abused children".

Act 207, enacted in 1984, mandates the assignment of wages of absent parents delinquent in child support payments in H.R.S. §§571-52 and 571-52.2. Certain terms were used in the new provisions but were not added to the definitions listed in H.R.S. §571-2. This bill would clarify the terms and prevent any misinterpretations of the wage assignment sections, which could cause needless delays in the payment of support to children.

The bill also eliminates from the definition the terms "abused child" under section 571-11(2)(A). That section pertains only to children who are deprived or neglected of educational services; it does not pertain to children who are victims of abuse, who are referred to in section 571-11(9).

Your Committee amended the bill to simplify the definitions of "person" and "employer". Since the terms would be used in the context of prohibitions against certain actions of employers, your Committee used as guidance the more succinct definitions for those two terms found in H.R.S. Chapter 378, relating to employment practices. It also deleted from the definition of "obligee" the state or its political subdivisions because those two entities were

already included in the definition of "person".

Further, your Committee amended the bill to establish the comprehensive State Child Support Enforcement Program. Your Committee finds that consolidating program services within one administrative structure will insure consistent and timely child support to the children of the community.

Your Committee made technical, nonsubstantive amendments to the bill to conform with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 265, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 265, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Aki, Kawasaki and Young.

SCRep. 936            Consumer Protection and Commerce on H.B. No. 229

The purpose of this bill was to improve and strengthen the laws regulating commercial employment agencies.

Under the present statutes, only employment agencies are licensed. This bill provides licensure for principal agents or individuals and requires each agency to have a licensed agent or individual as a requirement for obtaining its agency license. A provision is made for inactive status should the principal agent not engage in the business. Also, in order to regulate branch operations, the bill requires an employment agency to maintain separate employment agency branch office licenses.

Currently, an employment agency pays a single fee for licensure. This bill provides for separate application, examination, reexamination, license renewal, and restoration fees. A biennial license renewal period is also adopted to lessen the administrative cost of maintaining the program.

The bill provides for automatic suspension of an employment agency's license effective immediately upon the expiration or cancellation of the required bond. Under present administrative procedure, the director is required to conduct a formal hearing to prevent the licensee from operating after the expiration or cancellation of a bond and this procedure may take several weeks. In the meantime, there is nothing to prevent a licensee from continuing to engage in business and exposing the consuming public to potential losses.

Your Committee notes that, as introduced, this bill contained a provision prohibiting an employment agency from requiring the employer to withhold from the applicant's actual earnings from employment any fee or service charge that has been negotiated by contract between the applicant and the employment agency unless specifically requested by the applicant. It is your Committee's view that moneys withheld from the applicant's earnings is a matter strictly between the applicant and the employer and an employment agency should not require an employer to withhold its fee from the wages of an applicant. Therefore, your Committee has amended the bill to restore provisions prohibiting such withholding.

Your Committee on Commerce and Consumer Affairs is in accord with the intent and purpose of H.B. No. 229, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 229, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Young and Henderson.

SCRep. 937            Consumer Protection and Commerce on H.B. No. 235

The purpose of this bill was to allow qualified graduates of foreign pharmacy schools to obtain licensure, to remove the requirements of "good moral character and temperate habits", and to clarify the language on qualifications for licensure under Section 461-5, Hawaii Revised Statutes.

The bill provides that foreign pharmacy graduate applicants pass a Board approved examination to establish proficiency in English and equivalency of education. This requirement is in addition to the standard requirements imposed on all applicants seeking licensure. The bill also provides clarifying language on qualifications for licensure which eases the prior unduly restrictive language regarding the entry of qualified foreign pharmacy school graduates. The requirement that a person be of "good moral character and temperate habits" is deleted as such characteristics are difficult to define and evaluate.

Your Committee heard favorable testimony on this bill from the Board of Pharmacy and agrees with allowing qualified foreign pharmacy graduates to have better access to the practice of pharmacy in the State.

Your Committee notes the concerns addressed by the Legislative Auditor's report regarding pharmacy technicians in pharmacy practices. There currently are no specific regulatory provisions that define such support or auxiliary aides, specify their qualification requirements, delineate the functions such personnel may legally perform, or determine the supervisory controls required of these personnel. Accordingly, your Committee finds that changes to Section 461-9, Hawaii Revised Statutes, is necessary to authorize pharmacists to employ pharmacy technicians. Your Committee has amended the bill to effectuate the functional status of pharmacy technicians according to rules adopted by the Board in accordance with Chapter 91.

Your Committee also has amended the bill as follows:

- 1) Page 3, line 22 and page 4, line 1: Replaced the word "his" with "the applicant's"; and
- 2) Page 4, line 2: Replaced the second "may" with the word "shall".

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 235, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 235, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and Young.

SCRep. 938      Consumer Protection and Commerce on H.B. No. 509

The purpose of this bill was to amend Chapters 287 and 294, Hawaii Revised Statutes, to strengthen penalties for driving without the no-fault insurance coverage currently required under Chapter 294.

Your Committee received favorable testimony from the Insurance Division of the Department of Commerce and Consumer Affairs, the Hawaii Academy of Plaintiffs' Attorneys, the Hawaii Independent Insurance Agents Association, and the Hawaii Insurers Council. The Division testified that it believes tougher penalties will provide a stronger disincentive for driving without no-fault insurance than is currently provided in the law.

Your Committee finds that requiring the filing of a certificate of insurance as proof of financial responsibility, as well as instituting a minimum \$400 fine for not having valid and current no-fault coverage will deter drivers from driving without no-fault insurance.

However, your Committee has amended the fine to provide a \$100 fine for the first offense with a minimum fine of \$400 for each additional offense.

Additionally, the bill provides that an operator of someone else's vehicle, who has no-fault coverage will not be in violation of the no-fault insurance law.

Your Committee finds that these proposed provisions are not intended to penalize motorists whose policies have been delayed because their insurance company had failed to mail their policy expeditiously.

Your Committee has further amended Section 3 on page 4, line 17 of the bill by adding the following:

"Any operator of a motor vehicle owned by another person shall not be considered in violation of this section if the operator's insurance covers such driving."

Your Committee has also amended the bill by adding existing statutory language which was inadvertently omitted.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 509, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 509, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and Young.

SCRep. 939      Consumer Protection and Commerce on H.B. No. 520

The purpose of this bill was to amend Chapter 514A, Hawaii Revised Statutes as it relates to requirements for condominium sales to owner-occupants.

The bill permits a developer to: (a) summarize the information required to be published in

the announcement subject to the approval of the Commission in lieu of listing each individual unit in the announcement, (b) decrease the amount of information required to be contained in the announcement, (c) decrease the number of times the publication is required, and (d) require that notification to tenants prior to termination of the rental agreement contain the same information as is statutorily required and that the notification be transmitted by registered mail. The bill also requires a lending institution to notify an owner-occupant applicant within 45 days of any action and exempts developers who either do not sell or plan to sell the project to the third persons or who build or convert two houses on a single lot from the statutory requirements of sale to owner-occupants.

The bill implements the recommendation of the Real Estate Commission contained in a Commission report in response to the 1983 H.R. No. 390 and the 1981 H.R. No. 144 requiring the Real Estate Commission to provide information to the Legislature on the administration of the statutes relating to sales to owner-occupants.

Your Committee believes that the policy of some associations of apartment owners of allowing owners to have and keep pets in apartments, but prohibiting tenants from doing so, fosters animosity and disharmony among residents living within an apartment building complex, and is discriminatory. Your Committee has amended the bill to obviate the problem of unequal treatment between the two classes of occupants by subjecting every apartment occupant to the same set of rules - either all may have pets subject to the same reasonable restrictions or prohibitions that management may impose or all are prohibited from having any pets. Provisions of S.B. No. 205, S.D. 1 have been added to this bill.

Your Committee has further amended the bill by adding a new item to Section 514A-13, Hawaii Revised Statutes, wherein any change in the use of common elements pursuant to subsection (d) must be with the prior written approval of 75 percent of the owners affected in an adverse manner.

The bill has also been amended to specify that the section pertaining to sales to owner-occupants shall not apply to projects containing 10 or less units where the developer sells or intends to sell the project to a spouse or related family members.

Other amendments have been made to the bill to correct typographical and technical errors which have no substantive effect and to make changes to conform the bill's provisions to existing statutory language.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 520, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 520, 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, Young and Henderson.

SCRep. 940                      Consumer Protection and Commerce on H.B. No. 761

The purpose of this bill was to extend the repeal date of Chapter 457B (Board of Examiners of Nursing Home Administrators), Hawaii Revised Statutes, from December 31, 1985 to December 31, 1991.

The Legislative Auditor in the "sunset law" report on the regulation of nursing home administrators under Chapter 457B, Hawaii Revised Statutes, revealed glaring shortcomings in the administration of the law. Lack of clear standards for admission to the licensing examination, unequal treatment of applicants and the failure to monitor the activities of nursing home administrators were all identified in the report. In addition, the requirements for licensure have become so restrictive that Hawaii residents were at a disadvantage when compared with applicants from other states.

Your Committee heard testimony from the Department of Social Services and Housing and the Board of Examiners of Nursing Home Administrators in favor of the bill, both noting that mandatory state licensing of nursing home administrators is required under a 1967 Congressional Amendment to the Social Security Act, to continue receiving Federal matching funds.

Your Committee was made aware of H.B. No. 575, H.D. 1 in which a substantial portion of the auditor's recommendations were incorporated. While agreeing with most of H.B. No. 575, H.D. 1, the Board did not agree with the recommendation to revise and update its rule on Master of Public Health degrees so that it corresponds with educational opportunities in the State, primarily because it feels that the University of Hawaii School of Public Health offers sufficient educational opportunity with courses in health administration in its Master of Public Health program, relating both to administration and gerontology. The performance standards

for nursing home administrators since the Department of Social Services and Housing (DSSH) currently performs care reviews to determine appropriateness and level of care for DSSH patients, and this review provides adequate basis for determining performance.

Your Committee, after careful consideration, has agreed to incorporate much of H.B. No. 575, H.D. 1, into the bill in order to provide for effective regulation of nursing home administrators. Your Committee has amended the bill by allowing a person who holds a Master of Public Health, Master of Business Administration or Master of Hospital Administration degree, with specialization in health services administration, to waive one year of practical experience as required by the Board. Your Committee has also amended the bill by requiring one year of administrative experience in a health related area.

Your Committee has amended the bill by expanding the exemption provision since the University of Hawaii School of Public Health offers courses in health administration in its Master of Public Health program, relating both to administration and gerontology.

Finally, the bill proposed that the Board develop specific performance standards for administrators to be used by DSSH in its inspection of care reviews for nursing homes. Your Committee did not find persuasive the recommendation that the performance of nursing home administrators be left entirely to their employers. Your Committee believes that the ability of nursing home administrators to provide a high level of care is an important factor in assessing the performance of nursing home administrators and must come within the purview of the Board. Your Committee, therefore has amended the bill by adding the following language: [;]. The board shall also initiate and maintain cooperative arrangements with the long-term care ombudsman, the department of social services and housing and department of health for the sharing of information on the performance of administrators;

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 761, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 761, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Young and Henderson.

SCRep. 941            Judiciary on Gov. Msg. No. 197

Recommending that the Senate consent to the nomination of WILFRED K. WATANABE as Judge of the Circuit Court of the First Circuit, for a term of ten years, in accordance with the provisions of Article VI, Section 3, of the Constitution of the State of Hawaii.

Signed by all members of the Committee except Senators Aki, Kawasaki and Young.

SCRep. 942            Judiciary on Gov. Msg. No. 199

Recommending that the Senate consent to the nomination of FRANK TOKIO TAKAO as Judge of the Circuit Court of the First Circuit, for a term of ten years, in accordance with the provisions of Article VI, Section 3, of the Constitution of the State of Hawaii.

Signed by all members of the Committee except Senators Aki, Kawasaki, Kuroda and Young.

SCRep. 943            Judiciary on Gov. Msg. No. 198

Recommending that the Senate advise and consent to the nomination of E. JOHN McCONNELL, JR., as Judge to the Circuit Court of the Second Circuit, for a term of ten years, in accordance with the provisions of Article VI, Section 3, of the Constitution of the State of Hawaii.

Signed by all members of the Committee except Senators Aki, Kawasaki, Kuroda and Young.

SCRep. 944            Labor and Employment on Gov. Msg. Nos. 145, 189, 228, 146, 147, 148, 230 and 229

Recommending that the Senate advise and consent to the nominations of the following:

RICHARD T. SUBIAGA to the Civil Service Commission, for a term ending December 31, 1988;

CLARENCE M. TAKASHIMA to the Civil Service Commission, for a term ending December 31, 1985;

MELVYN T. MURAKAMI to the Civil Service Commission, for a term ending December 31, 1986;

HERBERT M. DIAS and RONALD N. HIRANO to the Board of Trustees of the Deferred Compensation Plan, for a term ending December 31, 1988;

ROBERT M. FUKUNAGA to the Hawaii Employment Relations Board, for a term ending December 31, 1988;

ROY E. KING, JR., to the Board of Trustees, Hawaii Public Employees Health Fund, for a term ending December 31, 1988;

JEAN H. NAKAGAWA to the Board of Trustees, Hawaii Public Employees Health Fund, for a term ending December 31, 1988; and

ROY YONAHARA, ALVIN J. NISHIMOTO, ISAAC J. KAOPUA, SR., LINDA F. AGOSTO, MARY JEAN LINDSEY and CHRISTY A. KAWABATA to the Advisory Commission on Manpower and Full Employment, for terms ending June 30, 1988.

Signed by all members of the Committee.

SCRep. 945            Higher Education on S.R. No. 51

The purpose of this resolution is to request that the University of Hawaii document the measures it has taken to address the problems faced by its women faculty members in such areas as salary, promotion, tenure and professional enrichment and support. The resolution also requires that the University report its findings to the Legislature and make recommendations for concrete programs and policies directed toward the rectification of these problems.

Your Committee has heard testimony from the University of Hawaii expressing its commitment to equal opportunity and affirmative action for women and its support of the intent of this resolution.

Testimony received from members of the University community and other interested individuals indicates the desirability of purposeful study of the status of women at the University and the need for amelioration of any inequities which may be found to exist.

Your Committee finds that in spite of the University's commitment to equal opportunity and affirmative action, there is nevertheless, ample reason to believe that there are still some women at the University who do not enjoy the same degree of opportunities as most men.

The resolution has been amended by deleting the word "faculty" from line 5 of the first "Be it resolved" clause to reflect your Committee's intent that the report requested by this resolution include an assessment of problems faced not only by women faculty at the University, but by its female staff and students as well.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 51, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 51, S.D. 1.

Signed by all members of the Committee.

SCRep. 946            (Majority) Higher Education on S.R. No. 40

The purpose of this resolution is to request the Legislative Auditor to conduct a management audit of the School of Medicine of the University of Hawaii.

In accordance with Rule No. 16 of the Rules of the Senate which states in part that:

"It shall be the duty of each Standing Committee to conduct systematic review of those portions of the state budget, program and financial plans, and variance reports dealing with, and to consider all laws, bills, resolutions, petitions, reports and other matters relating to, those programs over which the committee has responsibility.

It shall examine such portions of the Executive Budget, the General Appropriations Bill and the Supplemental Appropriations Bill relating to the programs over which it has responsibility, and it shall recommend the programs and the levels of program expenditure to be included in the General Appropriations Bill or Supplemental Appropriations Bill",

Your Committee conducted an extensive review of the University's programs and where appropriate, various program heads and managers were interviewed when the committee's concerns extended beyond the written material submitted by the University.

With the exception of the Medical School, the Committee received the complete cooperation of the University administration, faculty and staff. The Medical School however, has since adopted a more responsive and conciliatory attitude towards this Committee and the Legislature. While your Committee finds this change encouraging, it nevertheless finds that the services of the Legislative Auditor are warranted for two major reasons. The first is that this Committee can no longer maintain an appearance of impartiality in the eyes of the general public with regards to the Medical School. Secondly, the magnitude of the state's investment in the Medical School is large and significant and thus merits a detailed examination which can more properly be conducted by the Legislative Auditor.

Your Committee has received favorable testimony from the Medical School concerning the potential audit and has amended the resolution to incorporate their recommendations by:

- 1) Amending the fifth Whereas clause to include more accurate enrollment figures provided by the School of Medicine.
- 2) Adding clarifying language to the Be It Resolved clause where "curriculum" is referenced.
- 3) Including a fifth requirement in the Be It Resolved clause for the purpose of directing the Legislative Auditor to examine the Medical School's compliance with Senate Standing Committee Report No. 147, Sixth State Legislature, Regular Session of 1971.

In summary, your Committee finds that the situation with the School of Medicine is such that the Legislature would be negligent in its responsibilities if it does not exhaust every effort to properly and fully evaluate the operations and management of this program as provided for in Section 37 66 (4) which reads as follows:

Responsibilities of the legislature. The Legislature shall:

- (4) Review the implementation of the state budget and program accomplishments and execution of legislative policy direction. Implementation of the state budget and program management, execution, and performance shall be subject to post audits by the auditor who shall report his findings and recommendations to the legislature as provided in chapter 23.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 40, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 40, S.D. 1.

Signed by all members of the Committee.  
Senator Abercrombie did not concur.

SCRep. 947 (Majority) Higher Education on S.C.R. No. 36

The purpose of this concurrent resolution is to request the Legislative Auditor to conduct a management audit of the School of Medicine of the University of Hawaii.

In accordance with Rule No. 16 of the Rules of the Senate which states in part that:

"It shall be the duty of each Standing Committee to conduct systematic review of those portions of the state budget, program and financial plans, and variance reports dealing with, and to consider all laws, bills, resolutions, petitions, reports and other matters relating to, those programs over which the committee has responsibility.

It shall examine such portions of the Executive Budget, the General Appropriations Bill and the Supplemental Appropriations Bill relating to the programs over which it has responsibility, and it shall recommend the programs and the levels of program expenditure to be included in the General Appropriations Bill or Supplemental Appropriations Bill",

Your Committee conducted an extensive review of the University's programs and where appropriate, various program heads and managers were interviewed when the committee's concerns extended beyond the written material submitted by the University.

With the exception of the Medical School, the Committee received the complete cooperation of the University administration, faculty and staff. The Medical School however, has since adopted a more responsive and conciliatory attitude towards this Committee and the Legislature. While your Committee finds this change encouraging, it nevertheless finds that the services of the Legislative Auditor are warranted for two major reasons. The first is that this Committee can no longer maintain an appearance of impartiality in the eyes of the general public with regards to the Medical School. Secondly, the magnitude of the state's investment in the Medical School is large and significant and thus merits a detailed examination which can more properly be conducted by the Legislative Auditor.



Your Committee has received favorable testimony from the Medical School concerning the potential audit and has amended the resolution to incorporate their recommendations by:

- 1) Amending the fifth Whereas clause to include more accurate enrollment figures provided by the School of Medicine.
- 2) Adding clarifying language to the Be It Resolved clause where "curriculum" is referenced.
- 3) Including a fifth requirement in the Be It Resolved clause for the purpose of directing the Legislative Auditor to examine the Medical School's compliance with Senate Standing Committee Report No. 147, Sixth State Legislature, Regular Session of 1971.

In summary, your Committee finds that the situation with the School of Medicine is such that the Legislature would be negligent in its responsibilities if it does not exhaust every effort to properly and fully evaluate the operations and management of this program as provided for in Section 37 66 (4) which reads as follows:

Responsibilities of the legislature. The Legislature shall:

- (4) Review the implementation of the state budget and program accomplishments and execution of legislative policy direction. Implementation of the state budget and program management, execution, and performance shall be subject to post audits by the auditor who shall report his findings and recommendations to the legislature as provided in chapter 23.

Your Committee on Higher Education concurs with the intent and purpose of S.C.R. No. 36, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 36, S.D. 1.

Signed by all members of the Committee.  
Senator Abercrombie did not concur.

SCRep. 948      Government Operations on H.B. No. 110

The purpose of this bill is to allow a contractor supplying services to a governmental agency a reasonable period, as determined by the contracting officer, to correct noncompliance with wage scales and labor laws prior to cancellation of a contract over \$5,000.

Presently the law provides that if a contractor is not in compliance with the requirements of Section 103-55, Hawaii Revised Statutes, the contract shall be cancelled.

Your Committee finds that it is in the best interest of the State to allow a contractor to correct the deficiency rather than cancel the contract and go through another bidding process.

Your Committee on Government Operations is in accord with the intent and purpose of H.B. No. 110, 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. 949      Government Operations on H.B. No. 96

The purpose of this bill is to establish an Advisory Committee comprised of five members of the Senate, five members of the House and one member from each county council to study overlapping State and County functions.

Under present laws the State and County governments have concurrent jurisdiction over many functions and programs such as parks, highways, land use planning, housing programs, water systems, protection of witnesses, and compensation for victims of crime. This overlapping of functions and programs can lead to confusion and inconsistencies as well as inefficient utilization of available resources.

Testimony submitted by county officials indicated that because state and county governments separately fund identical programs, consolidation of overlapping functions could result in a substantial reduction in governmental costs.

Your Committee believes that state and county programs should complement rather than duplicate each other, and identification of overlapping responsibilities is necessary in order to recommend programs that could be consolidated to promote efficiency without sacrificing services to the public.

Your Committee on Government Operations is in accord with the intent and purpose of H.B. No. 96 and recommends that it pass Second Reading and be placed on the calendar for Third

Reading.

Signed by all members of the Committee.

SCRep. 950            Government Operations on H.B. No. 440

The purpose of this bill is to require that a government agency shall review purchase and design specifications of public works contracts and must purchase and use available Hawaii products which meet minimum specifications.

Your Committee finds that it is particularly important that the State and county governmental agencies utilize local products to their maximum extent. This type of requirement would increase economic development, increase employment opportunities, and increase the tax base within the State.

Your Committee on Government Operations is in accord with the intent and purpose of H.B. No. 440, 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. 951            Economic Development on H.B. No. 211

The purpose of this bill is to change the requirement that the High Technology Development Corporation control the activities and operations of industrial parks financed through revenue bond proceeds to a requirement that the Corporation monitor and enforce compliance with appropriate Corporation rules relating to health, safety, building, planning, and land use concerns regarding such industrial parks.

Under current provisions of Section 206M-5, Hawaii Revised Statutes, the Corporation is responsible for the administration and control of projects for which it issues revenue bonds to finance construction. According to testimony from the Corporation, this requirement is an obstacle to the Corporation's ability to encourage private developers' participation in industrial park development projects. Since these developers incur all predevelopment costs and must repay bonds within prescribed time frames, they prefer to maintain control over their projects and not have their projects controlled and administered by the Corporation. Moreover, the Corporation staff numbers only three and cannot adequately assume the responsibility for control and administration of any industrial park development project.

Your Committee believes that this administration bill provides an appropriate method of addressing the problem of improving private developers' participation in high technology industrial park growth and development.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 211 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 952            Economic Development on H.B. No. 155

The purpose of this bill is to grant the Department of Hawaiian Home Lands (DHHL) greater flexibility in granting licenses to the United States government for the use of leased DHHL lands by amending Section 207, Hawaiian Homes Commission Act, 1920, as amended.

Current laws authorize DHHL, with the Governor's approval, to grant licenses to the federal government for a five year term, renewable for additional three year terms, for reservations, roads and other rights-of-way, water storage and distribution facilities, and practice target ranges. Your Committee concurs with the testimony by DHHL supporting this amendment. This measure will remove the requirements that licenses issued to the federal government require the Governor's approval and that these licenses be restricted to a maximum five year term. Your Committee believes that removal of these requirements will provide a uniform method of granting licenses to the federal government which would conform with the the method of issuing licenses to other entities.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 155 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 Kawasaki.

SCRep. 953

Health on H.B. No. 157

The purpose of this bill is to empower the Director of Health to impose administrative penalties or obtain injunctive relief from the courts in cases of violations of Chapter 321, Hawaii Revised Statutes, or the departmental rules adopted pursuant to the chapter.

Currently, the penalty for violation of departmental rules implementing Chapter 321 is a misdemeanor. In accordance with law, each such violation must be brought to court, tried, and a verdict must be rendered before a final determination of violation can be made. This is a lengthy and costly process, and because of limited legal resources available to the State, few health related misdemeanors are actually prosecuted. The only alternative is to revoke a license or operating permit, thereby depriving a business of the right to engage in an activity, and potentially causing irreparable economic harm. Even numerous minor violations may not warrant so drastic a remedy. Thus, license suspensions or revocations are rather rare.

Your Committee finds that the provisions of Chapter 321 and the rules pursuant thereto are primarily intended to deter potential violators. However, the threat of penalty is so limited that the deterrent effect is minimal. By invoking administrative penalties rather than judicial processes or license revocation/suspensions, the Department will be able to act quickly and decisively in its regulatory functions and will be better able to tailor the punishment to the nature of the violation.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 157 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Solomon.

SCRep. 954

Health on H.B. No. 159

The purpose of this bill is to change the number of service area board members and to clarify the method for defining service areas.

Under present law, service area boards, which advise service area centers on matters of mental health and substance abuse, consist of fifteen members appointed by the Governor. This bill would reduce the number of board members to nine which should prove more efficient both with respect to the appointment process and the functioning of the board.

Also under present law, service areas are defined as "catchment boundaries existing as of June 30, 1984." Under this definition, questions have arisen about the proper number and location of geographical service areas which are to be utilized for the delivery of services to prevent and treat mental or emotional disorder and substance abuse. This bill will allow the Director of Health to designate by rule the number and boundaries of the geographical service areas.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 159, 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 Solomon.

SCRep. 955

Energy on S.C.R. No. 30

The purpose of this Senate concurrent resolution is to encourage the Board of Land and Natural Resources to proceed with an exchange of Campbell Estate lands at Kahauale'a, Hawaii for adjacent state-owned lands in order to facilitate the development of geothermal energy.

Geothermal energy is Hawaii's most promising source of near-term baseload electricity and its development is vital if the State is to meet its goal of reducing dependence upon imported petroleum.

By Act 296, Session Laws Hawaii 1983, the Legislature required the establishment of geothermal resource subzones which would balance the interest of the State in expediting the development of geothermal energy with the need to preserve Hawaii's natural environment. Your Committee finds that the land-exchange proposed in this concurrent resolution is in the best interest of the State because it places geothermal development in an area which will minimize the potential environmental impact. In addition, this concurrent resolution also assures both the Department of Land and Natural Resources and the Estate of James Campbell that the Legislature supports the proposal, which should facilitate the negotiations between the parties and expedite the exchange.

Your Committee on Energy concurs with the intent and purpose of S.C.R. No. 30 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 956                      Higher Education on S.R. No. 80

The purpose of this resolution is to express recognition of, and appreciation and support for, the Law of the Sea Institute and its work. The resolution is also reflective of the Legislature's desire that the Law of the Sea Institute remain in partnership with the University of Hawaii to the mutual benefit of the University, the Institute and the State of Hawaii and its people.

Your Committee has received testimony from the University and the Department of Planning and Economic Development indicating that the presence of the Law of the Sea Institute in Hawaii has enhanced the reputation of the University and the State among ocean policy scholars worldwide. The Institute's relationship with the University and the State has also served to focus Hawaii's leadership position in the Pacific Basin and has provided local scholars and residents with a resource for the furtherance of studies in international relations and ocean resource management.

Your Committee finds, however, that despite the significance of the benefits arising from the location of the Law of the Sea Institute in the State of Hawaii, the Institute has received inadequate levels of support from the University. As a result of the attitude of indifference attributed to the University and the larger community, the international Board of Directors of the Law of the Sea Institute have directed that the University of Hawaii present a proposal detailing its plans for support of the Institute over the next three years. Submission of this proposal and the Board's response thereto is to occur in July at a conference to be held in Cardiff, Wales.

Your Committee finds that the contributions made by the Law of the Sea Institute to the enrichment of the educational and research functions of the University merit efforts to preserve the relationship existing between them.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 80 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 957                      Higher Education on S.C.R. No. 62

The purpose of this concurrent resolution is to express recognition of, and appreciation and support for, the Law of the Sea Institute and its work. The concurrent resolution is also reflective of the Legislature's desire that the Law of the Sea Institute remain in partnership with the University of Hawaii to the mutual benefit of the University, the Institute and the State of Hawaii and its people.

Your Committee has received testimony from the University and the Department of Planning and Economic Development indicating that the presence of the Law of the Sea Institute in Hawaii has enhanced the reputation of the University and the State among ocean policy scholars worldwide. The Institute's relationship with the University and the State has also served to focus Hawaii's leadership position in the Pacific Basin and has provided local scholars and residents with a resource for the furtherance of studies in international relations and ocean resource management.

Your Committee finds, however, that despite the significance of the benefits arising from the location of the Law of the Sea Institute in the State of Hawaii, the Institute has received inadequate levels of support from the University. As a result of the attitude of indifference attributed to the University and the larger community, the international Board of Directors of the Law of the Sea Institute have directed that the University of Hawaii present a proposal detailing its plans for support of the Institute over the next three years. Submission of this proposal and the Board's response thereto is to occur in July at a conference to be held in Cardiff, Wales.

Your Committee finds that the contributions made by the Law of the Sea Institute to the enrichment of the educational and research functions of the University merit efforts to preserve the relationship existing between them.

Your Committee on Higher Education concurs with the intent and purpose of S.C.R. No. 62 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 958                      Education on S.C.R. No. 51

The purpose of this concurrent resolution is to request the DOE and DAGS to prepare a feasibility study and draft policies necessary to transfer the repair and maintenance functions performed by DAGS for the DOE to the DOE.

Your Committee is very concerned about the present physical state of our public schools. Many schools have fallen into serious disrepair which is affecting the quality of education in our State. All segments of the schools, the community, and government are in agreement that action must be taken to remedy this worsening problem. Your Committee however, finds that further examination of the possible solutions to this problem is warranted to insure maximum utilization of State funds appropriated.

Therefore, your Committee has amended this concurrent resolution by requesting the Legislative Auditor to conduct a financial and management audit of the repair and maintenance functions performed by DAGS and DOE to determine and recommend to the Legislature the most appropriate and efficient course of action.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 51, as amended herein, and recommends that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 51, S.D. 1.

Signed by all members of the Committee.

SCRep. 959            Judiciary on Gov. Msg. No. 144

Recommending that the Senate advise and consent to the nomination of LANI LIU EWART to the Commission to Promote Uniform Legislation, for a term ending December 31, 1988.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 960            Judiciary on Gov. Msg. No. 208

Recommending that the Senate advise and consent to the nomination of BETTY M. VITOUSEK to the Juvenile Justice Interagency Board, for a term ending December 31, 1988.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 961            Economic Development on H.B. No. 191

The purpose of this bill is to consolidate the provisions of Sections 187-1.2, 187-1.3, and 187-1.4, Hawaii Revised Statutes, relating to the Animal Species Advisory Commission and County Aquatic Life and Wildlife Advisory Committee into a new Chapter 197 to reflect organizational changes within the Department of Land and Natural Resources (DLNR) which separated fisheries and wildlife functions into the Divisions of Aquatic Resources, and Forestry and Wildlife.

Your Committee finds that this bill will facilitate referencing of provisions on aquatic and wildlife advisory boards.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 191 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 962            Economic Development on H.B. No. 192

The purpose of this bill is to appropriately amend the Hawaii Revised Statutes to reflect the reorganization of aquatic resources and wildlife functions of the Department of Land and Natural Resources and to consolidate certain sections of Title 12, Hawaii Revised Statutes, to specifically reflect aquatic resources.

Act 85, Session Laws of Hawaii 1984, separated the fisheries and wildlife functions of the Department of Land and Natural Resources into the divisions of aquatic resources, and forestry and wildlife, respectively. Recognizing that a number of fish and wildlife provisions are still located in Chapters 187 and 188, Hawaii Revised Statutes, your Committee supports this bill as it proposes to relocate and consolidate the aquatic resources provisions of Subtitle 5 (Aquatic Resources and Wildlife) Hawaii Revised Statutes, under a new chapter and to repeal corresponding existing sections of Chapter 187 and 188.

The Department of Land and Natural Resources has testified that overall, this bill will facilitate referencing and locating of specific statutes, and is intended to minimize confusion,

misunderstanding and misinterpretation of aquatic resources laws in the Hawaii Revised Statutes.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 192, 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. 963      Economic Development on H.B. No. 206

The purpose of this bill is to facilitate and coordinate state and intergovernmental permit processes by establishing a consolidated application procedure and providing for the monitoring of permit processes to identify procedural inefficiencies and to implement permit streamlining. The bill requires state agencies to participate in the facilitation process while allowing voluntary county and federal participation. Any state agency designated, but unable to participate in this process must submit a written explanation for cause to the Department of Planning and Economic Development. The bill also includes a repeal date of June 30, 1987.

Your Committee recognizes that the proliferation of governmental regulations and procedures relating to Hawaii's development permit system continues to be a major concern. Hawaii's efforts to address the problem during the recent decade ultimately led to the formation of the Inter-Governmental Task Force for Permit Simplification. The Task Force's broad-based approach to the issue addressed all levels of government and resulted in the formulation of recommendations to simplify and clarify various layers of permit processing. Accordingly, this bill proposes to establish a program of permit coordination within and among county, state and federal agencies and authorities involved in development permit processing.

Your Committee agrees that a voluntary effort in regard to development permit processing and coordination on the level of state government may be less than desirable. Such an effort may only lead to further problems of agency coordination and communication. In this regard, your Committee supports this bill's mandatory participation of state agencies in this process.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 206, 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. 964      Consumer Protection and Commerce on H.B. No. 38

The purpose of this bill is to amend Chapter 431, Hawaii Revised Statutes (HRS), by adding new sections to improve and redefine provisions of the Hawaii Insurance Law relating to supervision, rehabilitation and liquidation of domestic insurers.

The Insurance Commissioner of the Department of Commerce and Consumer Affairs testified that these proposals are intended to improve the operation and administration of current statutory provisions relating to insurers' rehabilitation and liquidation proceedings. The bill provides the Insurance Commissioner authority to implement certain summary proceedings to protect the interests of insureds, claimants, creditors, and the public, generally, with minimum interference to the normal prerogatives of the owners and managers of insurers, through: (1) early detection of any potentially dangerous condition in an insurer, and prompt application of appropriate corrective measures; (2) improved methods for rehabilitating insurers, involving the corporation and management expertise of the insurance industry; and (3) enhanced efficiency and economy of liquidation, through clarification of the law, to minimize legal uncertainty and litigation.

The Insurance Commissioner further testified that current statutory provisions relating to insurer rehabilitation and liquidation require the Insurance Commissioner to follow strict, formal proceedings. As a result, the present procedure does not provide the needed flexibility in dealing with impaired insurers.

Accordingly, such proceedings, while necessary in rehabilitation and liquidation actions, must be supplemented by providing the Commissioner certain summary powers to act swiftly and aggressively in placing an impaired insurer under supervision proceedings to either correct the insurer's deficiencies or to prevent the insurer from increasing its deficiencies while the Commissioner is in the process of implementing formal delinquency proceedings. The use of the summary powers will be based upon reasonable cause to believe that a domestic insurer is in such condition as to render the continuance of its business hazardous to the public or to its policy holders.

Your Committee also received favorable testimony from the Hawaii Independent Insurance Agents Association and the Hawaiian Electric Company.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 38 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 965      Consumer Protection and Commerce on H.B. No. 228

The purpose of this bill is to authorize the Contractors License Board to contract for examination services with a testing agency, and requires exam applicants to pay a testing agency examination fee established by the Director of the Department of Commerce and Consumer Affairs.

Your Committee heard testimony from the Contractors Licensing Board and the Construction Industry Legislative Organization.

Your Committee believes that contracting examination services to a testing agency will immeasurably improve the examination program and that the examination will be less subject to challenges. The testing agency will also defend the examination in court, if necessary. Under this bill, examination fees will be established by the Director of the Department of Commerce and Consumer Affairs. The Director will periodically consult with the Contractors Licensing Board and the testing agency to determine reasonable fees which would be remitted to the testing agency by an applicant after the application has been reviewed and approved by the Board.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 228 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 966      Consumer Protection and Commerce on H.B. No. 233

The purpose of this bill is to redefine the practice of nursing for registered nurses and licensed practical nurses.

Act 182, Session Laws Hawaii, 1984, mandated the Board of Nursing to monitor and evaluate the scope of the practice of nursing in other states and to make appropriate recommendations to the Legislature regarding amendments to the definitions of a registered and a practical nurse.

Your Committee received testimony from the Board of Nursing, the Hawaii Nurses Association, the Department of Health, and many individual nurses in support of this bill.

Your Committee finds that this bill updates and more accurately defines the present scope of the nursing practice.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 233, 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. 967      Consumer Protection and Commerce on H.B. No. 462

The purpose of this bill is to renumber Section 437-3.5, Hawaii Revised Statutes, to Section 490:2-313.1.

Section 437-3.5 deals with the rights and duties of sellers and purchasers of new motor vehicles with respect to express warranties made upon the sale of a new motor vehicle.

Your Committee finds that this section, which is currently located in Chapter 437, Hawaii Revised Statutes, which regulates motor vehicle dealers, is more appropriate for placement in Article 2 of the Uniform Commercial Code. Article 2 of the Code deals with the sale of good and includes provisions dealing with warranties on goods sold. This bill relocates Section 437-3.5 to Chapter 490, the Uniform Commercial Code.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 462 and recommends that it pass Second Reading and be placed on the

calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 968            Consumer Protection and Commerce on H.B. No. 1060

The purpose of this bill is to amend Chapter 431, Hawaii Revised Statutes, by adding new sections requiring insurers authorized to do business in this State to file a copy of their annual statement with the National Association of Insurance Commissioners (NAIC).

Your Committee heard testimony in support of the bill from the Insurance Commissioner, Department of Commerce and Consumer Affairs. The Insurance Commissioner testified that the NAIC has made insurer insolvencies its foremost concern, and is improving and updating its early warning system. The NAIC has also provided the Insurance Division with a computer tie-in to the NAIC headquarters, which allows quick access to financial analysis of insurers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1060 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 969            (Majority) Consumer Protection and Commerce on H.B. No. 1382

The purpose of this bill is to amend Chapter 444, Hawaii Revised Statutes, which provides an exemption from the licensing requirements as a contractor, for owners and lessees of property who build or make improvements on property for their own use. The bill requires that in order to qualify for the exemption, the owner must register for the exemption with the county, and the county responsible for issuance of building permits shall keep a list of all individuals who request exemptions.

Your Committee heard favorable testimony from the Contractors License Board, the Construction Industry Legislative Organization, and the Hawaii Business League.

Your Committee finds that this bill will help to curb the problem of owner/builders hiring unlicensed contractors, and reduce the risks that homeowners may incur in possible worker's compensation claims. This bill further reduces the risk that, upon sale, a buyer would encounter defective workmanship and/or the use of inappropriate building materials.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1382 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. 970            Tourism and Recreation on Gov. Msg. No. 149

Recommending that the Senate advise and consent to the nomination of GLENN E. MASON to the Hawaii Historic Places Review Board, for a term ending January 1, 1989.

Signed by all members of the Committee.

SCRep. 971            Tourism and Recreation on Gov. Msg. No. 150

Recommending that the Senate advise and consent to the nominations of ROBERT L. SHUFORD, TOM T. OKUDA and SHARON R. WEINER to the Stadium Authority, for terms ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 972            Health on Gov. Msg. No. 283

Recommending that the Senate advise and consent to the nominations to the Technical Advisory Committee on Pesticides of the following:

KAZU HAYASHIDA, L. STEPHEN LAU, Ph.D., and JAMES J. NAKATANI, for terms ending December 31, 1985;

MELVIN KOIZUMI, SUSUMU ONO and JACK K. SUWA, for terms ending December 31, 1986;  
and



JAMES W. MORROW, SAMUEL S.H. LEE and JACQUELINE PARNELL, for terms ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 973            Health on Gov. Msg. Nos. 273, 279, 280, 281, 282 and 272

Recommending that the Senate advise and consent to the nominations of the following:

PETER A. SYBINSKY, Ph.D., HAROLD S.Y. HEE, MASAO WATANABE, MINORU INABA, PATRICK R. CULLEN, ALBERT P. MONIZ, EUGENE YAMAMOTO, KENNETH A. HALING, M.D., and CULLEN T. HAYASHIDA to the Statewide Health Coordinating Council, for terms ending December 31, 1988;

JOYCE E. ALLOSADA, DAVID H. LUEHR, KATHERINE G. TAKEHIRO and RICHARD HIGASHI to the Statewide Health Coordinating Council, for terms ending December 31, 1987;

JOJI NOUCHI, JONATHAN S. RAYMOND, Ph.D., ROSALIE KASABA, RONALD T. HAYASHI and LELAND M. YAGI to the Statewide Health Coordinating Council, for terms ending December 31, 1986;

Reverend KENNETH W. SMITH to the Statewide Health Coordinating Council, for a term ending December 31, 1988;

BERNADETTE LEDESMA, PATTY YAMAMOTO and JOHN A. RABANAL to the Central Oahu Subarea Health Planning Council, for terms ending December 31, 1988;

STANLEY E. RODRIGUES, SR., MERRIE K. AIPOALANI and KAREN G.S. SHIMABUKURO to the Waianae Coast Subarea Health Planning Council, for terms ending December 31, 1988;

KIYOKO AKASE to the Waianae Coast Subarea Health Planning Council, for a term ending December 31, 1987;

ROBERT K. MOLE to the Waianae Coast Subarea Health Planning Council, for a term ending December 31, 1985;

KATHRYN N. KATO, SABURO EBISU, RALPH J. KIESSLING, ROGER E. ROACH and JAMES R. YANO to the Windward Oahu Subarea Health Planning Council, for terms ending December 31, 1988;

LORETTA T. SCHULER and EDWARD C. McCREA to the Windward Oahu Subarea Health Planning Council, for terms ending December 31, 1986;

LESLIE BAILEY, Ph.D., to the Drug Product Selection Board, for a term ending December 31, 1988; and

AMELIA R. JACANG, M.D., to the Drug Product Selection Board, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 974            Government Operations on Gov. Msg. No. 244

Recommending that the Senate advise and consent to the nomination of RICHARD K. YONEZAKI to the Civil Defense Advisory Council, for a term ending December 31, 1988.

Signed by all members of the Committee except Senator Soares.

SCRep. 975            Health on Gov. Msg. Nos. 222, 223, 224, 245, 246, 255, 256 and 257

Recommending that the Senate advise and consent to the nominations of the following:

MARY M. KATAYAMA, EDWIN M. MONTELL, M.D., CHITOSE KANUHA and DOROTHY P. KATAOKA to the Hawaii County Subarea Health Planning Council, for terms ending December 31, 1988;

YVONNE CARVALHO PAIK to the Hawaii County Subarea Health Planning Council for terms ending December 31, 1986;

WILLIAM W. GOODHUE and AMY A. MENDONCA to the Kauai County Subarea Health Planning Council, for terms ending December 31, 1988;

HERBERT K. YIM to the Kauai County Subarea Health Planning Council, for a term ending December 31, 1987;

MABEL JEAN ODO and LEAH PEREIRA to the County Hospital Management Advisory Committee, Kauai County Hospital System, for terms ending December 31, 1988;

WILLIAM T. HONJIYO to the County Hospital Management Advisory Committee, Kauai County Hospital System, for a term ending December 31, 1986;

LUDVINA K. TAKAHASHI to the County Hospital Management Advisory Committee, Kauai County Hospital System, for a term ending December 31, 1985;

HARRY M. OKUMURA and WILLIAM H. SAGER to the Advisory Committee on Pesticides, for terms ending December 31, 1988;

PAUL A. DeMARE, M.D., to the Board of Radiologic Technologists, for a term ending December 31, 1988;

MARY ANN PYUN, DOROTHY K.S. ONO and ISABEL M. TAGALA to the County Hospital Management Advisory Committee, City and County of Honolulu Hospital System, for terms ending December 31, 1988;

SHARON E. OGAWA to the County Hospital Management Advisory Committee, City and County of Honolulu Hospital System, for a term ending December 31, 1987;

WAYNE M. TAKEHARA to the County Hospital Management Advisory Committee, Maui County Hospital System, for a term ending December 31, 1988;

WILLIAM KENNISON to the County Hospital Management Advisory Committee, Maui County Hospital System, for a term ending December 31, 1985; and

MAURICE H. KAYA and DANIEL F. CLARK to the Board of Certification of Operating Personnel in Wastewater Treatment Plants, for terms ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 976 Higher Education on S.R. No. 59

The purpose of this resolution is to express support for the creation of an institute for peace at the University of Hawaii.

The recent enactment by Congress and President Reagan of legislation establishing The United States Institute of Peace was the culmination of a twenty two year effort by Hawaii Senator Spark Matsunaga to meet a perceived need for a carefully designed institution devoted to the theoretical and practical study of peace and conflict resolution. To encourage extension and outreach activities, the federal legislation provides that at least one fourth of the Institute's annual appropriations must be paid to nonprofit and official public institutions of post secondary, community, secondary and elementary education.

Testimony received from Acting President of the University of Hawaii indicates that a faculty initiated proposal for the creation of an Institute of Peace at the University to act as both satellite branch of the national institute and University based organization with an identity of its own will be presented to the Board of Regents this spring. Approval by the Board will allow the University to prepare a proposal for funding from the U.S. Institute of Peace.

Your Committee finds that the establishment of an interdisciplinary institute at the University of Hawaii to coordinate existing and planned curricula and research at the University concerned with initiating, strengthening and supporting basic and applied research on international peace and conflict resolution is appropriate in light of the great community interest in the promotion of peace evidenced at your Committee's hearing on this resolution.

Your Committee has amended the resolution by including in the "Be It Further Resolved" clause language providing that certified copies of the resolution be sent to the Board of Regents of the University of Hawaii as well as the President of the United States and the Hawaii congressional delegation to reflect the fact that approval of the establishment of a peace institute at the university must emanate from the Board.

Your Committee on Higher Education concurs with the intent and purpose 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 except Senators Cayetano and Soares.

SCRep. 977

Higher Education on S.C.R. No. 45

The purpose of this concurrent resolution is to express support for the creation of an institute for peace at the University of Hawaii.

The recent enactment by Congress and President Reagan of legislation establishing The United States Institute of Peace was the culmination of a twenty two year effort by Hawaii Senator Spark Matsunaga to meet a perceived need for a carefully designed institution devoted to the theoretical and practical study of peace and conflict resolution. To encourage extension and outreach activities, the federal legislation provides that at least one fourth of the Institute's annual appropriations must be paid to non profit and official public institutions of post secondary, community, secondary and elementary education.

Testimony received from the Acting President of the University of Hawaii indicates that a faculty initiated proposal for the creation of an Institute of Peace at the University, to act as both satellite branch of the national institute and University-based organization with an identity of its own, will be presented to the Board of Regents this spring. Approval by the Board will allow the University to submit a proposal for funding to the U.S. Institute of Peace.

Your Committee finds that the establishment of an interdisciplinary institute at the University of Hawaii to coordinate existing and planned curricula and research at the University concerned with initiating, strengthening and supporting basic and applied research on international peace and conflict resolution is appropriate in light of the great community interest in the promotion of peace evidenced at your Committee's hearing on this concurrent resolution.

Your Committee has amended the concurrent resolution by including in the "Be It Further Resolved" clause language providing that certified copies of the concurrent resolution be sent to the Board of Regents of the University of Hawaii as well as the President of the United States and the Hawaii congressional delegation to reflect the fact that approval of the establishment of a peace institute at the University must emanate from the Board.

Your Committee on Higher Education concurs with the intent and purpose of S.C.R. No. 45, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 45, S.D. 1.

Signed by all members of the Committee except Senators Cayetano and Soares.

SCRep. 978

Higher Education on S.R. No. 81

The purpose of this resolution is to urge the Board of Regents to fully and carefully consider the impact of implementing a tuition increase based solely on an arbitrary percentage of educational costs basis.

Your Committee received testimony from the Acting University President which outlined the following considerations which the Board of Regents used as guidelines in developing its tuition increase proposal:

1. Accessibility. Tuition is critical to access, and it is the Board's position that tuition should not be so uniformly high that it prevents qualified citizens from attending a campus of the University of Hawaii.
2. Financial aid. As a general principle, the Board subscribes to a tuition policy that seeks to keep costs to students (especially residents) at the lowest practical level while maintaining a financial aid program that is responsive to students with demonstrated financial need.
3. Comparability. To the extent possible, the University's tuition structure should bear a reasonable relationship to that at fellow institutions of comparable size, quality, and mission.
4. Shared costs and shared benefits. The Board recognizes that students and the general public derive benefits from higher education, and both can be expected to share in its costs through user charges and taxes.
5. Conformance with state law. Care is taken to ensure that the University's tuition structure conforms to the requirement in state law that:

"the tuition fee for nonresident students, both undergraduate and graduate, shall be not less than two times the tuition fee for resident students, but in no event less than two times the undergraduate tuition fee for resident students at the Manoa Campus."

The foregoing considerations resulted in the Board of Regents tuition proposal: (1) using a

percentage of cost in calculating tuition; and (2) charging differential tuition rates that (a) reflect different missions (four year campuses vs. the community colleges), (b) acknowledge differing costs by student level, and (c) distinguish between residents and nonresidents (assuring conformance with state law).

Your Committee finds that despite the Board of Regents claim to the contrary, the proposed tuition increases still appear to be based solely on an arbitrary percentage of educational costs. No evidence was presented to the Committee to support the Board of Regents proposition that a resident tuition schedule based on any percentage of educational costs is both appropriate for this state, and equitable to its students.

The proposed tuition increase represents the last two years of a four-year plan which was implemented in 1983. Upon completion, it is expected that the proposed "cost sharing" targets of 25% for students and 75% for the taxpayer (15% and 85% respectively for community colleges) will be achieved. Your Committee was particularly disturbed to find that until these targets are reached, the proposed Board of Regents tuition policy states that "... increased tuition revenues alone are not a compelling argument for increased appropriations to the University." Your Committee has interpreted this statement to mean that the Board of Regents is contemplating the adoption of a policy which would restrict University requests for appropriations to current service levels until the proposed tuition targets are met or exceeded.

Your Committee feels that in view of the previously cited factors, the Board of Regents should carefully reconsider their proposed tuition policy.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 81 and recommends its adoption.

Signed by all members of the Committee except Senators Cayetano and Soares.

SCRep. 979      Agriculture on H.B. No. 113

The purpose of this bill is to give alleged violators of Chapter 145, Hawaii Revised Statutes, the option to waive the right to a formal hearing.

Presently, all violators of Chapter 145, Hawaii Revised Statutes, must be given a formal hearing. Your Committee received testimony from the Board of Agriculture favoring the proposed amendment because there may be instances when the proposed penalty is minimal or the alleged violator will admit guilt, making a formal hearing unnecessary or not worth the cost.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 113 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 980      Agriculture on H.B. No. 115

The purpose of this bill is to amend Section 148-3, Hawaii Revised Statutes, to impose a civil penalty for a violation of Chapter 148, Part I, Hawaii Revised Statutes.

Presently, any person who is alleged to violate Part I of Chapter 148 must go through the criminal court process. Testimony received from the Board of Agriculture stated that the amendment is proposed because the Prosecutor's Office is unable to take on relatively minor cases due to a heavy workload and that these cases could better be handled by imposition of civil penalties in the nature of fines.

This bill provides that after notice and opportunity for hearing, a person found in violation shall be fined not less than \$50 nor more than \$500. This bill further provides that any action taken to impose or collect the penalty shall be considered a civil action.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 115 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 981      Agriculture on H.B. No. 114

The purpose of this bill is to amend the procedures for imposing penalties to give alleged violators of Chapter 147, Part I, Hawaii Revised Statutes, and rules adopted pursuant thereto, the option to waive the right to a formal hearing.

Presently, a hearing is required before administrative penalties can be imposed for violation of Part I of Chapter 147, Hawaii Revised Statutes, and any rules adopted pursuant thereto. Your Committee received testimony from the Board of Agriculture favoring the proposed amendment because there may be instances when the proposed penalty is minimal or the alleged violator will admit guilt, making a formal hearing unnecessary or not worth the cost.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 114 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 982            Agriculture on Gov. Msg. No. 214

Recommending that the Senate advise and consent to the nomination of JOHN E. LOOMIS to the Board of Agriculture, for a term ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 983            (Majority) Economic Development on H.B. No. 1063

The purpose of this bill is to permit golf courses and golf driving ranges in agricultural districts, provided that these recreational uses are not located on lands with soil classified by the Land Study Bureau's Detailed Land Classification as Overall (Master) Productivity Rating Class A or B.

Your Committee supports the intent of this bill and believes that allowing these limited recreational uses on non-prime agricultural lands will protect prime agricultural lands.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1063, 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 Mizuguchi and Soares.  
Senators Fernandes Salling, Hagino and Young did not concur.

SCRep. 984            Education on S.R. No. 6

The purpose of this resolution is to request the Department of Education (DOE) to encourage the use of school facilities for after-school child care programs.

Presently, many working parents in Hawaii must either depend on child care providers outside the family to supervise their children after school, or they must leave their children at home unsupervised.

Factors contributing to this situation are:

- (1) Hawaii has one of the highest proportions of working mothers in the nation;
- (2) Hawaii is experiencing an increase in the number of single-parent households;
- (3) Hawaii has one of the highest cost-of-living indexes nationally but its average per capita income remains lower than the national average — a situation which oftentimes requires both parents to work to support the family; and
- (4) The end of the school-day for children and the end of the work-day for parents often do not coincide.

Although the DOE had forty schools providing after-school programs in 1984, your Committee finds that the demand for after-school programs is great enough to warrant further expansion and encouragement of the program. Your Committee also finds that a similar demand may exist for before-school child care programs.

Therefore, your Committee has amended the resolution to request the DOE to assess the demand for before-school child care programs and to also conduct a feasibility study of establishing before-school child care programs for school aged children. The title has also been amended accordingly.

Your Committee on Education concurs with the intent and purpose of S.R. No. 6, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 6, S.D. 1.

Signed by all members of the Committee.

SCRep. 985

Higher Education on S.R. No. 74

The purpose of this resolution is to urge the University of Hawaii to approve permanent status for the Hawaiian Studies program.

Your Committee received testimony from the University that a program assessment coordinating committee, in its evaluation of the Hawaiian Studies program, noted that the University of Hawaii has a special responsibility to assure the preservation of authentic Hawaiiana, with language as its centerpiece."

Your Committee finds it appropriate that the University assume and maintain a leading role in the perpetuation of the Hawaiian culture through the promotion of the study of the Hawaiian language and the history of the Hawaiian archipelago.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 74 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 986

Higher Education on S.C.R. No. 59

The purpose of this concurrent resolution is to urge the University of Hawaii to approve permanent status for the Hawaiian Studies program.

Your Committee received testimony from the University that a program assessment coordinating committee, in its evaluation of the Hawaiian Studies program, noted that the University of Hawaii has a special responsibility to assure the preservation of authentic Hawaiiana, with language as its centerpiece."

Your Committee finds it appropriate that the University assume and maintain a leading role in the perpetuation of the Hawaiian culture through the promotion of the study of the Hawaiian language and the history of the Hawaiian archipelago.

Your Committee on Higher Education concurs with the intent and purpose of S.C.R. No. 59 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 987

Energy on S.R. No. 89

The purpose of this resolution is to express the Senate's vigorous support for extension of federal energy tax credits until December 31, 1990.

At present, the tax credits are due to expire on December 31, 1985.

Your Committee heard strong support for this resolution from the Department of Planning and Economic Development and the Hawaii Solar Energy Association and finds that the extension of the federal energy tax credits will encourage expanded use of energy conservation devices, thus helping Hawaii to attain its goal of energy independence.

Your Committee has amended the resolution by providing that a certified copy shall be transmitted to the Secretary of Energy and by making a technical change which has no substantive effect.

Your Committee on Energy concurs with the intent and purpose of S.R. No. 89, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 89, S.D. 1.

Signed by all members of the Committee.

SCRep. 988

Energy on S.C.R. No. 69

The purpose of this concurrent resolution is to express the Legislature's vigorous support for extension of federal energy tax credits until December 31, 1990.

At present, the tax credits are due to expire on December 31, 1985.

Your Committee heard strong support for this concurrent resolution from the Department of Planning and Economic Development and the Hawaii Solar Energy Association and finds that the extension of the federal energy tax credits will encourage expanded use of energy conservation devices, thus helping Hawaii to attain its goal of energy independence.

Your Committee has amended the Concurrent Resolution by providing that a certified copy shall be transmitted to the Secretary of Energy and by making a technical change which has no substantive effect.

Your Committee on Energy concurs with the intent and purpose of S.C.R. No. 69, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 69, S.D. 1.

Signed by all members of the Committee.

SCRep. 989            Energy on S.R. No. 93

The purpose of this resolution is to encourage the Hawaii Natural Energy Institute (HNEI) in its research, development, testing and evaluation, and improvement of electric vehicles, and to request the HNEI to study the future impact of electric vehicles in Hawaii and devise strategies to accelerate electric vehicle utilization.

HNEI testified that they are willing to implement the requests and indicated that their current electric vehicle project, which is funded by the U.S. Department of Energy, has already produced some significant results.

Your Committee has amended the resolution in the first "WHEREAS" clause on page 2, by clarifying that the Legislature finds all electric vehicles, including those which are battery operated as well as those which receive their electrical energy from non-polluting wind machines and other renewable energy technologies, to be environmentally desirable.

Your Committee on Energy concurs with the intent and purpose of S.R. No. 93, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 93, S.D. 1.

Signed by all members of the Committee.

SCRep. 990            Agriculture on H.C.R. No. 37

The primary purpose of this concurrent resolution, as received by your Committee, is to adopt the State Agriculture Functional Plan of November 1984, as a State Functional Plan in furtherance of Chapter 226, Hawaii Revised Statutes.

This concurrent resolution further indicates that the attached Exhibit A represents the amendments to the State Agriculture Functional Plan of November 1984.

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). 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 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 Agriculture prepared the State Agriculture Functional Plan of November 1984. This plan, which sets forth guidelines for the delivery of services and the allocation of resources by State agencies with regard to agriculture was submitted to the Thirteenth State Legislature, Regular Session of 1985.

Your Committee has modified Exhibit A, Section B(5)(c), to further restricting the use of important agricultural lands and refining and clarifying the definition of "Important Agricultural Lands." Your Committee believes these amendments will provide the State with the needed direction to fulfill its commitment to wisely manage its important agricultural lands.

Your Committee recommends that the State Agriculture Functional Plan of November 1984, as transmitted to the Legislature, and modified by the amendments set forth in the attached Exhibit A, be adopted as the State Agriculture Functional Plan.

Your Committee on Agriculture concurs with the intent and purpose of H.C.R. No. 37, 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. 37, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 991            Health on S.C.R. No. 70

The purpose of this concurrent resolution is to request the federal government to take action to assist schizophrenics.

Specifically, the concurrent resolution requests: (1) that the National Institute of Mental Health's funding for mental illnesses be increased; (2) that federal funding for support programs also be increased; (3) that schizophrenics be included under the Federal Developmental Disability Act of 1970; (4) that the "handicapped", including schizophrenics, be designated a protected class under the Fair Housing Act of 1968; (5) that model commitment laws be developed or encouraged; (6) that incentives be provided for all health insurance carriers to develop coverage for mentally ill people; and (7) that a federal income tax deduction be provided to taxpayers who care for disabled schizophrenics in their households.

Your Committee received supporting testimony from the Department of Health and finds that the actions and initiatives called for in this concurrent resolution are necessary to insure that schizophrenics receive the care and treatment they require.

Your Committee on Health concurs with the intent and purpose of S.C.R. No. 70 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 992      Health on S.C.R. No. 71

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to study and report on the current and anticipated services provided to schizophrenics by the Mental Health Division of the Department of Health, and to identify unmet needs of the target population and recommend service improvements which are feasible to implement.

At present there are approximately 10,000 schizophrenics in Hawaii and another 20,000 to 30,000 family members of schizophrenics, all of whom require some degree of support or services ranging from direct treatment to practical skills training. Your Committee finds that the study authorized by this concurrent resolution will impact positively on the needs of these people by indicating the strengths and weaknesses of the current service delivery system and by identifying areas in which services may feasibly be improved.

Your Committee has amended the concurrent resolution by requesting the Legislative Reference Bureau to include in the study, information relevant to the needs of schizophrenic inmates in the State's community correctional centers, such information to be developed in consultation with the Corrections Division of the Department of Social Services and Housing.

Your Committee on Health 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 Senator Kawasaki.

SCRep. 993      Health on S.C.R. No. 63

The purpose of this concurrent resolution is to request the State to veto any further use of DBCP on Maui pineapple fields.

The federal Environmental Protection Agency (EPA) is considering a request to permit one-time DBCP treatments on twenty-nine Maui pineapple fields subject to the approval or disapproval of a joint EPA-State Use Panel. The Governor has designated the Chairman of the Board of Agriculture as the State's voting representative.

Your Committee, after considering substantial testimony both pro and con, finds that there is ample evidence to indicate that the use of DBCP poses a potential danger to the health of Hawaii's people, and that the commercial use thereof should be prohibited.

Your Committee on Health concurs with the intent and purpose of S.C.R. No. 63 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 994      Health on S.R. No. 82

The purpose of this resolution is to request the State to veto any further use of DBCP on Maui pineapple fields.

The federal Environmental Protection Agency (EPA) is considering a request to permit one-time DBCP treatments on twenty-nine Maui pineapple fields subject to the approval or disapproval of a joint EPA-State Use Panel. The Governor has designated the Chairman of the Board of Agriculture as the State's voting representative.



Your Committee, after considering substantial testimony both pro and con, finds that there is ample evidence to indicate that the use of DBCP poses a potential danger to the health of Hawaii's people, and that the commercial use thereof should be prohibited.

Your Committee on Health concurs with the intent and purpose of S.R. No. 82 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 995            Human Services on Gov. Msg. Nos. 88, 138 and 226

Recommending that the Senate advise and consent to the nominations to the Advisory Council for Children and Youth of the following:

MARLENE B. MANEHA, for a term ending December 31, 1986;

JANE IWALANI HAN, for a term ending December 31, 1987; and

RENE M. MANSHO, BETTY ONA, ROBERTA W.S. CHANG, KAREN K. HORITA and MARIA V. BUNYE, for terms ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 996            Human Services on Gov. Msg. Nos. 137 and 227

Recommending that the Senate advise and consent to the nominations of KAREN A. TAKETA, LAWRENCE PANG and RONALD L. NAKATSU to the Board of Vocational Rehabilitation, for terms ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 997            Human Services on Gov. Msg. No. 141

Recommending that the Senate advise and consent to the nominations of RUBY L. HARGRAVE and BEN B. MAYES to the Progressive Neighborhoods Task Force, for terms ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 998            Human Services on Gov. Msg. Nos. 139 and 207

Recommending that the Senate advise and consent to the nominations to the Policy Advisory Board for Elderly Affairs of the following:

JIRO WAKUMOTO, for a term ending December 31, 1986; and

ROY LEE ROBERTS, COLETTE V. BROWNE, MARY I. VENTURA, TONY TOMOSO, SHINTARO R. HIGA and PEDRO E. RACELIS, JR., for terms ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 999            Human Services on Gov. Msg. No. 89

Recommending that the Senate advise and consent to the nomination of SUSAN P. WALKER to the Criminal Injuries Compensation Commission, for a term ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 1000           Human Services on Gov. Msg. No. 274

Recommending that the Senate advise and consent to the nominations to the Commission on the Handicapped of the following:

ELOISE A. WETHERALL, for a term ending December 31, 1985; and

KRISTIN C. MILLS and FREDERICK W. HOOGS, for terms ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 1001           Human Services on Gov. Msg. No. 285

Recommending that the Senate advise and consent to the nominations to the Commission on the Status of Women of the following:

JULIETTE T. SARMIENTO and SHARON N. CHIBA, for terms ending December 31, 1985; and

LINDA M. COLBURN, ANDREA L. SIMPSON, ROSIE CHANG, SHARON S. NARIMATSU and WALLETTTE G. PELLEGRINO, for terms ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 1002                      Human Services on Gov. Msg. Nos. 136 and 225

Recommending that the Senate advise and consent to the nominations of RICHARD M. IGA, TOBY BAILIN PONTIUS and BARBARA DART to the Board of Social Services and Housing, for terms ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 1003                      Human Services on Gov. Msg. No. 140

Recommending that the Senate advise and consent to the nominations to the Child Abuse and Neglect Secondary Prevention Advisory Committee of the following:

FRANCES D. RIGGS, M.D., SUMIKO AGENA and BEVERLY ING LEE, for terms ending December 31, 1985; and

GENEVIEVE T. OKINAGA, GAIL BREAKKEY, PATTI J. LYONS and CALVIN S.J. SIA, M.D., for terms ending December 31, 1986.

Signed by all members of the Committee.

SCRep. 1004                      Judiciary on Gov. Msg. No. 288

Recommending that the Senate consent to the nomination of DANIEL G. HEELY as Judge of the Circuit Court of the First Circuit, for a term of ten years, in accordance with the provisions of Article VI, Section 3, of the Constitution of the State of Hawaii.

Signed by all members of the Committee.

SCRep. 1005                      Judiciary on Gov. Msg. No. 286

Recommending that the Senate advise and consent to the nominations of JOE S. TANAKA, HERBERT K. APAKA, JR., CORA K. LUM, FRANK D. SLOCUM, GEORGE IRANON, ROLAND D. SAGUM, ROY CHANG and HAROLD J. FALK to the Hawaii Criminal Justice Commission, for terms ending June 30, 1989, or upon expiration of the Commission, whichever is sooner.

Signed by all members of the Committee.

SCRep. 1006                      Judiciary on S.R. No. 167

The purpose of this resolution is to recognize the week of April 28 - May 4, 1985 as Law Week 1985, and have the Legislature urge the community to join in the various activities scheduled in observance of this week.

Law Week brings judges and employees of the State Judiciary, attorneys from the Hawaii bar, and the public together to better understand and appreciate the principles and practices of our system of laws and justice. During this week, the public can learn more about the public and private legal services available to them in the community by meeting attorneys at local shopping centers; students can learn through a mock trial the way the legal system operates.

Your Committee finds that Law Week represents an important community event in terms of educating and stimulating community interest in our legal system. It urges community involvement in all of the events planned for the week.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 167 and recommends its adoption.

Signed by all members of the Committee except Senators Cayetano, Abercrombie, Toguchi and George.

SCRep. 1007                      Judiciary on S.C.R. No. 123

The purpose of this concurrent resolution is to recognize the week of April 28 - May 4, 1985 as Law Week 1985, and have the Legislature urge the community to join in the various activities scheduled in observance of this week.

Law Week brings judges and employees of the State Judiciary, attorneys from the Hawaii bar, and the public together to better understand and appreciate the principles and practices of our system of laws and justice. During this week, the public can learn more about the public and private legal services available to them in the community by meeting attorneys at local shopping centers; students can learn through a mock trial the way the legal system operates.

Your Committee finds that Law Week represents an important community event in terms of educating and stimulating community interest in our legal system. It urges community involvement in all of the events planned for the week.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 123 and recommends its adoption.

Signed by all members of the Committee except Senators Cayetano, Abercrombie, Toguchi and George.

SCRep. 1008                      Judiciary on S.R. No. 164

The purpose of this resolution is to request the Senate to conduct an interim study on the Hawaii Penal Code and the Penal Code revision proposals in order to provide a greater opportunity for comments from affected agencies and members of the public.

The recently completed two-year work done by the Committee on Penal Code Revision and Reform requires an objective and thorough examination. Their work resulted in a voluminous bill introduced this session to amend the Penal Code and a lengthy report explaining the conceptual basis for the amendments. The affected government agencies and the community at large have had only a few short months to review and analyze the proposed revisions and underlying basis for them. An interim study to solicit the views of these persons is imperative in order to enact a meaningful and effective revision to the Penal Code.

Of particular importance is the study of the effects of the presumptive imprisonment in the theory Penal Code revisions. The implementation of the theory will result in the incarceration of more offenders for shorter periods of time. Your Committee is concerned about the impact of presumptive imprisonment on our already overcrowded correctional systems. A careful study should be conducted to fully explore this issue.

Your Committee received testimony from the Director of the Department of Social Services and Housing and the American Civil Liberties Union of Hawaii which indicated concurrence with the intent of this resolution to do the study.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 164 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Cayetano, Abercrombie, Toguchi and George.

SCRep. 1009                      Judiciary on S.R. No. 122

The purpose of this resolution is to request the Legislative Reference Bureau to conduct a comprehensive study of Hawaii's age-specific laws, the rationale for and ramifications of each law, and the consequent effect if the age in each law were changed.

Your Committee finds that many of our laws presume that a person's maturity and intelligence are directly related to a person's age. This presumption may be incorrect and unfairly impinge upon the rights and privileges of persons in the affected age group.

Your Committee is concerned with providing protection to young people, providing them with a smooth transition from childhood to adulthood, and enacting fair, rational, and nondiscriminating laws.

Some questions that the study should address are the following:

1. What does the age of majority mean, and why was the age eighteen chosen as the age at which a person becomes an adult?
2. Do age-based laws such as those relating to marriage, military service, curfew, criminal culpability, contractual capacity, and child labor actually serve their protective purposes?

Your Committee believes that this study will aid in making intelligent policy decisions when considering laws discriminating among persons on the basis of age.

Your Committee on Judiciary is in accord with the intent of S.R. No. 122 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Cayetano, Abercrombie, Aki, Toguchi and George.

SCRep. 1010

Judiciary on S.C.R. No. 96

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 rationale for and ramifications of each law, and the consequent effect if the age in each law were changed.

Your Committee finds that many of our laws presume that a person's maturity and intelligence are directly related to a person's age. This presumption may be incorrect and unfairly impinge upon the rights and privileges of persons in the affected age group.

Your Committee is concerned with providing protection to young people, providing them with a smooth transition from childhood to adulthood, and enacting fair, rational, and nondiscriminating laws.

Some questions that the study should address are the following:

1. What does the age of majority mean, and why was the age eighteen chosen as the age at which a person becomes an adult?
2. Do age-based laws such as those relating to marriage, military service, curfew, criminal culpability, contractual capacity, and child labor actually serve their protective purposes?

Your Committee believes that this study will aid in making intelligent policy decisions when considering laws discriminating among persons on the basis of age.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 96 and recommends its adoption.

Signed by all members of the Committee except Senators Cayetano, Abercrombie, Aki, Toguchi and George.

SCRep. 1011

Judiciary on S.R. No. 123

The purpose of this Senate resolution is to request the Senate Committee on Judiciary, in cooperation with the Judicial Selection Commission, to review and evaluate the system by which the State selects and retains justices and judges. This study would clarify the roles and responsibilities of the Senate Committee on Judiciary and the Senate as a whole, with regard to the examination of the Senate's participation in the present judicial selection process, from nomination and selection to reappointment to the bench.

According to a recent study by the Council of State Governments, there continues to be an interest within the States to alter judicial selection and retention methods. Legislative interim study committees have been appointed to consider various methods of selecting judges. They include: (1) initial appointment of the judge by the governor or other appointing authority; (2) a nominating commission, with both a lay and legal membership, whose purpose is to recruit the best judicial candidate; and (3) retention of the judge in office by a vote of the electorate.

Your Committee finds that the current judicial selection process, mandated by the State Constitution, requires the establishment of a Judicial Selection Commission. This commission is chiefly concerned with screening applicants and making recommendations to the Governor for judicial appointments. However, judges who are up for reappointment are reviewed solely by the Judicial Selection Commission, via an open or closed hearing. The commission alone determines whether the judge shall be retained in office. The Senate is not involved in the judicial reappointment process and judges do not reappear before the Senate for reconfirmation.

Your Committee feels that the method of judicial retention in this State needs further consideration. Increasing public scrutiny and demand for accountability have led fifteen states to hold retention elections at the expiration of a judge's terms. Fourteen states call for the initial terms to be shorter than a full term.

Currently, there are no statutory guidelines, policies, or constitutional provisions which allows Senate to be involved in the retention and reappointment of judges. Your Committee on

Judiciary feels that there may be a need for more active involvement, on the part of the Senate, in the judicial selection and retention process.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 123 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Cayetano, Abercrombie, Aki, Toguchi and George.

SCRep. 1012                    Housing and Community Development on H.B. No. 1000

The purpose of this bill is to repeal chapter 360E, Hawaii Revised Statutes, to sunset the Council for Housing and Construction Industry (CHCI).

CHCI was established by Act 166, Session Laws of Hawaii 1976, to investigate 15 specific areas of activities relating to housing and the construction industry.

The Hawaii Housing Authority testified that many of the implementing actions set forth in the State Housing Functional Plan coincide with the duties established for CHCI. Additionally, there is duplication of activities between CHCI and the Hawaii Housing Authority.

Your Committee notes that the membership of the Council for Housing and Construction Industry recommends the Council be sunsetted.

Your Committee on Housing and Community Development is in accord with the intent and purpose of H.B. No. 1000 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1013                    Housing and Community Development on Gov. Msg. No. 135

Recommending that the Senate advise and consent to the nomination of GEORGE G. COSTA, JR., to the Hawaii Housing Authority, for a term ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 1014                    Housing and Community Development on Gov. Msg. No. 205

Recommending that the Senate advise and consent to the nomination of RYOKICHI HIGASHIONNA to the Aloha Tower Development Corporation, for a term ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 1015                    Housing and Community Development on Gov. Msg. No. 206

Recommending that the Senate advise and consent to the nomination of VANCE C. CANNON to the Hawaii Community Development Authority, for a term ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 1016                    Housing and Community Development on Gov. Msg. No. 284

Recommending that the Senate advise and consent to the nomination of FRED K. KWOCK to the Hawaii Housing Authority, for a term ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 1017                    Judiciary on S.R. No. 166

The purpose of this resolution is to convene the Hawaii Congress on Family Law to study the laws relating to the family and family relationships.

Your Committee finds that the number of traditional nuclear families, composed of two adults and two children, is decreasing, as single parent families and childless married partners are becoming more the norm. Along with the breakdown of the nuclear family, the number of extended families, composed of grandparents, children, and grandchildren living under one roof, is also decreasing. The traditional nuclear family and the extended family have been the foundation upon which many of our laws have been formulated. The deterioration of traditional family relationships may be a contributing factor to modern community problems, such as

increased crime, including spouse and child abuse. With the changing nature and composition of the basic family structure, we should now re-examine our laws relating to the family and family relationships.

Over the past few sessions the Legislature has received an increasing number of measures to amend our current laws concerning the family. Several bills relating to divorces, adoptions, paternities, child support, and other matters have been introduced and some have been enacted into law. However, a comprehensive study of all our present family laws should be conducted to adapt them to the changing times and to recommend new laws for the new situations created by our new sociology, technology, and medical science. Your Committee finds that this study is relevant and timely.

Your Committee anticipates that preliminary work to plan and organize the Congress will take place during the interim. The actual convention should commence in early February, 1986, so the Legislature can be appropriately advised as to the Congress' recommendations. These recommendations suggested by the Congress can be drafted into bill form for further consideration by the Legislature and for comments by the public.

Your Committee amended the concurrent resolution to delete the provision which would have placed a limit to the number of days for the convention. Given the importance of the Congress, it should not be restricted to a specific number of days.

Your Committee on Judiciary 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. 166, S.D. 1.

Signed by all members of the Committee except Senators Abercrombie, Cobb, Kawasaki, Young and George.

SCRep. 1018

Judiciary on S.C.R. No. 122

The purpose of this concurrent resolution is to convene the Hawaii Congress on Family Law to study the laws relating to the family and family relationships.

Your Committee finds that the number of traditional nuclear families, composed of two adults and two children, is decreasing, as single parent families and childless married partners are becoming more the norm. Along with the breakdown of the nuclear family, the number of extended families, composed of grandparents, children, and grandchildren living under one roof, is also decreasing. The traditional nuclear family and the extended family have been the foundation upon which many of our laws have been formulated. The deterioration of traditional family relationships may be a contributing factor to modern community problems, such as increased crime, including spouse and child abuse. With the changing nature and composition of the basic family structure, we should now re-examine our laws relating to the family and family relationships.

Over the past few sessions the Legislature has received an increasing number of measures to amend our current laws concerning the family. Several bills relating to divorces, adoptions, paternities, child support, and other matters have been introduced and some have been enacted into law. However, a comprehensive study of all our present family laws should be conducted to adapt them to the changing times and to recommend new laws for the new situations created by our new sociology, technology, and medical science. Your Committee finds that this study is relevant and timely.

Your Committee anticipates that preliminary work to plan and organize the Congress will take place during the interim. The actual convention should commence in early February, 1986, so the Legislature can be appropriately advised as to the Congress' recommendations. These recommendations suggested by the Congress can be drafted into bill form for further consideration by the Legislature and for comments by the public.

Your Committee amended the resolution to delete the provision which would have placed a limit to the number of days for the convention. Given the importance of the Congress, it should not be restricted to a specific number of days.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 122, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. 122, S.D. 1.

Signed by all members of the Committee except Senators Abercrombie, Cobb, Kawasaki, Young and George.

SCRep. 1019

Energy on S.C.R. No. 103

The purpose of this concurrent resolution is to request the Department of Planning and

Economic Development, with the full cooperation of State and county agencies, to prepare a geothermal implementation plan to include the identification of factors inhibiting geothermal development, recommendations for expediting development, a status report and comparative analysis of existing regulations relating to geothermal resources, and a recommended schedule for development.

Your Committee received favorable testimony from the Department of Planning and Economic Development, Hawaiian Electric Company, and the Office of Mayor of the County of Hawaii, and finds that the action requested in this concurrent resolution is consistent with the State Energy Functional Plan which names the Department of Planning and Economic Development as the lead organization to support continued implementation of the State Geothermal Commercialization Program.

Your Committee has amended this concurrent resolution to provide for the transmission of a certified copy to the Mayor of Maui County, and by making technical and stylistic changes which have no substantive effect.

Your Committee on Energy concurs with the intent and purpose of S.C.R. No. 103, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 103, S.D. 1.

Signed by all members of the Committee.

SCRep. 1020                      Energy on S.R. No. 140

The purpose of this resolution is to request the Department of Planning and Economic Development, with the full cooperation of State and county agencies, to prepare a geothermal implementation plan to include the identification of factors inhibiting geothermal development, recommendations for expediting development, a status report and comparative analysis of existing regulations relating to geothermal resources, and a recommended schedule for development.

Your Committee received favorable testimony from the Department of Planning and Economic Development, Hawaiian Electric Company, and the Office of Mayor of the County of Hawaii, and finds that the action requested in this resolution is consistent with the State Energy Functional Plan which names the Department of Planning and Economic Development as the lead organization to support continued implementation of the State Geothermal Commercialization Program.

Your Committee has amended this resolution to provide for the transmission of a certified copy to the Mayor of Maui County, and by making technical and stylistic changes which have no substantive effect.

Your Committee on Energy concurs with the intent and purpose of S.R. No. 140, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 140, S.D. 1.

Signed by all members of the Committee.

SCRep. 1021                      Health on S.R. No. 18

The purpose of this resolution is to request the Department of Health, with the assistance of the University of Hawaii, to conduct an epidemiological study to determine why Lanai and Molokai residents have extraordinarily high rates of birth defects, as was reported in "Frequency of Reproductive Dysfunction in Hawaii by Race and Judicial District 1968-1982", published by the Research and Statistics Office of the Department of Health in December, 1984.

The Department of Health concurs with the intent of this resolution and has indicated great interest in conducting such a study. They have, in fact, discussed such a study with some of the scientists at the University of Hawaii School of Public Health. Unfortunately, according to their testimony, the Department of Health does not have sufficient funds (approximately \$60,000) to carry out an epidemiological study as called for by this resolution. Furthermore, they state, it would be impossible to complete a meaningful epidemiological study in time to submit a report to the 1986 Legislature.

Your Committee heard testimony from many other sources, all of which supported this resolution, and finds that the alarming data relating to birth defects on Lanai and Molokai warrants further study. However, your Committee feels that to do a complete follow-up study, the Department of Health would require trained researchers, time, and money which are not provided in this resolution. Even so, your Committee wishes to express its support for the

intent and purpose of this resolution and is recommending its adoption in the belief that sufficient funds can be located through the budget process to enable the study.

Your Committee on Health concurs with the intent and purpose of S.R. No. 18 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 1022

Health on S.C.R. No. 115

The purpose of this concurrent resolution is to establish a planning committee to develop a program plan and organizational structure for a department of environmental affairs, including a cost estimate and a time frame for establishing the new department by July 1, 1986.

A report by the Legislative Reference Bureau recommends that Hawaii should eventually establish a separate department if it is serious about having a strong environmental program that can comprehensively address future environmental contamination concerns. However, before such a department is created a program plan and organizational structure must be developed in order that the appropriate statutory changes and budget appropriations can be developed.

Your Committee received assurances from the Department of Health, the Office of Environmental Quality Control, the Board of Agriculture, the Environmental Center, and the Environmental Council that they would participate in the project, and finds that current environmental issues and problems warrant the kind of in-depth study and recommendations authorized by this concurrent resolution. However, if the study uncovers information which indicates that development of a new cabinet level department is not the most appropriate way to address the problems, your Committee believes the Legislature should not be locked into such a course of action. Therefore, your Committee has amended this concurrent resolution to indicate that a separate environmental department is "strongly indicated", rather than "clearly required" as stated in the third "WHEREAS" clause, and by providing that the planning committee shall analyze positive and negative aspects of establishing a new department of environmental affairs and develop a program plan and organizational structure only if the facts and evidence so warrant.

Your Committee has also amended this concurrent resolution by adding Coastal Zone Management as a program component in the fourth "BE IT FURTHER RESOLVED" clause on page 2, by adding one member each from the Departments of Budget and Finance and Planning and Economic Development to the planning committee, and by making a technical change which has no substantive effect.

Your Committee on Health 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 except Senator Kawasaki.

SCRep. 1023

Housing and Community Development on S.R. No. 104

The purpose of this resolution is to request the Executive Director of the Hawaii Housing Authority, in consultation with the county housing directors, to examine the need for and the requirements and structure of a rural housing program for the State of Hawaii.

Existing State and county housing programs have been primarily structured to address the income and housing problems of persons residing in the urban areas of the State. However, the problem of affordable housing is particularly critical in the State's rural areas due to factors relatively unique to Hawaii's non-urban areas, such as: 1) geographic isolation and distances in rural areas; 2) the tendency of economic opportunities in non-urban areas to be in less stable and in lower wage service occupations; and 3) the tendency for persons who choose to or are forced to reside in rural areas to have larger family households.

While the U.S. Farmers Home Administration has been instrumental in the previous and current development of homes in rural communities, substantial cutbacks in, or the possible elimination of, federal program funds for rural housing development severely hampers the ability of the State and the counties to replace federal funds in providing rural housing.

Your Committee finds that the need for a replacement program for reduced or eliminated federal rural housing programs should be examined and that a thorough study should be conducted to assess the magnitude of the rural housing problem.

Your Committee on Housing and Community Development concurs with the intent and



purpose of S.R. No. 104 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1024

Housing and Community Development on S.R. No. 157

The purpose of this resolution is to request the Governor of Hawaii to proclaim May 24, 1985 "Self-Help Housing Day", and the President of the United States to proclaim the same day as "National Self-Help Housing Day" in honor of all self-help housing families.

The resolution further requests the United States Congress and the present federal Administration to continue to support and fund the U.S. Farmers Home Administration.

The Farmers Home Administration has funded numerous self-help housing corporations in the United States, and has provided mortgage financing for more than 16,000 self-help housing families over the past twenty years in 43 states and Puerto Rico.

Your Committee finds that these federal programs have contributed greatly to the provision of housing opportunities for Hawaii's families in rural areas.

Your Committee on Housing and Community Development concurs with the intent and purpose of S.R. No. 157 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1025

Housing and Community Development on S.R. No. 179

The purpose of this resolution is to request the convening of a task force to examine and identify the causes of homelessness in Hawaii and to identify key individuals and agencies whose involvement is required for the resolution of this critical problem.

Further, the resolution requests that the task force develop a plan addressing short and long-term solutions to the problem of homelessness.

The need and desire of our residents for adequate housing is one of the most critical problems facing the State. Your Committee finds that the adverse social and economic consequences of homelessness affect all of Hawaii's people. Evidence indicates homelessness tends to increase family violence, leads to higher crime rates and destruction of self-image and self-worth, and creates greater vulnerability to mental and physical disease.

Your Committee recognizes that to allow increasing numbers of Hawaii's people to reside on public beaches, in parks, in cars, and in the open is a tragic denial by government of its responsibility to a population group which requires the greatest assistance. Government must make significant and immediate strides to resolve the problem of homelessness.

Your Committee on Housing and Community Development concurs with the intent and purpose of S.R. No. 179 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1026

Housing and Community Development on S.C.R. No. 134

The purpose of this concurrent resolution is to request the convening of a task force to examine and identify the causes of homelessness in Hawaii and to identify key individuals and agencies whose involvement is required for the resolution of this critical problem.

Further, the concurrent resolution requests that the task force develop a plan addressing short and long-term solutions to the problem of homelessness.

The need and desire of our residents for adequate housing is one of the most critical problems facing the State. Your Committee finds that the adverse social and economic consequences of homelessness affect all of Hawaii's people. Evidence indicates homelessness tends to increase family violence, leads to higher crime rates and destruction of self-image and self-worth, and creates greater vulnerability to mental and physical disease.

Your Committee recognizes that to allow increasing numbers of Hawaii's people to reside on public beaches, in parks, in cars, and in the open is a tragic denial by government of its responsibility to a population group which requires the greatest assistance. Government must make significant and immediate strides to resolve the problem of homelessness.



The purpose of this concurrent resolution is to request the Legislative Reference Bureau, with the cooperation of the Department of Land and Natural Resources, to examine and report on the institutional, economic, legal, and other constraints hampering the State's efforts to make beneficial use of statewide forest resources.

Your Committee has considered testimony which supports this measure as it relates to the growth of high quality forest products in an amount consistent with other resources in order to develop the economic potential of our forest resources, to assist in meeting the local and export demand for these resources, and to create job opportunities. Your Committee has also considered testimony indicating that beneficial use of our forests has been, and continues to be, made for the purposes of preserving the quality of our water resources and maintaining the necessary ecosystems for our indigenous and unique flora and fauna.

Your Committee has broadly amended this concurrent resolution to recognize the continuing importance of maintaining our forest resources as watershed and to include in the scope of the requested study the beneficial use of unused agricultural lands.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 22, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 22, S.D. 1.

Signed by all members of the Committee.

SCRep. 1031                      Economic Development on S.C.R. No. 50

The purpose of this concurrent resolution is to request the Public Utilities Commission to examine the impact of projected higher residential telephone rates on persons of limited means such as the elderly, handicapped, and infirm, and to determine whether a need exists to implement special programs to provide for the minimum communication needs of these persons, including access to telephone services for emergency communication with public agencies and private medical services and for maintaining necessary social contacts.

Your Committee supports this measure and has amended the BE IT RESOLVED clause to provide that the Commission conduct its examination in conjunction with other governmental agencies and interested groups in order to provide for a comprehensive report on this matter to the Legislature.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 50, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 50, S.D. 1.

Signed by all members of the Committee.

SCRep. 1032                      (Majority) Economic Development on H.C.R. No. 37

The purpose of this concurrent resolution is to adopt the State Agriculture Functional Plan of November 1984, as a state Functional Plan in furtherance of Chapter 226, Hawaii Revised Statutes. Exhibit A attached to this concurrent resolution represents the amendments to the State Agriculture Functional Plan of November 1984.

In accordance with Chapter 226, Hawaii Revised Statutes, the Department of Agriculture prepared and submitted to the Thirteenth State Legislature the State Agriculture Functional Plan of November 1984 to set forth guidelines for the delivery of services and the allocation of resources by State agencies with regard to agriculture. Your Committee has generally amended the attached Exhibit A to provide a degree of flexibility in the classification of agricultural lands in the State Agriculture Functional Plan which is consistent with the multiple uses of agricultural lands recognized by the criteria for ranking agricultural lands under LESA.

Your Committee on Economic Development concurs with the intent and purpose of H.C.R. No. 37, H.D. 1, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 37, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator Kawasaki.  
Senator Hagino did not concur.

SCRep. 1033                      Judiciary on S.C.R. No. 120

The purpose of this concurrent resolution is to request the Senate and the House of Representatives to conduct an interim study on the Hawaii Penal Code and the Penal Code revision proposals in order to provide a greater opportunity for comments from affected agencies and members of the public.

The recently completed two-year work done by the Committee on Penal Code Revision and Reform requires an objective and thorough examination. Their work resulted in a voluminous bill introduced this session to amend the Penal Code and a lengthy report explaining the conceptual basis for the amendments. The affected government agencies and the community at large have had only a few short months to review and analyze the proposed revisions and underlying basis for them. An interim study to solicit the views of these persons is imperative in order to enact a meaningful and effective revision to the Penal Code.

Of particular importance is the study of the effects of the presumptive imprisonment in the theory Penal Code revisions. The implementation of the theory will result in the incarceration of more offenders for shorter periods of time. Your Committee is concerned about the impact of presumptive imprisonment on our already overcrowded correctional systems. A careful study should be conducted to fully explore this issue.

Your Committee received testimony from the Director of the Department of Social Services and Housing and the American Civil Liberties Union of Hawaii which indicated concurrence with the intent of this resolution to do the study.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 120 and recommends its adoption.

Signed by all members of the Committee except Senators Cayetano, Abercrombie, Toguchi and George.

SCRep. 1034                      Judiciary on Gov. Msg. No. 143

Recommending that the Senate advise and consent to the nomination of GEORGE H. WALKER to the Board of Registration, Island of Hawaii, for a term ending December 31, 1988.

Signed by all members of the Committee except Senators Abercrombie, Cobb and Kawasaki.

SCRep. 1035                      Labor and Employment on Gov. Msg. Nos. 157 and 305

Recommending that the Senate advise and consent to the nominations to the Labor and Industrial Relations Appeals Board of the following:

EDWARD L. CORREA, JR., for a term ending December 31, 1993; and

CAROL YAMAMOTO, for a term ending December 31, 1994.

Signed by all members of the Committee.

SCRep. 1036                      (Majority) Labor and Employment on S.C.R. No. 113

The purpose of this concurrent resolution is to request the Department of Personnel Services to review and amend their rules to apply the veteran's preference policy only to those who have had their employment interrupted by military service.

Currently, veteran preference points are offered to job applicants who served in World War II or the Korean War, who have been authorized a campaign badge or medal, who have been on active duty for more than 180 days, or who have a service connected disability or are receiving compensation, disability retirement benefits, or pensions.

Your Committee finds that these rules provide an advantage to military pensioners over new entrants into the work force in circumstances where such advantage was not intended. Therefore, the study authorized by this concurrent resolution has merit.

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

Your Committee on Labor and Employment 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.  
Senator Cobb did not concur.

SCRep. 1037                      Labor and Employment on S.R. No. 76

The purpose of this resolution is to request the Department of Personnel Services to study

and evaluate programs, activities, and information from all appropriate public and private sources for the purpose of developing strategies to encourage and reward public employees for innovative, productive, and quality job performances.

Chapter 82, Hawaii Revised Statutes, provides for incentive programs and authorizes the Governor to establish cash awards. However, expenses for awards must be absorbed by the departments, and in most cases only token awards are possible.

Your Committee finds that significant incentive and service awards would impact favorably on public service and that it would be in the public interest to look for and develop means to significantly reward workers for innovative, productive, and quality job performances. This study would provide the information needed to develop such programs, including strategies for locating sufficient funds for cash awards.

Your Committee on Labor and Employment concurs with the intent and purpose of S.R. No. 76 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1038                      Labor and Employment on S.R. No. 77

The purpose of this resolution is to request the Department Personnel Services to study and develop methods of dealing with "burnout" and stress-related health problems of employees in the public service.

"Burnout" includes stress affecting physical, mental, emotional, intellectual, and psychological well-being, and occurs throughout the public services. Your Committee finds that the study recommended by this resolution would impact positively on the problem and is therefore in the public interest.

Your Committee notes that the Department of Personnel Services believes an appropriation of \$50,000 would be needed to do the study. Although no funds have been provided in this resolution, your Committee is hopeful of locating sufficient funds through the budget process.

Your Committee on Labor and Employment concurs with the intent and purpose of S.R. No. 77 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1039                      Labor and Employment on S.R. No. 79

The purpose of this resolution is to request the Senate Committee on Labor and Employment to conduct a survey of private sector employers to determine the number of employers that do not provide their employees with a ten-minute rest period within a five-hour work period.

Your Committee finds that present State statutes do not require employers to provide their employees with a rest period within five hours of consecutive work. Your Committee further finds that a brief rest period would be beneficial to the worker and the employer, giving the worker an opportunity to relax and recuperate, resulting in higher quality of work and a higher level of production.

Your Committee concurs with the intent of this resolution, and believes that this concept should be expanded to include lunch periods. Your Committee has amended this resolution by amending the title, "WHEREAS" clauses 1, 2, 4, 5, and 6 and the "BE IT RESOLVED" clause to include a lunch period. Your Committee finds that since there are no statistics presently available regarding the number of employers who do not provide rest and lunch breaks, the proposed survey of private employers would be beneficial to determine the necessity of a law requiring rest and lunch breaks.

Your Committee on Labor and Employment concurs with the intent and purpose of S.R. No. 79, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 79, S.D. 1.

Signed by all members of the Committee except Senator A. Kobayashi.

SCRep. 1040                      Labor and Employment on S.R. No. 83

The purpose of this resolution is to request the Board of Education to examine and study a pay inequity that exists between the speech pathologists and other diagnostic personnel who are employed on a ten-month basis and those who are employed on a twelve-month basis.

Your Committee finds that there is an inequity in pay, which is not based on differing job, educational or training requirements, and which has created a serious morale problem resulting in high vacancy rates and recruitment difficulties for the Department of Education. Your Committee further finds that inability to provide adequate Speech and Language and Diagnostic Prescriptive Services to our handicapped youngsters could result in violation of Public Law 94-142, which mandates such services.

Your Committee concurs with the testimony received from the Board of Education and numerous speech pathologists in support of this resolution.

Your Committee on Labor and Employment concurs with the intent and purpose of S.R. No. 83 and recommends its adoption.

Signed by all members of the Committee except Senator A. Kobayashi.

SCRep. 1041                      Labor and Employment on S.R. No. 92

The purpose of this resolution is to request the Office of the Hawaii Public Employees Health fund to study the feasibility of authorizing the State and the counties to establish cafeteria benefit plans for their workers.

A cafeteria benefit plan, as authorized by Section 125 of the Internal Revenue Code, provides employees with a variety of fringe benefits which may include dependent care assistance, accident and health plans, and group life insurance, as well as other benefits. Your Committee finds that such plans would be beneficial to workers in the public service and cost efficient, and that the study authorized by this resolution is necessary to insure that the significant issues, alternate plans and their advantages and disadvantages, phasing, administrative arrangements and costs, and identification of the affected parties are addressed before such plans are effected and implemented.

Your Committee has amended the resolution by deleting the fourth "WHEREAS" clause.

Your Committee on Labor and Employment concurs with the intent and purpose of S.R. No. 92, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 92, S.D. 1.

Signed by all members of the Committee.

SCRep. 1042                      Labor and Employment on S.R. No. 102

The purpose of this resolution is to request the Department of Labor and Industrial Relations, with the assistance of the Office of Collective Bargaining, to determine the feasibility and appropriateness of statutorily authorizing working parents to take unpaid vacation leaves up to six months for parenting purposes and the effect such a law would have on collective bargaining in the State.

Your Committee finds that it is in the public interest to encourage and foster bonding between parents and children and that, if feasible, the enactment of legislation allowing leaves for parenting purposes would benefit the State. This study would provide the practical information regarding the present and potential number of workers and employees affected, the impact on collective bargaining and other considerations involved in implementing such legislation.

Your Committee on Labor and Employment concurs with the intent and purpose of S.R. No. 102 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1043                      Labor and Employment on S.R. No. 126

The purpose of this resolution is to request the Department of Budget and Finance to study the practice of designating newly created public positions as exempt and to establish guidelines and criteria for the Legislature to use in determining the circumstances under which new public programs and positions should be granted permanent civil service status and when such status should be granted. The study is to include an evaluation of each exempt position currently in the state service to determine whether it would be in the best interest of the State to convert them to permanent civil service status.

Your Committee finds that the State has experienced difficulties in attracting qualified job applicants because it has become common practice for the state administration to confer the permanence and security of civil service status upon exempt employees only after several years

of satisfactory service. There should be a rational basis for classifying and reclassifying such positions, and this study will develop the criteria necessary to make such decisions.

Your Committee on Labor and Employment concurs with the intent and purpose of S.R. No. 126 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1044                      Labor and Employment on S.R. No. 127

The purpose of this resolution is to request the Senate Committee on Labor and Employment to study the feasibility of establishing permanent offices of the Employees' Retirement System on each of the major neighbor islands to provide counseling and information on retirement, the health fund, and other related matters.

Approximately one-fourth of the active members and retirees in the Employees' Retirement System reside on the neighbor islands, and most of these individuals do not have access to the counseling and information services that are available to members residing on Oahu. Your Committee finds this situation to be inequitable and therefore supports this study as a means of developing the information required to implement corrective actions.

Your Committee on Labor and Employment concurs with the intent and purpose of S.R. No. 127 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senator A. Kobayashi.

SCRep. 1045                      Labor and Employment on S.R. No. 128

The purpose of this resolution is to request the Conference of Personnel Directors to study and analyze the definition of "professional employee" provided in Chapter 89, Hawaii Revised Statutes, in order to propose legislation to include technical and allied employees within the definition.

"Technical and allied employees" include engineering and architectural technicians, drafting technicians, income maintenance workers, forestry technicians, agricultural research technicians, construction surveyors, highway construction inspectors, general construction inspectors, building construction inspectors, elevator inspectors, meat inspectors, harbor agents, motor carrier safety officers, measurement standards inspectors, identification officers, and criminal records expungers.

Your Committee finds that in many instances the only difference between these positions and professional employees as defined in Chapter 89 is that the incumbents lack a college education. Otherwise, many of them do the same work under the exact same conditions as professional employees and should be accorded the same distinction and classification.

Your Committee has amended the resolution by deleting the words "and allied" from the title, the first, third, and fourth "WHEREAS" clauses, and the "BE IT RESOLVED" clause, by adding language to the first "BE IT FURTHER RESOLVED" clause clarifying that the requested report is to be submitted to the Legislature, and by rewording the fourth "WHEREAS" clause for the purposes of clarity and style.

Your Committee on Labor and Employment concurs with the intent and purpose of S.R. No. 128, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 128, S.D. 1.

Signed by all members of the Committee except Senator A. Kobayashi.

SCRep. 1046                      (Majority) Labor and Employment on S.R. No. 154

The purpose of this resolution is to request the Department of Personnel Services to review and amend their rules to apply the veteran's preference policy only to those who have had their employment interrupted by military service.

Currently, veteran preference points are offered to job applicants who served in World War II or the Korean War, who have been authorized a campaign badge or medal, who have been on active duty for more than 180 days, or who have a service connected disability or are receiving compensation, disability retirement benefits, or pensions.

Your Committee finds that these rules provide an advantage to military pensioners over new entrants into the work force in circumstances where such advantage was not intended. Therefore, the study authorized by this resolution has merit.

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

Your Committee on Labor and Employment concurs with the intent and purpose of S.R. No. 154, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 154, S.D. 1.

Signed by all members of the Committee.  
Senator Cobb did not concur.

SCRep. 1047                      Higher Education on Gov. Msg. No. 248

Recommending that the Senate advise and consent to the nomination of J.D. WATUMULL to the Western Interstate Commission for Higher Education, for a term ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 1048                      (Majority) Consumer Protection and Commerce on S.R. No. 23

The purpose of this resolution was to request the Insurance Commissioner to study and report to the 1986 Legislature:

- (1) Whether the problem in the recently concluded Tillinghast study of the Hawaii no-fault law is, in fact, significant enough to warrant a special group program for taxicabs; and
- (2) If so, the means by which the problem can be addressed.

Your Committee heard favorable testimony from the Insurance Division of the Department of Commerce and Consumer Affairs, and the Hawaii Independent Insurance Agents Association.

Your Committee has amended this resolution to include a new "WHEREAS" clause stating that pedi-cabs may have similar problems. Also, the title of the resolution has been amended by adding the words "AND PEDI-CABS"; and item (1) in the first "RESOLVED" paragraph has been amended by adding the words "and pedi-cabs" after the word "taxicabs".

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 23, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 23, S.D. 1.

Signed by all members of the Committee.  
Senator Kawasaki did not concur.

SCRep. 1049                      Consumer Protection and Commerce on S.R. No. 24

The purpose of this resolution is to request a comprehensive review of Hawaii Insurance Laws.

Your Committee received favorable testimony from the Insurance Division of the Department of Commerce and Consumer Affairs (DCCA), Hawaii Independent Insurance Agents Association and the Hawaii State Association of Life Underwriters. The Insurance Division of the DCCA believes a comprehensive review of the insurance laws at this time is needed to substantially reduce the time and effort required by the Legislature, administrative agencies, and the insurance industry in addressing the numerous changes proposed by private industry or any government agency. The DCCA feels that the benefits resulting from such a review would outweigh the costs of such a comprehensive undertaking.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 24 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1050                      Consumer Protection and Commerce on S.C.R. No. 19

The purpose of this concurrent resolution is to request a comprehensive review of Hawaii Insurance Laws.

Your Committee received favorable testimony from the Insurance Division of the Department of Commerce and Consumer Affairs (DCCA), Hawaii Independent Insurance Agents Association and the Hawaii State Association of Life Underwriters. The Insurance Division of the DCCA believes a comprehensive review of the insurance laws at this time is needed to substantially reduce the time and effort required by the Legislature, administrative agencies, and the insurance industry in addressing the numerous changes proposed by private industry or any government agency. The DCCA feels that the benefits resulting from such a review would



outweigh the costs of such a comprehensive undertaking.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 19 and recommends its adoption.

Signed by all members of the Committee except Senators Chang and Kuroda.

SCRep. 1051                      Consumer Protection and Commerce on Gov. Msg. Nos. 84 and 162

Recommending that the Senate advise and consent to the nominations to the Board of Private Detectives and Guards of the following:

NELSON K. MOKU, JR., for a term ending December 31, 1987; and

STEPHEN D. GOODENOW, for a term ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 1052                      Consumer Protection and Commerce on Gov. Msg. No. 181

Recommending that the Senate advise and consent to the nomination of HENRY L. FREUND to the CATV Advisory Committee, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 1053                      Consumer Protection and Commerce on Gov. Msg. Nos. 98, 111, 200, 240 and 251

Recommending that the Senate advise and consent to the nominations of the following:

GEORGE J.A. KAAHANUI, JR., and THOMAS S. SHIMABUKU to the Boxing Commission, for terms ending December 31, 1988;

GLORIA DAMRON and CONSTANCE B. SMALES to the Real Estate Commission, for terms ending December 31, 1988;

TOSHIO FUJIMOTO to the Credit Union Review Board, for a term ending December 31, 1988;

LOU GERONIMO and DELMOND J.H. WON to the Board of Pilot Commissioners, for terms ending December 31, 1988; and

CHARLES T. KUDO, ALFRED C.K. CHEE and STEVEN M. SHINN to the Board of Public Accountancy, for terms ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 1054                      Consumer Protection and Commerce on Gov. Msg. Nos. 85, 108, 110, 184 and 202

Recommending that the Senate advise and consent to the nominations of the following:

LANI HIYANE NAKAZAWA to the State Board of Nursing, for a term ending December 31, 1986;

ABE SAKAI, DOROTHY C. HOE and STEVEN A. SCOTT-HOSAKA to the Board of Examiners of Nursing Home Administrators, for terms ending December 31, 1988;

MARY A. WAHLMAN to the Board of Pharmacy, for a term ending December 31, 1988;

DARRYL N. ING to the Board of Examiners of Nursing Home Administrators, for a term ending December 31, 1987;

CLIFFORD E. MILLER, JR., to the Board of Examiners of Nursing Home Administrators, for a term ending December 31, 1985; and

RICHARD J. ROTH to the Board of Pharmacy, for a term ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 1055                      Consumer Protection and Commerce on Gov. Msg. Nos. 101, 182, 252, 253, 266 and 267

Recommending that the Senate advise and consent to the nominations of the following:

GEORGE UESATO, D.D.S., to the Board of Dental Examiners, for a term ending December 31, 1988;

KAREN J. BARDIN-BILLMAN to the Board of Dental Examiners, for a term ending December 31, 1988;

MARTIN H. ZAIS, D.D.S., and THOMAS E. CROWLEY, III, to the Board of Dental Examiners, for terms ending December 31, 1988;

BERT J. OKUHARA to the Board of Dispensing Opticians, for a term ending December 31, 1985;

RONALD T. IWATA to the Board of Dispensing Opticians, for a term ending December 31, 1988;

KEVIN DOYLE to the Board of Examiners in Optometry, for a term ending December 31, 1988; and

DUDLEY G. AKAMA and ROBERT L. SIMICH, D.O., to the Board of Osteopathic Examiners, for terms ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 1056                      Consumer Protection and Commerce on Gov. Msg. Nos. 100, 109, 218, 241, 262 and 264

Recommending that the Senate advise and consent to the nominations of the following:

PATRICIA N. KRAMER to the Board of Cosmetology, for a term ending December 31, 1988;

MIYOJI FURUSHO and CLAIRE WOLTER to the Pest Control Board, for terms ending December 31, 1988;

STEVEN J. CHOY, Ph.D., to the Board of Certification for Practicing Psychologists, for a term ending December 31, 1988;

PATRICK Y. NAKAGAWA and PATRICK A.Y.H. AHANA, D.V.M., to the Board of Veterinary Examiners, for terms ending December 31, 1988;

CHRISTOBAL J. QUINTANA and DAVID BOBACK to the Board of Barbers, for terms ending December 31, 1988; and

FRANCES Y.M. OH and PETER J. JONES to the Board of Cosmetology, for terms ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 1057                      Consumer Protection and Commerce on Gov. Msg. Nos. 99, 102, 103, 216, 239, 263 and 265

Recommending that the Senate advise and consent to the nominations of the following:

JOSEPH AKIONA and TSUKASA MURAKAMI to the Contractors License Board, for terms ending December 31, 1988;

WARREN M. LA FRANCE to the Board of Electricians and Plumbers, for a term ending December 31, 1988;

E. CLAUDE MOORE and MICHAEL T. MIYABARA to the Board of Registration of Professional Engineers, Architects, Land Surveyors and Landscape Architects, for terms ending December 31, 1988;

GENE T. NISHIMOTO to the Elevator Mechanics Licensing Board, for a term ending December 31, 1988;

K. DAVID MALAMA to the Board of Electricians and Plumbers, for a term ending December 31, 1985;

FRANCIS L. HIRAKAWA to the Board of Electricians and Plumbers, for a term ending

December 31, 1988;

JAPO I. YOKOYAMA and EDWARD S. KUSUDA to the Contractors License Board, for terms ending December 31, 1988; and

GEORGE T. OKAMOTO to the Board of Registration of Professional Engineers, Architects, Land Surveyors and Landscape Architects, for terms ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 1058                      Consumer Protection and Commerce on Gov. Msg. Nos. 106, 107, 183 and 249

Recommending that the Senate advise and consent to the nominations of the following:

DWANE BRENNEMANN and CAROLYN C. VAN DER LINDEN to the Motor Vehicle Industry Licensing Board, for terms ending December 31, 1988;

CLIFFORD K.M. YUEN to the Motor Vehicle Repair Industry Board, for a term ending December 31, 1988;

ROBERT G. SCHMITT to the Motor Vehicle Industry Licensing Board, for a term ending December 31, 1988; and

CLYDE AKINA and JOHN T. KOMEIJI to the Motor Vehicle Repair Industry Board, for terms ending December 31, 1985.

Signed by all members of the Committee.

SCRep. 1059                      Judiciary on S.R. No. 85

The purpose of this resolution is to request the Legislative Auditor study the proposal presented in S.B. No. 465, to transfer the responsibilities of budgeting for and paying witness expenses in criminal proceedings.

The Department of Budget and Finance cited enormous increases in recent years between the budgeted amounts for witness expenses and the actual expenditures. The spending deficits in this area have grown from about \$20,846 in fiscal year 1977-78 to \$513,901 in fiscal year 1983-84.

The current practice of accounting for witness fees and expenses does not have adequate controls and precludes proper review and accountability. The Department of Budget and Finance states that it merely serves a bookkeeping function and, without qualification, pays for all of the warrants that are presented to it by the prosecuting attorney. It was further stated that the Department of the Attorney General or some other independent body should review and "pre-audit" the warrants prior to the disbursement of funds.

However, funds that are used for witness expenses are spent long before the warrants reach the Department of Budget and Finance. The "pre-audit" would actually be an "after the fact" review.

Many alternatives were presented to your Committee. The Legislative auditor should conduct a study of all of the alternatives and report to the Legislature next year so that this situation may be appropriately resolved.

Your Committee amended the resolution to allow the Legislative Auditor greater discretion in conducting the study and making recommendations regarding the issue of witness fees and expenses.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 85, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 85, S.D. 1.

Signed by all members of the Committee except Senators Aki, Cobb and Kawasaki.

SCRep. 1060                      Judiciary on S.C.R. No. 65

The purpose of this concurrent resolution is to request the Legislative Auditor study the proposal presented in S.B. No. 465, to transfer the responsibilities of budgeting for and paying witness expenses in criminal proceedings.

The Department of Budget and Finance cited enormous increases in recent years between the

budgeted amounts for witness expenses and the actual expenditures. The spending deficits in this area have grown from about \$20,846 in fiscal year 1977-78 to \$513,901 in fiscal year 1983-84.

The current practice of accounting for witness fees and expenses does not have adequate controls and precludes proper review and accountability. The Department of Budget and Finance states that it merely serves a bookkeeping function and, without qualification, pays for all of the warrants that are presented to it by the prosecuting attorney. It was further stated that the Department of the Attorney General or some other independent body should review and "pre-audit" the warrants prior to the disbursement of funds.

However, funds that are used for witness expenses are spent long before the warrants reach the Department of Budget and Finance. The "pre-audit" would actually be an "after the fact" review.

Many alternatives were presented to your Committee. The Legislative auditor should conduct a study of all of the alternatives and report to the Legislature next year so that this situation may be appropriately resolved.

Your Committee amended the concurrent resolution to allow the Legislative Auditor greater discretion in conducting the study and making recommendations regarding the issue of witness fees and expenses.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 65, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 65, S.D. 1.

Signed by all members of the Committee except Senators Aki, Cobb and Kawasaki.

SCRep. 1061                      Consumer Protection and Commerce on Gov. Msg. Nos. 104, 105, 201, 215 and 217

Recommending that the Senate advise and consent to the nominations of the following:

ROY R. KAMISATO and GEORGE KIMATA, M.D., to the Board of Hearing Aid Dealers and Fitters, for terms ending December 31, 1988;

PAUL T. ESAKI, M.D., to the Board of Medical Examiners, for a term ending December 31, 1988;

MARION L. HANLON, M.D., to the Board of Medical Examiners, for a term ending December 31, 1985;

STEPHEN OKUMURA to the Board of Chiropractic Examiners, for a term ending December 31, 1988; and

WILLOW SEKIYA MORTON to the State Board of Nursing, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 1062                      Agriculture on H.C.R. No. 33

The purpose of this concurrent resolution is to request the University of Hawaii, the State Department of Agriculture and Hawaii's Congressional delegation to urge the United States Food and Drug Administration to take quicker action to complete the review of the irradiation treatment of tropical produce.

Your Committee received testimony from the Board of Agriculture stating that the U.S. Food and Drug Administration, based on research and technological development studies, published in the February 14, 1984 Federal Register a proposed regulation that would expand the use of ionizing radiation by permitting such foods as fresh fruits and vegetables to be treated with a dose level not to exceed 100,000 rads to inhibit the growth and maturation of the products as well as to kill insects that are present after harvest. However, final approval of this regulation is pending.

Your Committee finds that because irradiation provides a potential option for the disinfection of tropical produce from fruit flies, the agricultural industry needs to know as soon as possible whether irradiation is among its real options. Until this regulation meets final approval, the agricultural industry is constrained in its ability to assess the economic and other factors that would influence their choice among the available options for disinfecting tropical

produce.

Your Committee on Agriculture concurs with the intent and purpose of H.C.R. No. 33, H.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1063                      Agriculture on S.C.R. No. 39

The purpose of this concurrent resolution is to request the Department of Agriculture to conduct a study of the post-harvest treatment needs of papaya and other agricultural crops, to include gamma irradiation, linear accelerators, and other treatment methods.

Your Committee is aware of the problems faced by the papaya industry since the U.S. Environmental Protection Agency (EPA) banned the use of ethylene dibromide (EDB) as a post-harvest fumigant for fruit fly control. In addition, the double dip process has met strong consumer resistance since the prolonged heat treatment disrupts the natural ripening process of the fruit.

Due to these problems, your Committee believes that other, more cost-effective post-harvest fruit fly treatment processes, like the new gamma irradiation and linear accelerator technology, should be looked into to meet the post-harvest treatment needs of the agricultural industry.

Your Committee has amended the concurrent resolution to have the College of Tropical Agriculture and Human Resources of the University of Hawaii and the Department of Planning and Economic Development conduct the study, and to have certified copies of this resolution transmitted to the Dean of the College of Tropical Agriculture and Human Resources and to the Director of the Department of Planning and Economic Development. The title of the concurrent resolution was also amended to reflect the above amendment.

Your Committee on Agriculture 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. 1064                      Agriculture on S.R. No. 46

The purpose of this resolution is to request the Department of Agriculture to conduct a study of the post-harvest treatment needs of papaya and other agricultural crops, to include gamma irradiation, linear accelerators, and other treatment methods.

Your Committee is aware of the problems faced by the papaya industry since the U.S. Environmental Protection Agency (EPA) banned the use of ethylene dibromide (EDB) as a post-harvest fumigant for fruit fly control. In addition, the double dip process has met strong consumer resistance since the prolonged heat treatment disrupts the natural ripening process of the fruit.

Due to these problems, your Committee believes that other, more cost-effective post-harvest fruit fly treatment processes, like the new gamma irradiation and linear accelerator technology, should be looked into to meet the post-harvest treatment needs of the agricultural industry.

Your Committee has amended the resolution to have the College of Tropical Agriculture and Human Resources of the University of Hawaii and the Department of Planning and Economic Development conduct the study, and to have certified copies of this resolution transmitted to the Dean of the College of Tropical Agriculture and Human Resources and to the Director of the Department of Planning and Economic Development. The title of the resolution was also amended to reflect the above amendment.

Your Committee on Agriculture 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.

SCRep. 1065                      Agriculture on S.C.R. No. 38

The purpose of this concurrent resolution is to request the Department of Agriculture and the Department of Land and Natural Resources to do an appraisal of the Agricultural Parks

Program and recommend alternative concepts for the management of the program, including the possibility of discontinuing the program.

Your Committee finds that since its enactment in 1972, the agricultural parks program has faced a number of problems, including difficulty in successfully negotiating for private lands, a lack of systematic site selection and evaluation processes, tenant selection processes that favor existing farmers, and high cost of developing and constructing such parks including irrigation water systems. Even after the completion of two phases of the Statewide Agricultural Park Action Plan and recommendations concerning the agricultural parks program, including amending the agricultural parks law, continued State support and investment in the agricultural parks program have been questioned.

Your Committee believes before effective steps can be taken to amend or redirect the agricultural parks program, it is necessary to gain a better understanding of the contents of the Statewide Agricultural Park Action Plan reports, as well as an update of the latest actions and intentions of both the Departments of Agriculture and Land and Natural Resources with respect to the agricultural parks law and program.

Your Committee has amended the concurrent resolution by amending the first be it resolved clause to: (1) provide that the appraisal requested be submitted to the Legislature rather than the appropriate Senate standing committee; and (2) extend the time when the requested report is to be submitted from prior to the adjournment of the 1985 Session to twenty days before the convening of the Regular Session of 1986.

Your Committee on Agriculture concurs with the intent and purpose of S.C.R. No. 38, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 38, S.D. 1.

Signed by all members of the Committee.

SCRep. 1066

Agriculture on S.R. No. 45

The purpose of this resolution is to request the Department of Agriculture and the Department of Land and Natural Resources to do an appraisal of the Agricultural Parks Program and recommend alternative concepts for the management of the program, including the possibility of discontinuing the program.

Your Committee finds that since its enactment in 1972, the agricultural parks program has faced a number of problems, including difficulty in successfully negotiating for private lands, a lack of systematic site selection and evaluation processes, tenant selection processes that favor existing farmers, and high cost of developing and constructing such parks including irrigation water systems. Even after the completion of two phases of the Statewide Agricultural Park Action Plan and recommendations concerning the agricultural parks program, including amending the agricultural parks law, continued State support and investment in the agricultural parks program have been questioned.

Your Committee believes before effective steps can be taken to amend or redirect the agricultural parks program, it is necessary to gain a better understanding of the contents of the Statewide Agricultural Park Action Plan reports, as well as an update of the latest actions and intentions of both the Departments of Agriculture and Land and Natural Resources with respect to the agricultural parks law and program.

Your Committee has amended the resolution by amending the first be it resolved clause to: (1) provide that the appraisal requested be submitted to the Legislature rather than the appropriate Senate standing committee; and (2) extend the time when the requested report is to be submitted from prior to the adjournment of the 1985 Session to twenty days before the convening of the Regular Session of 1986.

Your Committee on Agriculture 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. 1067

Education on S.C.R. No. 95

The purpose of this concurrent resolution is to request that the Governor of the State of Hawaii establish a commission to plan and coordinate activities commemorating the 200th anniversary of the arrival of the Chinese in Hawaii. This concurrent resolution also makes recommendations for community and governmental representation on the commission, as well as requiring status reports on the commission's activities and projects.

Testifying in favor of this concurrent resolution were representatives of the Chinese Chamber of Commerce, the Hawaii Chinese History Center, the United Chinese Society, and the Chinese English Debating Society. In addition to supporting the intent of the resolution, each stated that imminent formation of the commission will provide adequate lead time for the bi-centennial celebration in 1989.

The coming of the "Felice", "Iphigenia" and "North West America" brought the first Chinese to Hawaii, as documentation shows that Chinese crewmen were on all three ships. Your Committee finds that Chinese immigration to Hawaii has made an indelible mark on Hawaiian history, commerce, and society. Thus, it is appropriate that a commission be created to plan and coordinate the celebration.

Your Committee amended the concurrent resolution to delete the requirements for the composition of the commission. This amendment will assure greater potential for broad community participation.

Your Committee also amended the concurrent resolution to eliminate the time limit to form the commission and to report a preliminary plan to the Legislature. Your Committee finds that the commission should have as long as it needs to develop its plan and implementation.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 95, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 95, S.D. 1.

Signed by all members of the Committee.

SCRep. 1068                      Education on S.C.R. No. 91

The purpose of this concurrent resolution is to request the Department of Education and the Kamehameha Schools to further establish cooperative programs that utilize the resources of Kamehameha Schools and the institutional capabilities of the Department of Education to provide educational opportunities to Hawaiian and part Hawaiian youngsters.

Among the activities proposed by this concurrent resolution are: 1) establishment of a liaison office between the Department of Education and Kamehameha Schools to facilitate the implementation of the 1984 "Statement of Understanding;" 2) establishment of a discretionary fund for exploratory and experimental projects; 3) creation of a career development program for Hawaiian and part Hawaiian students; 4) use of augmentation personnel for schools with high Hawaiian and part Hawaiian populations; and 5) development of a collaborative in-service training program for teachers, parents, and administrators.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 91 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1069                      Education on S.R. No. 118

The purpose of this resolution is to request the Department of Education and the Kamehameha Schools to further establish cooperative programs that utilize the resources of Kamehameha Schools and the institutional capabilities of the Department of Education to provide educational opportunities to Hawaiian and part Hawaiian youngsters.

Among the activities proposed by this resolution are: 1) establishment of a liaison office between the Department of Education and Kamehameha Schools to facilitate the implementation of the 1984 "Statement of Understanding;" 2) establishment of a discretionary fund for exploratory and experimental projects; 3) creation of a career development program for Hawaiian and part Hawaiian students; 4) use of augmentation personnel for schools with high Hawaiian and part Hawaiian populations; and 5) development of a collaborative in-service training program for teachers, parents, and administrators.

Your Committee on Education concurs with the intent and purpose of S.R. No. 118 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1070                      Education on S.C.R. No. 77

The purpose of this concurrent resolution is to request the Department of Education (DOE) to examine the school attendance area designation of certain schools in the leeward area.

Over the past few years, the DOE has changed the school attendance area designation for the

Waipahu Complex by shifting students from the Village Park, Crestview, and Waipio-Gentry subdivisions to the Pearl City Complex. The change in designation has both decreased the student enrollment and changed the demographics of the student enrollment in the Waipahu Complex towards a greatly increased proportion of students from lower socio-economic backgrounds.

Hence, the Waipahu Complex does not have the enrollment numbers to justify necessary capital improvement project appropriations or teacher and educational resource allocations necessary to revitalize the complex.

Your Committee believes, that by requesting the DOE to examine the school attendance area designations for the Village Park, Crestview, and Waipio-Gentry subdivisions, specifically, and the Waipahu and Pearl City communities, generally, upon the provision of equal educational opportunities, the Legislature can better understand the true nature of the problem and commence appropriate legislative action.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 77 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1071                      Education on S.R. No. 101

The purpose of this resolution is to request the Department of Education (DOE) to examine the school attendance area designation of certain schools in the leeward area.

Over the past few years, the DOE has changed the school attendance area designation for the Waipahu Complex by shifting students from the Village Park, Crestview, and Waipio-Gentry subdivisions to the Pearl City Complex. The change in designation has both decreased the student enrollment and changed the demographics of the student enrollment in the Waipahu Complex towards a greatly increased proportion of students from lower socio-economic backgrounds.

Hence, the Waipahu Complex does not have the enrollment numbers to justify necessary capital improvement project appropriations or teacher and educational resource allocations necessary to revitalize the complex.

Your Committee believes, that by requesting the DOE to examine the school attendance area designations for the Village Park, Crestview, and Waipio-Gentry subdivisions, specifically, and the Waipahu and Pearl City communities, generally, upon the provision of equal educational opportunities, the Legislature can better understand the true nature of the problem and commence appropriate legislative action.

Your Committee on Education concurs with the intent and purpose of S.R. No. 101 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1072                      Education on S.C.R. No. 93

The purpose of this concurrent resolution is to request the State Librarian, in consultation with the Friends of Holualoa Library, to develop creative alternative uses for the Holualoa Library that will meet the needs of the community and the library system.

Holualoa Library currently operates on a part-time basis and, like other rural libraries, is on the endangered list because of budget limitations and centralization.

Your Committee received supporting testimony from the State Librarian and finds that small rural libraries are valuable community resources which are deserving of support and encouragement. This study will result in strategies for alternative uses for Holualoa Library which are appropriate to the community it serves, and is therefore in the public interest.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 93 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1073                      Education on S.R. No. 119

The purpose of this resolution is to request the State Librarian, in consultation with the Friends of Holualoa Library, to develop creative alternative uses for the Holualoa Library that



will meet the needs of the community and the library system.

Holualoa Library currently operates on a part-time basis and, like other rural libraries, is on the endangered list because of budget limitations and centralization.

Your Committee received supporting testimony from the State Librarian and finds that small rural libraries are valuable community resources which are deserving of support and encouragement. This study will result in strategies for alternative uses for Holualoa Library which are appropriate to the community it serves, and is therefore in the public interest.

Your Committee on Education concurs with the intent and purpose of S.R. No. 119 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1074                      Education on S.R. No. 116

The purpose of this resolution is to urge the refinement of the statement of understanding between the Department of Education (DOE) and the trustees of the Bishop Estate.

This statement of understanding, drafted and agreed to in July 1984, affirms the cooperative and beneficial working relationship between the DOE and the Kamehameha Schools to enhance the education of Hawaiian and part Hawaiian children and youth.

Your Committee supports and encourages both institutions to not only refine the statement of understanding but to also implement the delineated activities set out in the statement.

Your Committee has amended the resolution by amending the first "BE IT RESOLVED" clause and the title to clarify and identify the Board of Trustees of the Bishop Estate and the DOE as the participating institutions.

Your Committee on Education concurs with the intent and purpose of S.R. No. 116, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 116, S.D. 1.

Signed by all members of the Committee.

SCRep. 1075                      Education on Gov. Msg. Nos. 119 and 120

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, 1988; and

DEE DUDLEY to the to the Library Advisory Commission, County of Maui, for a term ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 1076                      Education on S.R. No. 121

The purpose of this resolution is to request that the Governor of the State of Hawaii establish a commission to plan and coordinate activities commemorating the 200th anniversary of the arrival of the Chinese in Hawaii. This resolution also makes recommendations for community and governmental representation on the commission, as well as requiring status reports on the commission's activities and projects.

Testifying in favor of this resolution were representatives of the Chinese Chamber of Commerce, the Hawaii Chinese History Center, the United Chinese Society, and the Chinese English Debating Society. In addition to supporting the intent of the resolution, each stated that imminent formation of the commission will provide adequate lead time for the bi-centennial celebration in 1989.

The coming of the "Felice", "Iphigenia" and "North West America" brought the first Chinese to Hawaii, as documentation shows that Chinese crewmen were on all three ships. Your Committee finds that Chinese immigration to Hawaii has made an indelible mark on Hawaiian history, commerce, and society. Thus, it is appropriate that a commission be created to plan and coordinate the celebration.

Your Committee amended the resolution to delete the requirements for the composition of the commission. This amendment will assure greater potential for broad community

participation.

Your Committee also amended the resolution to eliminate the time limit to form the commission and to report a preliminary plan to the Legislature. Your Committee finds that the commission should have as long as it needs to develop its plan and implementation.

Your Committee on Education concurs with the intent and purpose of S.R. No. 121, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 121, S.D. 1.

Signed by all members of the Committee.

SCRep. 1077

Judiciary on S.C.R. No. 86

The purpose of this concurrent resolution is to conduct a study of tort laws of this State and to request that the appropriate organization conduct a workshop on tort laws for legislators.

Your Committee received an increase in the number of concerns relating to tort claims and the costs of tort litigation. However, your Committee is unable to fathom the full extent of these concerns because of the paucity of information on these issues.

Your Committee finds that a study of problems and issues in tort laws is appropriate at this time. Furthermore, a workshop for legislators would be proper to provide a brief overview of tort laws and concepts for the many lay persons who are legislators.

Your Committee amended this resolution by designating the Senate Committee on Judiciary and the House Committee on Judiciary to jointly conduct this study and seek the participation of various legal groups, such as the William S. Richardson School of Law, the State Judiciary, the Hawaii Academy of Plaintiffs' Attorneys, the Hawaii Bar Association and representatives of tort defense attorneys, including attorneys from the Department of the Attorney General, and the county Corporation Counsels. Individuals reflecting the viewpoint of the victim, the Hawaii Medical Association, the Hawaii Association of Hospitals, the Department of Health, the Hawaii Insurers' Council, and the Hawaii Federation of Physicians and Dentists should also be consulted in order to obtain the most comprehensive study of tort laws possible. The participants should identify areas where significant problems and issues exist, such that further examination and review is needed, and recommend a plan of study for problems and issues that may be of priority concern.

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. 86, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 86, S.D. 1.

Signed by all members of the Committee except Senators Cayetano, Abercrombie, Cobb, Kawasaki and A. Kobayashi.

SCRep. 1078

Judiciary on S.R. No. 112

The purpose of this resolution is to conduct a study of tort laws of this State and to request that the appropriate organization conduct a workshop on tort laws for legislators.

Your Committee received an increase in the number of concerns relating to tort claims and the costs of tort litigation. However, your Committee is unable to fathom the full extent of these concerns because of the paucity of information and analysis on these issues.

Your Committee finds that a study of problems and issues in tort laws is appropriate at this time. Furthermore, a workshop for legislators would be proper to provide a brief overview of tort laws and concepts for the many lay persons who are legislators.

Your Committee amended this resolution by designating the Senate Committee on Judiciary as the group to conduct this study and seek the participation of various organizations, such as the William S. Richardson School of Law, the State Judiciary, the Hawaii Academy of Plaintiffs' Attorneys, the Hawaii Bar Association and representatives of tort defense attorneys, including attorneys from the Department of the Attorney General, and the county Corporation Counsel. Individuals reflecting the viewpoint of the victim, the Hawaii Medical Association, the Hawaii Association of Hospitals, the Department of Health, the Hawaii Insurers' Council, and the Hawaii Federation of Physicians and Dentists should also be consulted in order to obtain the most comprehensive possible study of tort laws as possible. The participants should identify areas where significant problems and issues exist, such that further examination and review is

needed, and recommend a plan of study for problems and issues that may be of 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.R. No. 112, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 112, S.D. 1.

Signed by all members of the Committee except Senators Cayetano, Abercrombie, Cobb, Kawasaki and A. Kobayashi.

SCRep. 1079                      Education on Gov. Msg. Nos. 203, 220, 243, 271, 277 and 278

Recommending that the Senate advise and consent to the nominations of the following:

CHIEKO K. TANIMOTO to the Library Advisory Commission, County of Hawaii, for a term ending December 31, 1988;

ARLENE M. WAIAMAU to the Library Advisory Commission, County of Kauai, for a term ending December 31, 1985;

JOHN H. FITZGIBBON, JR., to the Library Advisory Commission, County of Maui, for a term ending December 31, 1986;

VERNA ANN ALO to the Library Advisory Commission, County of Maui, for a term ending December 31, 1987;

SHIGEKO OGAWA to the Library Advisory Commission, County of Maui,, for a term ending December 31, 1988;

ROBERT N. KUMASAKA, LINDA MAE VICTOR and NANCY E. BROWN to the Library Advisory Commission, City and County of Honolulu, for terms ending December 31, 1988;

JOSEPH W. LAPILIO, III, to the Education Commission of the States, for a term ending December 31, 1988; and

DORIS M. CHING and JOHN L. KNOREK to the Hawaii Education Council, for terms ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 1080                      Education on H.C.R. No. 38

The purpose of this concurrent resolution is to adopt the State Education Functional Plan of November 1984, 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. 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 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 Education prepared the State Education Functional Plan of November 1984, designed to set forth guidelines for the delivery of services and the allocation of resources by State agencies with regard to education. The plan provides for policies and recommended priority implementing actions to meet the underlying needs and requirements of education in the State, and further provides for an implementation process to ensure the coordinated achievement of the recommended implementing actions.

After careful review by: an Advisory Committee appointed by the Governor composed of members of the public, experts in education, and State and county officials; the Board of Education; and the State Plan Policy Council, the plan was submitted to the Thirteenth State Legislature, Regular Session of 1985 for review and approval.

Your Committee recommends that the State Education Functional Plan of November 1984, as transmitted to the Legislature, and modified by the amendments set forth in Exhibit A, be

adopted as the State Education Functional Plan.

Your Committee on Education concurs with the intent and purpose of H.C.R. No. 38, H.D. 1 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1081 (Joint/Majority) Education and Economic Development on S.C.R. No. 90

The purpose of this concurrent resolution is to request the Office of Hawaiian Affairs and the Department of Education to jointly study the feasibility of transferring the responsibility for the support and management of the kupuna component of the Department of Education's Hawaiian Studies Program to the Office of Hawaiian Affairs.

The kupuna are living treasures of Hawaii and as such are of special significance to native Hawaiians and Hawaiians. Since the Office of Hawaiian Affairs was specifically established to serve as the principal public agency to manage and administer resources of native Hawaiians and Hawaiians, your Committees find that consideration should be given to placing the support and management of the Kupuna Program within that Office. The Department of Education and the Office of Hawaiian Affairs concur.

Your Committees on Education and Economic Development concur with the intent and purpose of S.C.R. No. 90 and recommend its adoption.

Signed by all members of the Committees.  
Senator Kawasaki did not concur.

SCRep. 1082 (Joint/Majority) Education and Economic Development on S.R. No. 117

The purpose of this resolution is to request the Office of Hawaiian Affairs and the Department of Education to jointly study the feasibility of transferring the responsibility for the support and management of the kupuna component of the Department of Education's Hawaiian Studies Program to the Office of Hawaiian Affairs.

The kupuna are living treasures of Hawaii and as such are of special significance to native Hawaiians and Hawaiians. Since the Office of Hawaiian Affairs was specifically established to serve as the principal public agency to manage and administer resources of native Hawaiians and Hawaiians, your Committees find that consideration should be given to placing the support and management of the Kupuna Program within that Office. The Department of Education and the Office of Hawaiian Affairs concur.

Your Committees on Education and Economic Development concur with the intent and purpose of S.R. No. 117 and recommend its adoption.

Signed by all members of the Committees.  
Senator Kawasaki did not concur.

SCRep. 1083 Education on S.C.R. No. 89

The purpose of this concurrent resolution is to urge the refinement of the statement of understanding between the Department of Education (DOE) and the trustees of the Bishop Estate.

This statement of understanding, drafted and agreed to in July 1984, affirms the cooperative and beneficial working relationship between the DOE and the Kamehameha Schools to enhance the education of Hawaiian and part Hawaiian children and youth.

Your Committee supports and encourages both institutions to not only refine the statement of understanding but to also implement the delineated activities set out in the statement.

Your Committee has amended the concurrent resolution by amending the first "BE IT RESOLVED" clause and the title to clarify and identify the Board of Trustees of the Bishop Estate and the DOE as the participating institutions.

Your Committee on Education 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.

SCRep. 1084 Ways and Means on S.C.R. No. 108

The purpose of this resolution is to request the Department of Taxation, in conjunction with the Tax Foundation of Hawaii, to conduct a study on the possibility of replacing the present ad valorem tax on liquor with a gallonage tax.

Your Committee received testimony from wholesale liquor dealers strongly in favor of this study since they perceive the present liquor tax system to be inequitable. The Director of Taxation noted that the Hawaii Tax Review Commission recommended that all excise taxes be imposed on an ad valorem basis and that while the Department of Taxation concurs with the commission's recommendation, it agrees that a study on the possible conversion of the liquor tax to a gallonage tax should be made.

Your Committee amended the resolution by adding to the first "BE IT RESOLVED" clause that the study include a review of the different methodologies utilized by other jurisdictions in the calculations of a gallonage tax and adding to the third "BE IT RESOLVED" clause that a certified copy be also sent to the tax foundation of Hawaii. Minor technical, nonsubstantive amendments were also made.

Your Committee on Ways and Means is in accord 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.

SCRep. 1085                      Ways and Means on S.R. No. 148

The purpose of this resolution is to request the Department of Taxation, in conjunction with the Tax Foundation of Hawaii, to conduct a study on the possibility of replacing the present ad valorem tax on liquor with a gallonage tax.

Your Committee received testimony from wholesale liquor dealers strongly in favor of this study since they perceive the present liquor tax system to be inequitable. The Director of Taxation noted that the Hawaii Tax Review Commission recommended that all excise taxes be imposed on an ad valorem basis and that while the Department of Taxation concurs with the commission's recommendation, it agrees that a study on the possible conversion of the liquor tax to a gallonage tax should be made.

Your Committee amended the resolution by adding to the first "BE IT RESOLVED" clause that the study include a review of the different methodologies utilized by other jurisdictions in the calculations of a gallonage tax and adding to the third "BE IT RESOLVED" clause that a certified copy be also sent to the tax foundation of Hawaii. Minor technical, nonsubstantive amendments were also made.

Your Committee on Ways and Means is in accord with the intent and purpose of S.R. No. 148, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 148, S.D. 1.

Signed by all members of the Committee.

SCRep. 1086                      Ways and Means on H.B. No. 219

The purpose of this bill is to amend section 39A-151, Hawaii Revised Statutes, by allowing the issuance of special purpose revenue bonds to finance the development of private parking structures in the Kakaako community development district.

The Kakaako community development plan requires developers to provide a minimum number of parking stalls for private enterprise. This requirement may be a deterrent to redevelopment in the area, since parking revenues may not be sufficient to offset the high cost of developing parking facilities.

The redevelopment of Kakaako can be fostered with the help of the State through the issuing of special purpose revenue bonds for private parking structures. Your Committee also finds that this bill will clarify that part V of chapter 39A, Hawaii Revised Statutes, authorizes the director of finance to issue special purpose revenue bonds to finance parking facilities.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 219 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1087                      Ways and Means on H.B. No. 20

The purpose of this bill is to appropriate \$386,240.11 to pay victims and providers of services who were awarded compensation in 1984.

The sum appropriated shall be deposited in the Criminal Injuries Compensation Fund to be used for payments by the Criminal Injuries Compensation Commission. This program compensates victims injured as a result of a crime and, in cases of death, compensates the surviving dependents of the victim. Funds are provided for unreimbursed medical costs, loss of earnings or support, or both, and funeral-burial expenses.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 20, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1088                      Ways and Means on H.B. No. 154

The purpose of this bill is to grant the department of Hawaiian home lands (DHHL) the discretion to allow a person awarded a DHHL homestead lease more than the one-year time period currently stipulated in which to occupy and use a homestead lot.

Your Committee supports this measure to allow DHHL latitude in accelerating the distribution of land to more than 8,500 applicants on waiting lists. The accelerated distribution will be accomplished by awarding lots which may not be fully improved, and which may require more than one year's work before the lots can be occupied and used.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 154 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1089                      Government Operations on S.R. No. 180

The purpose of this resolution is to designate the first Sunday in August as "National Day of Peace."

Testimony received by the Hawaii Congressional Delegation, Bruce Hale, and Marie Miyashiro indicated that National Peace Day's concept which was born in Massachusetts has grown to include Arkansas, Nebraska, Rhode Island, New York, Florida, Wisconsin, Wyoming, Michigan, Georgia, and California.

Your Committee recognizes that National Peace Day is a day to celebrate and draw attention to non-violent means of conflict resolution. It is our natural inclination as humans to save instead of destroy, to understand instead of alienate and to be peaceful instead of violent. This is an opportunity for one official day of peaceful visions of the future.

Your Committee on Government Operations concurs with the intent and purpose of S.R. No. 180 and recommends its adoption.

Signed by all members of the Committee except Senators Hee and George.

SCRep. 1090                      Government Operations on S.C.R. No. 126

The purpose of this concurrent resolution is to urge the Postmaster General to forego any intention of closing various post offices on Kauai.

Your Committee finds that the federal government in its efforts to cut federal spending is considering closing various rural post offices around the nation. This would directly affect post offices in Anahola, Elele, Hanapepe, Kaumakani, Kealia, Kilauea, Lawai, and Makaweli.

Your Committee further finds that closing these post offices will inconvenience Kauai residents and deny the services necessary to uphold valued and established lifestyles.

Your Committee on Government Operations concurs with the intent and purpose of S.C.R. No. 126 and recommends its adoption.

Signed by all members of the Committee except Senators Hee and George.

SCRep. 1091                      Government Operations on S.R. No. 171

The purpose of this resolution is to urge the Postmaster General to forego any intention of closing various post offices on Kauai.

Your Committee finds that the federal government in its efforts to cut federal spending is considering closing various rural post offices around the nation. This would directly affect post offices in Anahola, Eleele, Hanapepe, Kaumakani, Kealia, Kilauea, Lawai, and Makaweli.

Your Committee further finds that closing these post offices will inconvenience Kauai residents and deny the services necessary to uphold valued and established lifestyles.

Your Committee on Government Operations concurs with the intent and purpose of S.R. No. 171 and recommends its adoption.

Signed by all members of the Committee except Senators Hee and George.

SCRep. 1092

Government Operations on S.C.R. No. 92

The purpose of this concurrent resolution is to urge the United States Navy to select Pearl Harbor, Hawaii, as the homeport for the Battleship Missouri and its escort ships.

Testimony received by the Hawaii Economic Development Project - Homeport Task Force (HEDP-HTF) indicated that in July 1984 Hawaii was selected as one of the locations being considered for the homeport of a battleship and two destroyers. Since that time, the Homeport Hawaii Task Force (HHTF) helped form the HEDP-HTF for the purpose of responding to a request from the Secretary of the Navy for a proposal. The HEDP-HTF responded in September 1984 and in March 1985 the HEDP-HTF was requested to reevaluate the proposal in view of the greater economic benefits of a battleship and nine associated ships. This proposal was submitted on April 1, 1985 and a decision is expected by June 30, 1985.

Your Committee finds that the presence of armed forces units in Hawaii for more than 80 years has contributed directly to the cultural, social, intellectual, and economic enrichment of island life by bringing people together from all parts of the nation.

Your Committee further finds that every dollar spent by the military in Hawaii results in three extra dollars for the local economy making the armed forces Hawaii's second biggest industry. Because of this, your Committee also believes that every effort should be made to enhance the quality of life in Hawaii for military personnel and their families, especially in the areas of housing, education, and recreation.

Your Committee amended the title and body of the concurrent resolution by removing all references to the "Missouri" or "battleship group" and replacing it with "battleship and nine associated ships" because the Navy has never specifically named the Missouri in their correspondence with the HEDP-HTF.

Your Committee further amended the concurrent resolution by removing the term "Homeport Hawaii Task Force" on page 2 and replacing it with "Hawaii Economic Development Project - Homeport Task Force" since this is the organization that the Navy recognizes.

Your Committee on Government Operations concurs with the intent and purpose of S.C.R. No. 92, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 92, S.D. 1.

Signed by all members of the Committee except Senators Hee and George.

SCRep. 1093

Government Operations on S.C.R. No. 107

The purpose of this concurrent resolution is to request the Congress to further investigate the possible existence of American prisoners of war in Southeast Asia and to take appropriate action.

Your Committee finds that 700 live sightings of possible American POWs in Southeast Asia were listed in a recent Defense Intelligence Agency report.

Your Committee further finds that there are approximately 2,500 POW-MIAs still in Southeast Asia of which eleven are from Hawaii.

It is believed that the remains of Americans are being held by foreign governments to be used as bargaining chips; and while advanced technology allows for accurate identification of remains, withholding remains causes deterioration and reduces the possibility for positive identification.

Your Committee on Government Operations concurs with the intent and purpose of S.C.R. No. 107 and recommends its adoption.

Signed by all members of the Committee except Senators Hee and George.

SCRep. 1094                      Government Operations on S.R. No. 147

The purpose of this resolution is to request the Congress to further investigate the possible existence of American prisoners of war in Southeast Asia and to take appropriate action.

Your Committee finds that 700 live sightings of possible American POWs in Southeast Asia were listed in a recent Defense Intelligence Agency report.

Your Committee further finds that there are approximately 2,500 POW-MIAs still in Southeast Asia of which eleven are from Hawaii.

It is believed that the remains of Americans are being held by foreign governments to be used as bargaining chips; and while advanced technology allows for accurate identification of remains, withholding remains causes deterioration and reduces the possibility for positive identification.

Your Committee on Government Operations concurs with the intent and purpose of S.R. No. 147 and recommends its adoption.

Signed by all members of the Committee except Senators Hee and George.

SCRep. 1095                      Tourism and Recreation on S.C.R. No. 87

The purpose of this concurrent resolution is to request the Department of Accounting and General Services to study the possibility of using the Richards and Hotel Street City Parking Garage for state or joint state and city parking as an alternative to parking on the Iolani Palace Complex grounds.

Your Committee finds that in 1969 a Restoration Committee was appointed to administer a restoration project plan. Part of this project plan involves banning all parking on the palace grounds and replacing the current parking area surface with a roadbed resembling rolled-black sand.

Your Committee realizes that this would cut back drastically on available parking in the Capital District where parking is scarce and in great demand.

Your Committee recognizes that there are 218 parking spaces available for state employees and public use in the area (lot F) located within the boundaries of the Iolani Palace Complex.

Your Committee further recognizes that if these spaces are cut back, alternatives for state employees who park on the Iolani Palace grounds must be made available.

Your Committee has amended the concurrent resolution by making certain factual corrections to the third, fifth, seventh and ninth "WHEREAS" clauses.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.C.R. No. 87, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 87, S.D. 1.

Signed by all members of the Committee except Senator Soares.

SCRep. 1096                      Tourism and Recreation on S.R. No. 113

The purpose of this resolution is to request the Department of Accounting and General Services to study the possibility of using the Richards and Hotel Street City Parking Garage for state or joint state and city parking as an alternative to parking on the Iolani Palace Complex grounds.

Your Committee finds that in 1969 a Restoration Committee was appointed to administer a restoration project plan. Part of this project plan involves banning all parking on the palace grounds and replacing the current parking area surface with a roadbed resembling rolled-black sand.

Your Committee realizes that this would cut back drastically on available parking in the Capital District where parking is scarce and in great demand.

Your Committee recognizes that there are 218 parking spaces available for state employees and public use in the area (lot F) located within the boundaries of the Iolani Palace Complex.



Your Committee further recognizes that if these spaces are cut back, alternatives for state employees who park on the Iolani Palace grounds must be made available.

Your Committee has amended the resolution by making certain factual corrections to the third, fifth, seventh and ninth "WHEREAS" clauses.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.R. No. 113, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 113, S.D. 1.

Signed by all members of the Committee except Senator Soares.

SCRep. 1097

Tourism and Recreation on S.C.R. No. 109

The purpose of this concurrent resolution is to request the Governor to invite the Pacific Area Travel Association (PATA) to Hawaii for its 1989 annual conference.

The Pacific Area Travel Association was founded in Hawaii in 1951 and has since become one of the leading regional tourism organizations in the world. The primary objective of this 14,000 member organization is to promote travel to and among the various countries of the Pacific Basin. PATA's worldwide membership currently consists of individuals and groups from all sectors of the travel industry including governments, travel agents, airline and cruise companies, hotels, tour operators and other tourism-related organizations.

Your Committee finds that hosting the annual PATA conference would produce several positive effects for Hawaii's visitor industry. Estimated attendance for an annual PATA conference is 1,200 delegates and 300 spouses with the majority of the delegates, approximately 62 percent, coming from Asia, South and Central Pacific, North America and Europe. Delegate expenditures, based on the projected spending at this year's annual conference in New Zealand, would come to about \$3 million.

In the past, major industry conferences and conventions held in Hawaii has had a positive long range economic impact by stimulating tourism for years afterwards.

In addition, the PATA conference would provide considerable promotional exposure as more than 100 travel writers and press personnel are expected to attend. Mr. Hilary Kelly, Vice-President for Meetings and Conventions, Hawaii Visitors Bureau, testifying in support of this concurrent resolution explained that a PATA conference in Hawaii would show the geographic advantages, the natural beauty and the infrastructure sophistication of Hawaii to thousands of international PATA members, many of whom are instrumental in guiding the consumer's travel decisions. The opportunity for the delegates to experience first hand the host country and its attractions is an invaluable promotional tool.

Finally, positioning Hawaii as a world-class visitor destination through the PATA conference would further serve the State's marketing efforts to attract a higher-spending, higher-quality visitor.

Your Committee has amended the concurrent resolution to include the Dean of the University of Hawaii's School of Travel Industry Management on the list of persons to receive a copy of this resolution as he is presently representing the State of Hawaii as a member of the Board of Directors for PATA.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.C.R. No. 109, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 109, S.D. 1.

Signed by all members of the Committee except Senator Soares.

SCRep. 1098

Tourism and Recreation on S.R. No. 149

The purpose of this resolution is to request the Governor to invite the Pacific Area Travel Association (PATA) to Hawaii for its 1989 annual conference.

The Pacific Area Travel Association was founded in Hawaii in 1951 and has since become one of the leading regional tourism organizations in the world. The primary objective of this 14,000 member organization is to promote travel to and among the various countries of the Pacific Basin. PATA's worldwide membership currently consists of individuals and groups from all sectors of the travel industry including governments, travel agents, airline and cruise companies, hotels, tour operators and other tourism-related organizations.

Your Committee finds that hosting the annual PATA conference would produce several

positive effects for Hawaii's visitor industry. Estimated attendance for an annual PATA conference is 1,200 delegates and 300 spouses with the majority of the delegates, approximately 62 percent, coming from Asia, South and Central Pacific, North America and Europe. Delegate expenditures, based on the projected spending at this year's annual conference in New Zealand, would come to about \$3 million.

In the past, major industry conferences and conventions held in Hawaii has had a positive long range economic impact by stimulating tourism for years afterwards.

In addition, the PATA conference would provide considerable promotional exposure as more than 100 travel writers and press personnel are expected to attend. Mr. Hilary Kelly, Vice-President for Meetings and Conventions, Hawaii Visitors Bureau, testifying in support of this concurrent resolution explained that a PATA conference in Hawaii would show the geographic advantages, the natural beauty and the infrastructure sophistication of Hawaii to thousands of international PATA members, many of whom are instrumental in guiding the consumer's travel decisions. The opportunity for the delegates to experience first hand the host country and its attractions is an invaluable promotional tool.

Finally, positioning Hawaii as a world-class visitor destination through the PATA conference would further serve the State's marketing efforts to attract a higher-spending, higher-quality visitor.

Your Committee has amended the resolution to include the Dean of the University of Hawaii's School of Travel Industry Management on the list of persons to receive a copy of this resolution as he is presently representing the State of Hawaii as a member of the Board of Directors for PATA.

Your Committee on Tourism and Recreation 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 Senator Soares.

SCRep. 1099                      Human Services on S.C.R. No. 29

The purpose of this concurrent resolution is to recognize 1985 as the International Youth Year (IYY).

Testimony submitted by the Office of Children and Youth stated that the United Nations General Assembly has declared 1985 as the IYY. Governor George Ariyoshi has proclaimed 1985 as the IYY in Hawaii along with the counties of Maui, Honolulu, Kauai, the Honolulu City Council, and the Kauai County Council.

Further testimony indicated that the goal of the 1985 IYY in Hawaii is to increase public awareness and appreciation of youth from 15 to 24 years of age along three themes: participation, development, and peace.

Your Committee finds that community response is growing for the 1985 IYY celebration as a result of the combined promotional and educational statewide efforts of the Governor's Advisory Council for Children and Youth, the Hawaii State International Youth Year Task Force, and the Office of Children and Youth.

The Legislature has continuously supported a wide range of programs to create an environment conducive to the health, well-being and maximum development of Hawaii's youth in order to guarantee a strong, capable body of citizens in the years to come. This concurrent resolution reaffirms the Legislature's commitment to the rights of youth to develop to their full potential.

Your Committee on Human Services concurs with the intent and purpose of S.C.R. No. 29 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1100                      Economic Development on S.C.R. No. 82

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources (DLNR) to conduct a feasibility study for a DLNR information and education program, including the consideration of a permanent Information Office for the benefit of both Hawaii's residents and visitors.

Your Committee has favorably considered testimony from the Conservation Council for

Hawaii and the Sierra Club, Hawaii Chapter, in favor of this measure. Your Committee supports this measure as it provides for the assessment of an important information and education service to our residents and visitors.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 82 and recommends its adoption.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 1101                      Economic Development on S.R. No. 97

The purpose of this resolution is to request the Department of Land and Natural Resources (DLNR) to conduct a feasibility study for a DLNR information and education program, including the consideration of a permanent Information Office for the benefit of both Hawaii's residents and visitors.

Your Committee has favorably considered testimony from the Conservation Council for Hawaii and the Sierra Club, Hawaii Chapter, in favor of this measure. Your Committee supports this measure as it provides for the assessment of an important information and education service to our residents and visitors.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 97 and recommends its adoption.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 1102                      Economic Development on S.C.R. No. 66

The purpose of this concurrent resolution is to urge the Department of Land and Natural Resources (DLNR), with the assistance of the Hawaii County Aquatic Life and Wildlife Advisory Committee, to study the feasibility of designating Makaiwa Bay, South Kohala, Hawaii, as a Marine Life Conservation District.

Your Committee supports this measure and believes that Makaiwa Bay should be seriously considered for designation as a Marine Life Conservation District. DLNR has already established eight Marine Life Conservation Districts in various areas of the State, including a portion of Kealahou Bay, the waters offshore of the Lapakahi State Historical Park, and at Wailea Bay on the island of Hawaii.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 66 and recommends its adoption.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 1103                      Economic Development on S.R. No. 86

The purpose of this resolution is to urge the Department of Land and Natural Resources (DLNR), with the assistance of the Hawaii County Aquatic Life and Wildlife Advisory Committee, to study the feasibility of designating Makaiwa Bay, South Kohala, Hawaii, as a Marine Life Conservation District.

Your Committee supports this measure and believes that Makaiwa Bay should be seriously considered for designation as a Marine Life Conservation District. DLNR has already established eight Marine Life Conservation Districts in various areas of the State, including a portion of Kealahou Bay, the waters offshore of the Lapakahi State Historical Park, and at Wailea Bay on the island of Hawaii.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 86 and recommends its adoption.

Signed by all members of the Committee except Senators Fernandes Salling and Yamasaki.

SCRep. 1104                      Economic Development on Gov. Msg. No. 242

Recommending that the Senate advise and consent to the nominations to the Animal Species Advisory Commission of the following:

CLIFFORD WINSTON SMITH and JOHN R. HENDERSON, for terms ending December 31, 1988; and

TIMOTHY A. BURR, for a term ending December 31, 1987.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 1105                      Economic Development on Gov. Msg. No. 268

Recommending that the Senate advise and consent to the nomination of TEOFILO TACBIAN to the Land Use Commission, for a term ending December 31, 1988.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 1106                      (Majority) Economic Development on Gov. Msg. No. 269

Recommending that the Senate advise and consent to the nomination of HIDEITO KONO to the Public Utilities Commission, for a term ending December 31, 1989.

Signed by all members of the Committee except Senator Yamasaki.  
Senator Kawasaki did not concur.

SCRep. 1107                      Judiciary on Gov. Msg. No. 303

Recommending that the Senate advise and consent to the nomination of HIROSHI KATO to the Hawaii Criminal Justice Commission, for a term ending June 30, 1989, or upon the expiration of the Commission, whichever occurs sooner.

Signed by all members of the Committee.

SCRep. 1108                      (Joint) Economic Development and Higher Education on S.C.R. No. 101

The purpose of this concurrent resolution is to establish an institute for peace technology in the Waimea area of the island of Hawaii. The Department of Land and Natural Resources is requested to designate an area in Waimea equivalent to that of the University of Hawaii-Manoa for this purpose. Funds for the establishment of the institute will be solicited from private or non-state funding sources and further support will be solicited from the federal government and foreign countries as well.

Your Committee finds that the establishment of the institute for peace technology would be beneficial in resolving conflict in a positive and non-violent manner.

Your Committee on Higher Education concurs with the intent and purpose of S.C.R. No. 101 and recommends its adoption.

Signed by all members of the Committees except Senator Cayetano.

SCRep. 1109                      (Joint) Economic Development and Higher Education on S.R. No. 137

The purpose of this resolution is to establish an institute for peace technology in the Waimea area of the island of Hawaii. The Department of Land and Natural Resources is requested to designate an area in Waimea equivalent to that of the University of Hawaii-Manoa for this purpose. Funds for the establishment of the institute will be solicited from private or non-state funding sources and further support will be solicited from the federal government and foreign countries as well.

Your Committee finds that the establishment of the institute for peace technology would be beneficial in resolving conflict in a positive and non-violent manner.

Your Committee on Higher Education concurs with the intent and purpose of S. R. No. 137 and recommends its adoption.

Signed by all members of the Committee except Senator Cayetano.

SCRep. 1110                      Economic Development on Gov. Msg. No. 254

Recommending that the Senate advise and consent to the nominations to the Hawaiian Homes Commission of the following:

WALTER J. SMITH, JR., for a term ending December 31, 1988; and

LOUIS AGARD, JR., for a term ending December 31, 1986.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 1111                      (Joint) Agriculture and Transportation on S.C.R. No. 37

The purpose of this concurrent resolution is to request the Departments of Agriculture and Transportation to conduct a study on whether the deregulation of the interisland barge system will lower rates charged for the transportation of agricultural products.

Your Committees received testimony from the Board of Agriculture stating that the insular nature of our State places a considerable demand on surface transportation capabilities, not only for the interisland movement of agricultural products but also for other commodities, supplies and equipment. Your Committees find that deregulation of the interisland barge system may attract additional surface freight carriers into the transportation system and may result in lower costs. However, a study is necessary to determine if such deregulation will work in the long term public interest.

Your Committees have amended the concurrent resolution to provide that the Governor's Agriculture Coordinating Committee and the Public Utilities Commission, conferring with the Department of Transportation, Department of Agriculture and the Department of Economic Development conduct the study for possible deregulation of the interisland barge system.

Your Committees have further amended the concurrent resolution to: (1) have the Governor's Agriculture Coordinating Committee and the Public Utilities Commission submit their findings and recommendations to a joint Senate Agriculture/Transportation Committee at a hearing to be conducted during the interim of 1985-1986; (2) request that the joint Senate Agriculture/Transportation Committee come forth with recommendations to the Legislature during the Regular Session of 1986 based on the findings and recommendations of the Governor's Agriculture Coordinating Committee and the Public Utilities Commission; and (3) transmit certified copies of the concurrent resolution to the Chairperson of the Governor's Agriculture Coordinating Committee, the Chairperson of the Public Utilities Commission, the Chairperson of the Board of Agriculture, the Director of the Department of Transportation, and the Director of the Department of Planning and Economic Development.

Your Committees on Agriculture and Transportation concur with the intent and purpose of S.C.R. No. 37, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 37, S.D. 1.

Signed by all members of the Committees.

SCRep. 1112

(Joint) Agriculture and Transportation on S.R. No. 41

The purpose of this resolution is to request the Departments of Agriculture and Transportation to conduct a study on whether the deregulation of the interisland barge system will lower rates charged for the transportation of agricultural products.

Your Committees received testimony from the Board of Agriculture stating that the insular nature of our State places a considerable demand on surface transportation capabilities, not only for the interisland movement of agricultural products but also for other commodities, supplies and equipment. Your Committees find that deregulation of the interisland barge system may attract additional surface freight carriers into the transportation system and may result in lower costs. However, a study is necessary to determine if such deregulation will work in the long term public interest.

Your Committees have amended the resolution to provide that the Governor's Agriculture Coordinating Committee and the Public Utilities Commission, conferring with the Department of Transportation, Department of Agriculture and the Department of Economic Development conduct the study for possible deregulation of the interisland barge system.

Your Committees have further amended the resolution to: (1) have the Governor's Agriculture Coordinating Committee and the Public Utilities Commission submit their findings and recommendations to a joint Senate Agriculture/Transportation Committee at a hearing to be conducted during the interim of 1985-1986; (2) request that the joint Senate Agriculture/Transportation Committee come forth with recommendations to the Legislature during the Regular Session of 1986 based on the findings and recommendations of the Governor's Agriculture Coordinating Committee and the Public Utilities Commission; and (3) transmit certified copies of the resolution to the Chairperson of the Governor's Agriculture Coordinating Committee, the Chairperson of the Public Utilities Commission, the Chairperson of the Board of Agriculture, the Director of the Department of Transportation, and the Director of the Department of Planning and Economic Development.

Your Committees on Agriculture and Transportation concur with the intent and purpose of S.R. No. 41, as amended herein, as recommend its adoption in the form attached hereto as S.R. No. 41, S.D. 1.

Signed by all members of the Committees.

SCRep. 1113

Education on Gov. Msg. Nos. 117, 219, 118, 221 and 270

Recommending that the Senate advise and consent to the nominations of the following:

FRANKLIN S. ODO, Ph.D., and JOANNE VAUGHAN TROTTER to the State Foundation on Culture and the Arts, for terms ending December 31, 1988;

BERNADETTE H. SAKODA to the State Foundation on Culture and the Arts, for a term ending December 31, 1988;

ROCHELLE LEE GREGSON and WILLARD E. WELSH to the Board of Public Broadcasting, for terms ending December 31, 1990;

MILLICENT Y.H. KIM to the Board of Public Broadcasting, for a term ending December 31, 1990;

KAREN HO HONG to the Board of Public Broadcasting, for a term ending December 31, 1988; and

GLADYS E. RODENHURST, WILLIAM E.K. ALLEN, JR., and WINONA L. RESENTS to the King Kamehameha Celebration Commission, for terms ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 1114

Judiciary on Gov. Msg. No. 295

Recommending that the Senate advise and consent to the nomination of ROY CHANG as Chairman of the Hawaii Criminal Justice Commission, for a term ending June 30, 1989, or upon expiration of the Commission, whichever is sooner.

Signed by all members of the Committee.

SCRep. 1115

Judiciary on H.C.R. No. 16

The purpose of this concurrent resolution is to request the Governor's Corrections Task Force to present an updated report on the progress of the U.S. Department of Justice's investigation and planned negotiations between the Corrections Task Force and the U.S. Department of Justice including a description of the actions taken by the State to address the charges of inadequacies of the facilities at the Oahu Community Correctional Center.

Your Committee finds that the U.S. Justice Department made the following charges against the State of Hawaii in regards to the Oahu Community Correctional Center:

- (1) the levels of violence are "excessive and continuing";
- (2) overcrowding presents a "severe and continuing problem";
- (3) security is "inadequate";
- (4) there are "major inadequacies" in the providing for fire safety;
- (5) medical, dental, and psychiatric care is inadequate; and
- (6) environmental health conditions are poor.

The Attorney General has indicated that these charges are not substantiated by specific information and details of the circumstances that gave rise to the allegations. The State does recognize some of the inadequacies at the Oahu Community Correctional Center but maintains that the situation is being addressed. Expanded funding for the new Halawa Medium Security Facility should alleviate the overcrowding at the Oahu Community Correctional Center and should reduce some of the social problems that an overcrowded environment presents, such as excessive violence and environmental health problems.

Your Committee finds that the charges leveled by the U.S. Department of Justice are serious and that the Attorney General maintains that the charges are either unfounded or inadequate to address. The Corrections Task Force was purposely formed to review these kinds of corrections issues. As the policy making body for the State of Hawaii, the Legislature should be kept apprised by the Corrections Task Force of the ongoing communications between the State and the U.S. Department of Justice with regards to the allegations of inadequacies against the Oahu Community Correctional Center.

Your Committee on Judiciary concurs with the intent and purpose of H.C.R. No. 16, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senator Cobb.

SCRep. 1116

(Joint/Majority) Judiciary and Transportation on S.C.R. No. 73

The purpose of this concurrent resolution is to direct the Attorney General of the State of Hawaii to submit an amicus curiae brief in support of the suit brought by the State of South Dakota against the U.S. Secretary of Transportation asserting that the federal government is without constitutional authority to force South Dakota to enact any statute dealing with the sale or possession of intoxicating beverages within South Dakota.

Your Committees agree with South Dakota's contention that the Twenty-First Amendment of the United States Constitution grants solely to the states the power to regulate the sale and consumption of alcoholic beverages within their respective borders, and that federal legislation establishing a national drinking age is unconstitutional. In order for any federal regulation or law raising the drinking age to be effective, the Tenth Amendment of the United States Constitution requires a state to delegate its power to regulate intoxicating liquor to the federal government.

Your Committees find that the coercive influence of existing federal minimum drinking age legislation seriously hampers the consideration of the issue of raising the minimum drinking age solely on its merits. The threat of losing more than \$17 million in highway funds has become a major consideration in this Legislature's decision to raise the minimum drinking age. Your Committees believe that such action on the part of the federal government weakens the decision-making process of state legislatures and jeopardizes the rights of the states to freely make decisions on matters solely within their jurisdiction. Notably, the State of Hawaii passed landmark legislation in 1972 establishing the age of majority at eighteen years of age, the age at which a person can legally purchase or consume alcoholic beverages.

Your Committees have adopted the recommendation of the Office of the Attorney General and amended the BE IT RESOLVED clause to allow the Attorney General to join in, as well as submit as currently proposed, an amicus curiae brief in support of the suit brought by the State of South Dakota. Your Committees have also made technical and grammatical nonsubstantive amendments to this measure for purposes of clarity.

Your Committees on Judiciary and Transportation concur with the intent and purpose of S.C.R. No. 73, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 73, S.D. 1.

Signed by all members of the Committees except Senators Aki, Hagino and Young.  
Senator Kuroda did not concur.

SCRep. 1117

(Joint/Majority) Judiciary and Transportation on S.R. No. 91

The purpose of this resolution is to direct the Attorney General of the State of Hawaii to submit an amicus curiae brief in support of the suit brought by the State of South Dakota against the U.S. Secretary of Transportation asserting that the federal government is without constitutional authority to force South Dakota to enact any statute dealing with the sale or possession of intoxicating beverages within South Dakota.

Your Committees agree with South Dakota's contention that the Twenty-First Amendment of the United States Constitution grants solely to the states the power to regulate the sale and consumption of alcoholic beverages within their respective borders, and that federal legislation establishing a national drinking age is unconstitutional. In order for any federal regulation or law raising the drinking age to be effective, the Tenth Amendment of the United States Constitution requires a state to delegate its power to regulate intoxicating liquor to the federal government.

Your Committees find that the coercive influence of existing federal minimum drinking age legislation seriously hampers the consideration of the issue of raising the minimum drinking age solely on its merits. The threat of losing more than \$17 million in highway funds has become a major consideration in this Legislature's decision to raise the minimum drinking age. Your Committees believe that such action on the part of the federal government weakens the decision-making process of state legislatures and jeopardizes the rights of the states to freely make decisions on matters solely within their jurisdiction. Notably, the State of Hawaii passed landmark legislation in 1972 establishing the age of majority at eighteen years of age, the age at which a person can legally purchase or consume alcoholic beverages.

Your Committees have adopted the recommendation of the Office of the Attorney General and amended the BE IT RESOLVED clause to allow the Attorney General to join in, as well as submit as currently proposed, an amicus curiae brief in support of the suit brought by the State of South Dakota. Your Committees have also made technical and grammatical nonsubstantive amendments to this measure for purposes of clarity.

Your Committees on Judiciary and Transportation concur with the intent and purpose of S.R. No. 91, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 91, S.D. 1.

Signed by all members of the Committees except Senators Aki, Hagino and Young.  
Senator Kuroda did not concur.

SCRep. 1118                      Transportation on S.C.R. No. 67

The purpose of this concurrent resolution is to request the Department of Planning and Economic Development (DPED) in conjunction with the County of Hawaii, to conduct a study on the feasibility of establishing a Hawaii Island Transportation Authority. The State Departments of Transportation, Land and Natural Resources, Agriculture and Accounting and General Services are also requested to cooperate with DPED and Hawaii County in the conduct of the study.

Your Committee concurs with testimony supporting this measure that an in-depth analysis of the authority concept can serve as a valuable tool for both government and industry, as well as providing a base for a concerted effort to create an improved and coordinated statewide transportation and distribution system. Your Committee further believes that Hawaii County is a logical location for a feasibility study due to the significant volume of products it ships by air, including papayas, foliage and flowers. Further, the location, proximity and degree of utilization of existing facilities in Hilo and the potential availability of geothermal energy on the island of Hawaii lend support to Hilo as the site of the feasibility study.

Your Committee on Transportation concurs with the intent and purpose of S.C.R. No. 67 and recommends its adoption.

Signed by all members of the Committee except Senator Hagino.

SCRep. 1119                      Transportation on S.R. No. 87

The purpose of this resolution is to request the Department of Planning and Economic Development (DPED) in conjunction with the County of Hawaii, to conduct a study on the feasibility of establishing a Hawaii Island Transportation Authority. The State Departments of Transportation, Land and Natural Resources, Agriculture and Accounting and General Services are also requested to cooperate with DPED and Hawaii County in the conduct of the study.

Your Committee concurs with testimony supporting this measure that an in-depth analysis of the authority concept can serve as a valuable tool for both government and industry, as well as providing a base for a concerted effort to create an improved and coordinated statewide transportation and distribution system. Your Committee further believes that Hawaii County is a logical location for a feasibility study due to the significant volume of products it ships by air, including papayas, foliage and flowers. Further, the location, proximity and degree of utilization of existing facilities in Hilo and the potential availability of geothermal energy on the island of Hawaii lend support to Hilo as the site of the feasibility study.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 87 and recommends its adoption.

Signed by all members of the Committee except Senator Hagino.

SCRep. 1120                      Transportation on Gov. Msg. No. 231

Recommending that the Senate advise and consent to the nominations to the Commission on Transportation of the following:

Reverend GEORGE A. ROZYCKI, for a term ending December 31, 1985; and

BINA M. CHUN, for a term ending December 31, 1987.

Signed by all members of the Committee except Senator Hagino.

SCRep. 1121                      Transportation on Gov. Msg. No. 151

Recommending that the Senate advise and consent to the nominations of CHEW HOY LEE and PAUL T. MATSUMOTO to the Commission on Transportation, for terms ending December 31, 1988.

Signed by all members of the Committee except Senator Hagino.



SCRep. 1122                      Transportation on Gov. Msg. No. 152

Recommending that the Senate advise and consent to the nominations of ARTHUR H. LOEBL, PAUL K. FINDEISEN, CLYDE W. NAMUO and HERBERT S. TSUDA to the State Highway Safety Council, for terms ending December 31, 1988.

Signed by all members of the Committee except Senator Hagino.

SCRep. 1123                      Higher Education on Gov. Msg. No. 258

Recommending that the Senate advise and consent to the nomination of DENNIS YAMADA to the Board of Regents, University of Hawaii, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 1124                      Higher Education on Gov. Msg. No. 304

Recommending that the Senate advise and consent to the nomination of THOMAS S. YAGI to the Board of Directors, Research Corporation of the University of Hawaii, for a term ending December 31, 1988.

Signed by all members of the Committee.

SCRep. 1125                      (Joint) Tourism and Recreation and Transportation on S.C.R. No. 32

The purpose of this concurrent resolution is to request the Department of Transportation to recommend rules governing commercial jet ski use of Kaanapali, Kihei and Kaneohe Bay.

Mr. Dave Parsons, representing the Department of Transportation (DOT) presented testimony that rules governing all water activities have been drafted and will undergo a public hearing later this month. He stated that rules governing all types of water activities should be developed rather than limiting regulation to jet skis. Committee members reacted with expressions of impatience because the DOT has had 4 years to take action on the jet ski problem, since the Legislature first was confronted with complaints of the nature described in the concurrent resolution.

Maui Councilman Wayne Nishiki produced a significant amount of correspondence and other documents as he testified for stricter regulatory rules regarding the use of jet skis. He expressed great consternation that the DOT has "dragged its feet".

Mr. Michael "Buddy" McGuire representing Portlock residents expressed grave concerns for the safety of participants of other water sports in the area. There was also a word of caution and concern expressed by Mr. Rod Chai who described the plight of private jet ski users. He explained that recreational users who possess their own jet skis should not be unduly penalized as rules and laws are drafted in the attempt to regulate commercial jet ski operations.

Your Committees have concluded that the Legislature should request the DOT to adopt rules rather than recommend rules. The Committees also felt that the problem of commercial jet ski use is a statewide concern rather than at specific sites as named in the title and have amended the title to reflect this fact.

Your Committees amended the concurrent resolution to send copies to the Mayor and Council Chairperson of each county to get the widest possible range of input and participation. Your Committees have further amended the concurrent resolution for purposes of clarification.

Your Committees on Tourism and Recreation and Transportation concur with the intent and purpose of S.C.R. No. 32, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 32, S.D. 1.

Signed by all members of the Committees except Senator Cobb.

SCRep. 1126                      (Joint) Tourism and Recreation and Transportation on S.R. No. 36

The purpose of this resolution is to request the Department of Transportation to recommend rules governing commercial jet ski use of Kaanapali, Kihei and Kaneohe Bay.

Mr. Dave Parsons, representing the Department of Transportation (DOT) presented testimony that rules governing all water activities have been drafted and will undergo a public hearing later this month. He stated that rules governing all types of water activities should be developed rather than limiting regulation to jet skis. Committee members reacted with expressions of impatience because the DOT has had 4 years to take action on the jet ski problem, since the Legislature first was confronted with complaints of the nature described in

the resolution.

Maui Councilman Wayne Nishiki produced a significant amount of correspondence and other documents as he testified for stricter regulatory rules regarding the use of jet skis. He expressed great consternation that the DOT has "dragged its feet".

Mr. Michael "Buddy" McGuire representing Portlock residents expressed grave concerns for the safety of participants of other water sports in the area. There was also a word of caution and concern expressed by Mr. Rod Chai who described the plight of private jet ski users. He explained that recreational users who possess their own jet skis should not be unduly penalized as rules and laws are drafted in the attempt to regulate commercial jet ski operations.

Your Committees have concluded that the Legislature should request the DOT to adopt rules rather than recommend rules. The Committees also felt that the problem of commercial jet ski use is a statewide concern rather than at specific sites as named in the title and have amended the title to reflect this fact.

Your Committees amended the resolution to send copies to the Mayor and Council Chairperson of each county to get the widest possible range of input and participation. Your Committees have further amended the resolution for purposes of clarification.

Your Committees on Tourism and Recreation and Transportation concur with the intent and purpose of S.R. No. 36, as amended herein, and recommend its adoption in the form attached hereto as S.R. No. 36, S.D. 1.

Signed by all members of the Committees except Senator Cobb.

SCRep. 1127

Tourism and Recreation on S.R. No. 70

The purpose of this resolution is to support the proposed nomination of the Pu'uhonua o Honaunau National Historic Monument to the World Heritage List.

The World Heritage List was established by the World Heritage Convention, an international treaty handled by UNESCO. Approximately 80 nations have signed this treaty, which recognizes select historic properties for their international importance. Nations that subscribe to this treaty pledge to preserve in perpetuity any properties they nominate to the World Heritage List. As a result, the only properties in the United States submitted for nomination are those which are federally owned. Both natural and cultural properties are included on the list, and to date such properties as Independence Hall, Yellowstone National Park, Mesa Verde, and Redwoods National Park have been placed on the World Heritage List.

Testimony submitted by the Department of Land and Natural Resources indicated that Pu'uhonua o Honaunau, a National Park Service Property, was designated a National Historic Landmark in 1966. Since that time, the director of the park, Jerry Shimoda, has prepared a nomination form for its placement on the World Heritage List and the U.S. Department of the Interior has reviewed and returned it to Mr. Shimoda. They have requested certain revisions, which Mr. Shimoda is currently undertaking. If these revisions are satisfactory, the Department of Interior intends to submit the nomination to the World Heritage Committee in Paris for their review at their annual meeting in 1986. If this committee, with members representing 22 nations, approves the nomination, then Pu'uhonua o Honaunau will be placed on the World Heritage List.

Your Committee notes that Pu'uhonua o Honaunau National Historic Monument is recognized for the exceptional nature of the archeological features of the place of refuge and of the Hawaiian concept of pu'uhonua.

Your Committee recognizes that the Association of Hawaiian Civic Clubs, at its 25th Annual Convention, in November 1984, at Hilo, Hawaii, passed a resolution supporting the nomination of the Pu'uhonua o Honaunau to the World Heritage List.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.R. No. 70 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1128

Agriculture on S.R. No. 103

The purpose of this resolution is to express support for the development of an effective post-harvest treatment for papayas to eliminate fruit fly infestation and to urge the United States Food and Drug Administration (USDA) to approve the irradiation processing of papayas as a post-harvest treatment.

Your Committee is very concerned with the fate of the papaya industry. The ban of ethylene dibromide as a post-harvest fumigant by the U.S. Environmental Protection Agency left the industry without an effective post-harvest treatment for papayas which in turn prevents the industry from selling papaya on the mainland.

A coordinated research program on the post-harvest treatment of papaya for fruit fly disinfestation and disease control has been conducted for many years by the USDA, Agricultural Research Service and the University of Hawaii College of Tropical Agriculture and Human Resources (CTAHR).

The USDA is currently developing an improved, hot water, double-dip process that reduces the time of heat treatment and should reduce the problems of inhibited ripening being encountered presently in some hot water treatment plants.

CTAHR has proposed a preconditioning treatment that makes papaya fruits more resistant to heat shock and should prevent delayed ripening. In addition, it has been found that under certain conditions, the papayas inhibited in their ripening by hot water treatment can be ripened by the gas ethylene, which is a naturally occurring ripening agent that is currently used for the artificial ripening of bananas.

Your Committee finds that irradiation provides a preferred potential option for the disinfestation of papaya fruits for fruit flies. The USDA however, has yet to approve irradiation as a post-harvest treatment. While approval of an irradiation treatment is pending, the industry is constrained in its ability to assess the economic and other factors that would influence their choice among the available options for disinfecting papaya.

Therefore your Committee urges the USDA to approve the irradiation processing of papayas as a post-harvest treatment and supports the development of an effective post-harvest treatment of papayas as expeditiously as possible.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 103 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1129                      Agriculture on S.C.R. No. 116

The purpose of this concurrent resolution is to request the Hawaii Institute of Tropical Agriculture and Human Resources to initiate an investigation to provide empirical evidence relating to the feasibility of the integration of agriculture, aquaculture, and resource recovery in Hawaii.

The concurrent resolution further provides that the investigation shall include, but not be limited to, demonstration of such techniques at an appropriate experimental station. Moreover, the scope of the investigation shall not be limited to production of food crops, but may include seed crops, crops for energy or fertilizer production and other crops, which may enhance resource recovery.

Your Committee received supporting testimony from the Department of Land and Natural Resources stating that integration of agricultural and aquacultural production technologies to encourage multiple uses and recycling of resources can convey economic advantages to both activities. Agricultural waste products could also be utilized as supplemental food for aquaculture animals.

Your Committee on Agriculture concurs with the intent and purpose of S.C.R. No. 116 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1130                      Agriculture on S.R. No. 162

The purpose of this resolution is to request the Hawaii Institute of Tropical Agriculture and Human Resources to initiate an investigation to provide empirical evidence relating to the feasibility of the integration of agriculture, aquaculture, and resource recovery in Hawaii.

The resolution further provides that the investigation shall include, but not be limited to, demonstration of such techniques at an appropriate experimental station. Moreover, the scope of the investigation shall not be limited to production of food crops, but may include seed crops, crops for energy or fertilizer production and other crops, which may enhance resource recovery.

Your Committee received supporting testimony from the Department of Land and Natural

Resources stating that integration of agricultural and aquacultural production technologies to encourage multiple uses and recycling of resources can convey economic advantages to both activities. Agricultural waste products could also be utilized as supplemental food for aquaculture animals.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 162 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1131                      Agriculture on S.C.R. No. 111

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources to formulate an action plan to acquire the Kohala Ditch System.

Presently, the Kohala Corporation owns the Kohala Ditch System. Your Committee believes that North Kohala needs a reliable water supply system to meet the needs of its growing community, and that the Kohala Ditch System would play an integral part in providing North Kohala with a reliable water supply to meet the demands of an expanding agriculture industry.

In 1984 the Department of Land and Natural Resources prepared a feasibility study on the possibility of State acquisition of the Kohala Ditch System pursuant to S.R. No. 74, S.D. 1, and H.R. No. 232, H.D. 1 and submitted their recommendations to the Legislature in 1985. Your Committee concurs with the recommendations of the study to proceed in the acquisition of the Kohala Ditch System, and requests the Department to follow up in this process by formulating an action plan which would include, but not be limited to: 1) meeting with the owners of the watershed lands and the ditch facility and discuss the intentions of the State, 2) obtaining an appraisal of the properties that will be purchased and 3) determining the amount to be appropriated for the purchase of the land, physical facilities and for the continued operation and maintenance of the water system.

Your Committee on Agriculture concurs with the intent and purpose of S.C.R. No. 111 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1132                      Agriculture on S.R. No. 151

The purpose of this resolution is to request the Department of Land and Natural Resources to formulate an action plan to acquire the Kohala Ditch System.

Presently, the Kohala Corporation owns the Kohala Ditch System. Your Committee believes that North Kohala needs a reliable water supply system to meet the needs of its growing community, and that the Kohala Ditch System would play an integral part in providing North Kohala with a reliable water supply to meet the demands of an expanding agriculture industry.

In 1984 the Department of Land and Natural Resources prepared a feasibility study on the possibility of State acquisition of the Kohala Ditch System pursuant to S.R. No. 74, S.D. 1, and H.R. No. 232, H.D. 1 and submitted their recommendations to the Legislature in 1985. Your Committee concurs with the recommendations of the study to proceed in the acquisition of the Kohala Ditch System, and requests the Department to follow up in this process by formulating an action plan which would include, but not be limited to: 1) meeting with the owners of the watershed lands and the ditch facility and discuss the intentions of the State, 2) obtaining an appraisal of the properties that will be purchased and 3) determining the amount to be appropriated for the purchase of the land, physical facilities and for the continued operation and maintenance of the water system.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 151 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1133                      Agriculture on S.C.R. No. 100

The purpose of this concurrent resolution is to recognize the importance of the Hawaii Office of the Soil Conservation Service to Hawaiian Agriculture and to urge the President of the United States and the United States Congress to continue the present level of funding of the Hawaii Office of the Soil Conservation Service.

Your Committee finds that for many years, the Soil Conservation Service has aided in the development of Hawaiian agriculture by providing invaluable services to farmers and ranchers

such as soil analysis and on-site technical assistance regarding the employment of land management and cultivation techniques, materials, and equipment appropriate for a particular soil type which promote soil conservation while also allowing optimum use of the land.

Testimony received from a member of the Land Evaluation and Site Assessment (LESA) Commission indicated that the Commission could not have made progress with the land evaluation system for Hawaii without basic information generated by the Soil Conservation Service. Furthermore, the land evaluation system that the Commission is recommending is based upon a national system originated by the Soil Conservation Service.

Your Committee finds that the federal government is now proposing a massive reduction in the staffing and budget for the Hawaii Office of the Soil Conservation Service and that these reductions would have an adverse effect on Hawaii's 5,165 farmers and ranchers who depend on the Soil Conservation Service for technical advice and assistance.

Your Committee feels that the State must strongly support this concurrent resolution because the conservation of the basic natural resources of soil and water are critical to the welfare of Hawaii and its people.

Your Committee has amended this concurrent resolution by urging Hawaii's Congressional Delegation to support the continued funding of the Hawaii Office of the Soil Conservation Commission. The title and several paragraphs of the concurrent resolution have also been amended to reflect this change.

Your Committee has also amended this concurrent resolution by further explaining the role and function of the Soil Conservation Service.

Your Committee on Agriculture concurs with the intent and purpose of S.C.R. No. 100, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 100, S.D. 1.

Signed by all members of the Committee.

SCRep. 1134

Agriculture on S.R. No. 136

The purpose of this resolution is to recognize the importance of the Hawaii Office of the Soil Conservation Service to Hawaiian Agriculture and to urge the President of the United States and the United States Congress to continue the present level of funding of the Hawaii Office of Soil Conservation Service.

Your Committee finds that for many years, the Soil Conservation Service has aided in the development of Hawaiian agriculture by providing invaluable services to farmers and ranchers such as soil analysis and on-site technical assistance regarding the employment of land management and cultivation techniques, materials, and equipment appropriate for a particular soil type which promote soil conservation and at the same time allows optimum use of the land.

Testimony received from a member of the Land Evaluation and Site Assessment (LESA) Commission indicated that the Commission could not have made progress with the land evaluation system for Hawaii without basic information generated by the Soil Conservation Service. Furthermore, the land evaluation system that the Commission is recommending is based upon a national system originated by the Soil Conservation Service.

Your Committee finds that the federal government is now proposing a massive reduction in the staffing and budget for the Hawaii Office of the Soil Conservation Service and that these reductions would have an adverse effect on Hawaii's 5,165 farmers and ranchers who depend on the Soil Conservation Service for technical advice and assistance.

Your Committee feels that the State must strongly support this resolution because the conservation of the basic natural resources of soil and water are critical to the welfare of Hawaii and its people.

Your Committee has amended this resolution by urging Hawaii's Congressional Delegation to support the continued funding of the Hawaii Office of the Soil Conservation Commission. The title and several paragraphs of the resolution have also been amended to reflect this change.

Your Committee has also amended this resolution by further explaining the role and function of the Soil Conservation Service.

Your Committee on Agriculture 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. 1135                      Agriculture on S.C.R. No. 117

The purpose of this concurrent resolution is to request the Department of Agriculture to study the feasibility and economic viability of cryogenic processing of various Hawaiian fruits such as papayas, mangoes, bananas, and other fruits for exporting.

Cryogenic freezing is the utilization of a freezant, such as liquid nitrogen or liquid carbon dioxide, to remove heat rapidly and complete freezing within seconds or minutes. Products in frozen food sections of supermarkets are cryogenically processed.

Your Committee finds that Hawaii's papaya growers have experienced excessive economic losses in recent years because of climatic catastrophes, fruit fly treatment problems, and marketing difficulties, and that other indigenous Hawaiian fruits may not be exported to the mainland United States or Japan due to fruit fly infestation. Cryogenic freezing would appear to be a possible solution to these problems because it has proven to be a technically feasible means of achieving fruit fly disinfestation and cryogenically processed fruits are generally of better quality than those processed by canning or drying.

Your Committee further finds that a competent study of cryogenic freezing of Hawaiian fruits should also address the problems of marketability. Therefore, your Committee has amended this concurrent resolution to provide that the study shall include an analysis of the quality of cryogenically frozen fruits, the costs of cryogenic processing, and identification of potential markets for such fruit. The title has also been amended to reflect the added focus on marketability.

Your Committee has further amended the concurrent resolution by requesting that the study be conducted by the Governor's Agriculture Coordinating Committee rather than the Department of Agriculture and by making technical and stylistic changes which have no substantive effect.

Your Committee on Agriculture concurs with the intent and purpose of S.C.R. No. 117, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 117, S.D. 1.

Signed by all members of the Committee.

SCRep. 1136                      Agriculture on S.R. No. 160

The purpose of this resolution is to request the Department of Agriculture to study the feasibility and economic viability of cryogenic processing of various Hawaiian fruits such as papayas, mangoes, bananas, and other fruits for exporting.

Cryogenic freezing is the utilization of a freezant, such as liquid nitrogen or liquid carbon dioxide, to remove heat rapidly and complete freezing within seconds or minutes. Products in frozen food sections of supermarkets are cryogenically processed.

Your Committee finds that Hawaii's papaya growers have experienced excessive economic losses in recent years because of climatic catastrophes, fruit fly treatment problems, and marketing difficulties, and that other indigenous Hawaiian fruits may not be exported to the mainland United States or Japan due to fruit fly infestation. Cryogenic freezing would appear to be a possible solution to these problems because it has proven to be a technically feasible means of achieving fruit fly disinfestation and cryogenically processed fruits are generally of better quality than those processed by canning or drying.

Your Committee further finds that a competent study of cryogenic freezing of Hawaiian fruits should also address the problems of marketability. Therefore, your Committee has amended this resolution to provide that the study shall include an analysis of the quality of cryogenically frozen fruits, the costs of cryogenic processing, and identification of potential markets for such fruit. The title has also been amended to reflect the added focus on marketability.

Your Committee has further amended the resolution by requesting that the study be conducted by the Governor's Agriculture Coordinating Committee rather than the Department of Agriculture and by making technical and stylistic changes which have no substantive effect.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 160, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 160, S.D. 1.

Signed by all members of the Committee.

SCRep. 1137

Agriculture on S.C.R. No. 110

The purpose of this concurrent resolution is to request the Governor's Agriculture Coordinating Committee to conduct a study to determine the appropriate footage for buffer zones between residential lots or hotels and farming operations.

In 1982, the Legislature enacted the Hawaii Right to Farm Act to protect established farming operations from being forced to leave their lands when surrounding areas became urbanized. While your Committee does not want to discourage urban development, your Committee believes that the construction of new homes and hotels near farming operations should not result in the imposition of additional laws or requirements on farmers when, prior to the development, their farming operations were in conformance with state and county laws and rules.

Your Committee believes that an in-depth study to determine the appropriate footage for buffer zones between residential lots or hotels and farming operations are meritorious.

Your Committee has amended this concurrent resolution to expand on the concept of buffer zones to include designated important agricultural lands. This amendment requests the Land Evaluation and Site Assessment (LESA) Commission to consider the feasibility of classifying buffer zones surrounding designated important agricultural lands as conservation lands. The title of the concurrent resolution was also changed to reflect the above amendment.

Your Committee has further amended this concurrent resolution to: 1) include a "WHEREAS" clause stating that consideration should also be placed on the feasibility of classifying buffer zones surrounding designated important agricultural lands as conservation lands, 2) have the LESA Commission submit a report of their findings, recommendations, and appropriate legislation, if necessary, to the Legislature twenty days prior to the convening of the Regular Session of 1986, 3) have certified copies of this concurrent resolution transmitted to the Chairperson of the Governor's Agriculture Coordinating Committee and the Chairperson of the Land Evaluation and Site Assessment Commission, and 4) include a "WHEREAS" clause stating that buffer zones are an aspect of the "Right to Farm" concept, which the Hawaii Legislature has already accepted.

Your Committee on Agriculture 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.

SCRep. 1138

Agriculture on S.R. No. 150

The purpose of this resolution is to request the Governor's Agriculture Coordinating Committee to conduct a study to determine the appropriate footage for buffer zones between residential lots or hotels and farming operations.

In 1982, the Legislature enacted the Hawaii Right to Farm Act to protect established farming operations from being forced to leave their lands when surrounding areas became urbanized. While your Committee does not want to discourage urban development, your Committee believes that the construction of new homes and hotels near farming operations should not result in the imposition of additional laws or requirements on farmers when, prior to the development, their farming operations were in conformance with state and county laws and rules.

Your Committee believes that an in-depth study to determine the appropriate footage for buffer zones between residential lots or hotels and farming operations are meritorious.

Your Committee has amended this resolution to expand on the concept of buffer zones to include designated important agricultural lands. This amendment requests the Land Evaluation and Site Assessment (LESA) Commission to consider the feasibility of classifying buffer zones surrounding designated important agricultural lands as conservation lands. The title of the resolution was also changed to reflect the above amendment.

Your Committee has further amended this resolution to: 1) include a "WHEREAS" clause stating that consideration should also be placed on the feasibility of classifying buffer zones surrounding designated important agricultural lands as conservation lands, 2) have the LESA Commission submit a report of their findings, recommendations, and appropriate legislation, if necessary, to the Legislature twenty days prior to the convening of the Regular Session of 1986, 3) have certified copies of this resolution transmitted to the Chairperson of the Governor's

Agriculture Coordinating Committee and the Chairperson of the Land Evaluation and Site Assessment Commission, and 4) include a "WHEREAS" clause stating that buffer zones are an aspect of the "Right to Farm" concept, which the Hawaii Legislature has already accepted.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 150, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 150, S.D. 1.

Signed by all members of the Committee.

SCRep. 1139 (Joint) Agriculture and Health on S.C.R. No. 34

This concurrent resolution also encourages the Federal government to support a research program for genetic and biological control of pest infestations of important agricultural products, in which the University of Hawaii and the State Department of Agriculture can serve as primary international centers.

Your Committees find that the three fruit fly species, the Mediterranean fruit fly, or medfly, the Oriental fruit fly, and the Melon fly, have impeded commercial development of some fruit and vegetable crops for domestic and foreign markets. Testimony received by your Committees indicate opposition to certain methods proposed to be used by the U.S. APHIS to eliminate these fruit flies such as the indiscriminate aerial spraying of malathion and other pesticides because they could adversely affect public health.

Your Committees concur with the intent of this concurrent resolution because it encourages the Federal government to support a research program to seriously study the alternative control measures before embarking on a very expensive program which cannot guarantee successful eradication of the three fruit fly species.

Your Committees on Agriculture and Health concur with the intent and purpose of S.C.R. No. 34 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 1140 (Joint) Agriculture and Health on S.R. No. 161

The purpose of this resolution is to oppose aerial applications of malathion bait sprays on Kauai as proposed by the United States Department of Agriculture's Animal and Plant Health Inspection Service (USDA-APHIS) for the tri-fly eradication program and urges the APHIS to develop and utilize suitable alternative control measures.

Your Committees find that the APHIS is considering a joint Federal/State tri-fly eradication effort in Hawaii which would include, but not be limited to, widespread spraying of the insecticide malathion, and that the island of Kauai has been targeted as the first island for malathion spraying.

Testimony received by your Committees indicates opposition to the indiscriminate aerial spraying of malathion bait and other pesticides. There is concern that this indiscriminate application of pesticides could adversely affect public health and Kauai's delicate ecosystem.

Your Committees concur with the intent and purpose of this resolution because it encourages the USDA-APHIS to undertake a research program to study and develop suitable control measures that will minimize affecting public health, ensure protection of the environment and be cost-effective.

Your Committees on Agriculture and Health concur with the intent and purpose of S.R. No. 161 and recommend its adoption.

Signed by all members of the Committees except Senator George.

SCRep. 1141 (Joint) Agriculture and Health on S.C.R. 118

The purpose of this concurrent resolution is to oppose aerial applications of malathion bait sprays on Kauai as proposed by the United States Department of Agriculture's Animal and Plant Health Inspection Service (USDA-APHIS) for the tri-fly eradication program and urges the APHIS to develop and utilize suitable alternative control measures.

Your Committees find that the APHIS is considering a joint Federal/State tri-fly eradication effort in Hawaii which would include, but not be limited to, widespread spraying of the insecticide malathion, and that the island of Kauai has been targeted as the first island for malathion spraying.



Testimony received by your Committees indicates opposition to the indiscriminate aerial spraying of malathion bait and other pesticides. There is concern that this indiscriminate application of pesticides could adversely affect public health and Kauai's delicate ecosystem.

Your Committees concur with the intent and purpose of this concurrent resolution because it encourages the USDA-APHIS to undertake a research program to study and develop suitable control measures that will minimize affecting public health, ensure protection of the environment and be cost-effective.

Your Committees on Agriculture and Health concur with the intent and purpose of S.C.R. No. 118 and recommend its adoption.

Signed by all members of the Committees except Senators Matsuura and George.

SCRep. 1142

(Joint) Tourism and Recreation and Transportation on S.C.R. No. 42

The purpose of this concurrent resolution is to request the State Department of Transportation to adopt special area rules governing the use of jet skis in Maunaloa Bay.

In recent years, the proliferation of unregulated commercial jet ski operations in Kaanapali, Kihei, Kaneohe Bay as well as Maunaloa Bay have become a major safety hazard to persons engaged in other water activities while usurping large portions of usable recreational areas. Also, such jet ski businesses tend to disturb the peace and tranquility of neighboring communities.

Mr. Dave Parsons, representing the Department of Transportation, presented testimony that the Department has developed rules governing the use of Kaanapali shore waters that will undergo a public hearing later this month. The development of these rules were prompted by problems related to commercial jet ski use at Kaanapali and such rules may be appropriate to Maunaloa Bay. These rules address all types of uses, and do not single out jet skis as the only type of watercraft for regulation.

Mr. Michael "Buddy" McGuire representing Portlock residents expressed grave concerns for the safety of participants of other water sports in Maunaloa Bay. He cited several examples of persons being injured as a result of commercial jet ski activities. In addition, he cited an incident between a commercial jet ski operator and a resident involving verbal abuse and threats of physical harm to the resident.

Mr. Rod Chai, a former private jet ski user, explained that recreational users who possess their own jet skis tend to be better trained in terms of safety and should not be penalized as rules and laws are drafted to regulate commercial jet ski operators. He also provided the Committees with information on a new mini-speed boat currently being marketed in California that could escape regulation and give rise to similar problems in the future. Mr. Chai pointed out that rules and laws governing motorized watercraft should be broad enough to account for new innovations and advancements in the area.

Your Committees also heard related resolutions, S.C.R. No. 32 and S.R. No. 36, which request the Department of Transportation to recommend rules governing jet ski use at Kaanapali, Kihei, and Kaneohe Bay. Your Committees amended the resolutions to request the Department of Transportation to adopt rules governing jet ski use in shore waters throughout the State which includes Maunaloa Bay along with the previously named locations.

Based on the testimony provided, it appears that jet skis are symptomatic of a larger problem of competing recreational and commercial use of shore waters throughout the State. Over the past five years, there has been a significant proliferation of not only jet skis, but all types of motorized and non-motorized watercraft and other water sports devices in our shore waters. Your Committees find that additional information and discussion is needed as the testimony may not have uncovered the full gamut of problems and concerns related to motorized watercraft and water sports devices.

Your Committees have amended the concurrent resolution by broadening its scope to include more types of motorized watercraft and all of the various shoreline areas. In addition, the title of the concurrent resolution was likewise amended.

Your Committees have further amended the concurrent resolution to request the Senate Committees on Tourism and Recreation and Transportation to hold interim hearings on rules governing the use of motorized water sports activities, the purpose of these hearings is to monitor and assist the Department of Transportation in developing such rules and if necessary develop legislation on such activities to be introduced in the Legislature for the Regular Session of 1986.

Your Committees on Tourism and Recreation and Transportation concurs with the intent and purpose of S.C.R. No. 42, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 42, S.D. 1.

Signed by all members of the Committees except Senators Aki and George.

SCRep. 1143

(Joint) Tourism and Recreation and Transportation on S.R. No. 55

The purpose of this resolution is to request the State Department of Transportation to adopt special area rules governing the use of jet skis in Maunalua Bay.

In recent years, the proliferation of unregulated commercial jet ski operations in Kaanapali, Kihei, Kaneohe Bay as well as Maunalua Bay have become a major safety hazard to persons engaged in other water activities while usurping large portions of usable recreational areas. Also, such jet ski businesses tend to disturb the peace and tranquility of neighboring communities.

Mr. Dave Parsons, representing the Department of Transportation, presented testimony that the Department has developed rules governing the use of Kaanapali shore waters that will undergo a public hearing later this month. The development of these rules were prompted by problems related to commercial jet ski use at Kaanapali and such rules may be appropriate to Maunalua Bay. These rules address all types of uses, and do not single out jet skis as the only type of watercraft for regulation.

Mr. Michael "Buddy" McGuire representing Portlock residents expressed grave concerns for the safety of participants of other water sports in Maunalua Bay. He cited several examples of persons being injured as a result of commercial jet ski activities. In addition, he cited an incident between a commercial jet ski operator and a resident involving verbal abuse and threats of physical harm to the resident.

Mr. Rod Chai, a former private jet ski user, explained that recreational users who possess their own jet skis tend to be better trained in terms of safety and should not be penalized as rules and laws are drafted to regulate commercial jet ski operators. He also provided the Committees with information on a new mini-speed boat currently being marketed in California that could escape regulation and give rise to similar problems in the future. Mr. Chai pointed out that rules and laws governing motorized watercraft should be broad enough to account for new innovations and advancements in the area.

Your Committees also heard related resolutions, S.C.R. No. 32 and S.R. No. 36, which request the Department of Transportation to recommend rules governing jet ski use at Kaanapali, Kihei, and Kaneohe Bay. Your Committees amended the resolutions to request the Department of Transportation to adopt rules governing jet ski use in shore waters throughout the State which includes Maunalua Bay along with the previously named locations.

Based on the testimony provided, it appears that jet skis are symptomatic of a larger problem of competing recreational and commercial use of shore waters throughout the State. Over the past five years, there has been a significant proliferation of not only jet skis, but all types of motorized and non-motorized watercraft and other water sports devices in our shore waters. Your Committees find that additional information and discussion is needed as the testimony may not have uncovered the full gamut of problems and concerns related to motorized watercraft and water sports devices.

Your Committees have amended the resolution by broadening its scope to include more types of motorized watercraft and all of the various shoreline areas. In addition, the title of the concurrent resolution was likewise amended.

Your Committees have further amended the resolution to request the Senate Committees on Tourism and Recreation and Transportation to hold interim hearings on rules governing the use of motorized water sports activities, the purpose of these hearings is to monitor and assist the Department of Transportation in developing such rules and if necessary develop legislation on such activities to be introduced in the Legislature for the Regular Session of 1986.

Your Committees on Tourism and Recreation and Transportation concurs with the intent and purpose of S.R. No. 55, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 55, S.D. 1.

Signed by all members of the Committees except Senators Aki and George.

SCRep. 1144

Ways and Means on H.B. No. 905

The purpose of this bill is to establish a three-year program to provide an opportunity for

medical school graduates to fulfill residency requirements for licensure to practice medicine in return for service with the State.

This bill proposes to reserve two positions in the residency program of the University of Hawaii's school of medicine for each of the next three fiscal years for medical school graduates who need residency training to qualify for the physician licensure examination. Medical school graduates who fill the reserved positions are required in return to stay in the residency program only for the period necessary to qualify for the examination, earn licenses to practice medicine as soon as possible after termination of participation in the residency program, and serve for two years as physicians for the department of social services and housing in correctional facilities or for the department of health in rural communities with physician shortages. Nonfulfillment of any of the requirements subjects the persons who filled the reserved positions to pay \$10,000 in damages, unless the persons cannot fulfill the service requirement because of a lack of vacancies in correctional facilities or the nonexistence of rural communities with physician shortages.

Your Committee is in agreement with the findings in the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 905, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1145                      Judiciary on Gov. Msg. No. 300

Recommending that the Senate advise and consent to the nomination of GEORGINA M. YUEN to the Hawaii Paroling Authority, for a term ending December 31, 1987.

Signed by all members of the Committee.

SCRep. 1146                      Health on Gov. Msg. Nos. 296, 297, 298 and 299

Recommending that the Senate advise and consent to the nominations of the following:

THOMAS LEE to the Board of Health, for a term ending December 31, 1988;

BERNARD K. PUNIKAIA to the Board of Health, for a term ending December 31, 1987;

AKIRA OMONAKA to the Statewide Health Coordinating Council, for a term ending December 31, 1986;

JAMES W. LINMAN, M.D., ELLEN K. SERRA and KATHLEEN K.M. DE SILVA to the Advisory Commission on Drug Abuse and Controlled Substances, for terms ending December 31, 1988;

ROBERT G.B. BJORNSON, M.D., MASARU OSHIRO, RAY M. HIGA, Bishop EDMOND LEE BROWNING and GUY A. PAUL to the State Council on Mental Health and Substance Abuse, for terms ending December 31, 1988;

DONNA W. SAIKI, JOHN A. BISSELL, TINA L. DAMERON, JANE R. SMITH and CONNIE C. CHUN to the State Council on Mental Health and Substance Abuse, for terms ending December 31, 1987; and

JOHN F. McDERMOTT, JR., M.D., Reverend FRANK A. CHONG, Reverend VINCENT DE PAUL O'NEILL, KENNETH "SHANNON" STEELE and FRANK SU'A to the State Council on Mental Health and Substance Abuse, for terms ending December 31, 1986.

Signed by all members of the Committee.

Senator Kawasaki did not concur on Gov. Msg. No. 297.

SCRep. 1147                      Health on H.C.R. No. 73

The purpose of this concurrent resolution is to request the federal government to take action to assist schizophrenics.

Specifically, the concurrent resolution requests: (1) that the National Institute of Mental Health's funding for mental illnesses be increased; (2) that federal funding for support programs also be increased; (3) that schizophrenics be included under the Federal Developmental Disability Act of 1970; (4) that the "handicapped", including schizophrenics, be designated a protected class under the Fair Housing Act of 1968; (5) that model commitment laws be developed or encouraged; (6) that incentives be provided for all health insurance carriers to

develop coverage for mentally ill people; and (7) that a federal income tax deduction be provided to taxpayers who care for disabled schizophrenics in their households.

Your Committee received supporting testimony from the Department of Health and finds that the actions and initiatives called for in this concurrent resolution are necessary to insure that schizophrenics receive the care and treatment they require. Your Committee also finds that this concurrent resolution should also apply to persons suffering from biologically caused mental disorders other than schizophrenia, and has made amendments to that effect in the "BE IT RESOLVED" clause and in item (1) in the first "BE IT FURTHER RESOLVED" clause.

Your Committee on Health concurs with the intent and purpose of H.C.R. No. 73, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 73, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 1148                      Transportation on Gov. Msg. No. 302

Recommending that the Senate advise and consent to the nomination of DANILO V. LUCILA, M.D., to the Medical Advisory Board, for a term ending December 31, 1988.

Signed by all members of the Committee except Senators Chang, Cobb, B. Kobayashi and Soares.

SCRep. 1149                      Tourism and Recreation on S.R. No. 138

The purpose of this resolution is to recognize and support the recreational research and economic benefits of the "Fishing Island" concept, and to request the State Attorney General's Office to expeditiously resolve the pending status of Hawaii's claim to archipelagic water as it affects this new enterprise.

Oral testimony was received from Mr. Murray Towill, Deputy Director of the Department of Planning and Economic Development (DPED) in support of the Fishing Island concept. The DPED views such a project as potentially beneficial to Hawaii's economy. The DPED is particularly interested in the Attorney General's opinion of the status of the State's claim to archipelagic waters since it will impact upon the development of other ocean resources, such as the mining of manganese crusts found on the seabed within the 200 mile Exclusive Economic Zone surrounding the Hawaiian Archipelago. Deputy Attorney General Johnson Wong testified and provided a letter addressed to the Chairman dated April 12 in which he made reference to the Federal Submerged Lands Act of 1953 as reflected in 43 U.S.C., Chapter 29, Section 1312. The Attorney General's Office is pursuing a claim that Hawaii's jurisdiction goes far beyond the 3 mile limit. The State's archipelagic status, which includes the leeward islands, is of great importance to our economic well-being.

Your Committee feels that the Legislature should not interfere with the Attorney General's effort to pursue the claim of archipelagic status and encourages the Fishing Island Inc., Kona's Offshore Fishing Habitat, to proceed with their project by applying for the necessary permits through the Department of Land and Natural Resources. Mr. Susumu Ono, Director of the Department of Land and Natural Resources, assured the Committee that the Department will carefully review the applications and assist the applicant to overcome potential delays wherever possible.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.R. No. 138 and recommends its adoption.

Signed by all members of the Committee except Senator Chang.

SCRep. 1150                      Consumer Protection and Commerce on S.R. No. 78

The purpose of this resolution was to request an appointment of an interim committee to recommend a new composition of the Board of Dental Examiners which would provide a greater proportionate representation of dental hygienists on the Board.

Currently, the Board consists of eight dentists, two public members, and one dental hygienist. Your Committee believes that a study should be undertaken to address the question of greater representation on the Board by dental hygienists which would give dental hygienists increased input as to how to maintain and improve their own profession.

Upon further consideration, your Committee finds that consideration should be given to having dental auxiliary personnel, such as dental assistants and laboratory technicians, represented on the Board of Dental Examiners. Dental auxiliary personnel are part of the

dental care service team and may be able to provide valuable input regarding their respective occupations. Therefore, the resolution and the title of the resolution have been amended to expand the scope of the study to include possible representation of dental auxiliary personnel on the Board.

The resolution has been further amended to request the Legislative Reference Bureau to conduct the study in consultation with the Legislative Auditor, rather than an interim committee of the Senate, and by requesting the Legislative Reference Bureau to give due regard to the roles, function, and structure of other boards of examiners for such professions as attorneys, physicians, and accountants, particularly if such boards regulate ancillary or auxiliary trades or professions. Your Committee intends that such consideration of other boards shall not be conclusive in determining the recommendations to be submitted to the Legislature.

Other amendments have been made to the resolution for the purposes of style and clarity and to more accurately reflect the intent of the measure.

Your Committee considers this study to be of great importance and urges its immediate adoption.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 78, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 78, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki, Kuroda and Young.

SCRep. 1151

Consumer Protection and Commerce on S.C.R. No. 61

The purpose of this concurrent resolution was to request an appointment of an interim committee to recommend a new composition of the Board of Dental Examiners which would provide a greater proportionate representation of dental hygienists on the Board.

Currently, the Board consists of eight dentists, two public members, and one dental hygienist. Your Committee believes that a study should be undertaken to address the question of greater representation on the Board by dental hygienists which would give dental hygienists increased input as to how to maintain and improve their own profession.

Upon further consideration, your Committee finds that consideration should be given to having dental auxiliary personnel, such as dental assistants and laboratory technicians, represented on the Board of Dental Examiners. Dental auxiliary personnel are part of the dental care service team and may be able to provide valuable input regarding their respective occupations. Therefore, the concurrent resolution and the title of the concurrent resolution have been amended to expand the scope of the study to include possible representation of dental auxiliary personnel on the Board.

The concurrent resolution has been further amended to request the Legislative Reference Bureau to conduct the study in consultation with the Legislative Auditor, rather than an interim committee of the Senate, and by requesting the Legislative Reference Bureau to give due regard to the roles, function, and structure of other boards of examiners for such professions as attorneys, physicians, and accountants, particularly if such boards regulate ancillary or auxiliary trades or professions. Your Committee intends that such consideration of other boards shall not be conclusive in determining the recommendations to be submitted to the Legislature.

Other amendments have been made to the concurrent resolution for the purposes of style and clarity and to more accurately reflect the intent of the measure.

Your Committee considers this study to be of great importance and urges its immediate adoption.

Your Committee on Consumer Protection and Commerce concurs 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 except Senators Kawasaki, Kuroda and Young.

SCRep. 1152

Ways and Means on H.B. No. 813

The purpose of this bill is to authorize the counties to issue reimbursable general obligation bonds to finance facilities for the disposal and processing of solid waste and generation of electric energy.

Your Committee finds that sanitary landfills are costly and inefficient and that alternate methods of disposal must be pursued. Pollution control projects which provide for waste recovery and generation of electricity have proven to be capable of doing the job. The high cost of such projects, however, continue to inhibit the development of this industry to its full potential. Using the counties' solid waste matter to generate electricity will provide energy from an alternate source and will also alleviate the demand on existing landfills. Therefore, your Committee finds that this bill will serve as an incentive toward the development of such projects, and is therefore in the public interest.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 813, H.D. 3, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1153 (Joint) Education and Transportation on S.R. No. 109

The purpose of this resolution is to request the governor to relieve traffic congestion by altering the opening and closing hours of certain public schools.

Your Committees heard testimony from the department of education, the department of transportation, the Hawaii State Teachers Association, and the Chamber of Commerce of Hawaii.

Your Committees are aware that a study on this matter had been done for the Oahu Metropolitan Planning Organization in 1981. This study indicated that the schools that would have the most potential for affecting traffic congestion would include universities, large private schools, and public intermediate and high schools within the urban corridor.

In considering a later starting time, the study indicated that staggering the closing and opening of schools can greatly relieve traffic congestion. The study found that up to 1973, most public schools started at 8:30 a.m. However, because of collective bargaining agreements seeking a uniform finishing time, public schools began at 8:00 a.m.

While your Committees believe that peak-hour traffic congestion would be greatly reduced in public schools started later, your Committees concur with the department of transportation recommendation that this matter be studied further before the opening and closing times of schools are changed. It was suggested that a follow-up study to the 1981 report be carried out. The department recommended that the study consider, among other things, the problems posed to students and their families by changing school hours, and that the results of the study be used to draft an implementation plan. The department of education also indicated that such a study would be useful, since the department of education would require time to draft an implementation plan if school hours were changed. Both departments noted that the participation of the department of accounting and general services would be needed for the study, as that department has responsibility for school bus contracts.

Given these considerations, the resolution has been amended to request further study on this matter. The resolution has been retitled: "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES, THE DEPARTMENT OF EDUCATION, AND THE DEPARTMENT OF TRANSPORTATION TO CONDUCT A JOINT STUDY TO IMPLEMENT A CHANGE IN THE STARTING AND CLOSING TIMES OF CERTAIN PUBLIC SCHOOLS ON OAHU TO REDUCE PEAK HOUR TRAFFIC CONGESTION."

The resolution has been further amended to require that the scope of this study shall include, but not be limited to, the impact that a change in school hours will have on peak-hour traffic congestion, the identification of all schools on Oahu that will be affected, and the effects that this will have on school bus transportation programs. The department of accounting and general services, the department of education, and the department of transportation should jointly participate in studying the feasibility of relieving traffic congestion by changing public school hours. The departments are also requested to submit their findings twenty days before the opening of the 1986 Legislature.

Your Committees on Education and Transportation concur with the intent and purpose of S.R. No. 109, as amended herein, and recommend its adoption as S.R. No. 109, S.D. 1.

Signed by all members of the Committees except Senators Abercrombie, Chang, Cobb, Hagino, A. Kobayashi and Soares.

SCRep. 1154 (Joint) Education and Transportation on S.C.R. No. 83

The purpose of this resolution is to request the governor to relieve traffic congestion by altering the opening and closing hours of certain public schools.

Your Committees heard testimony from the department of education, the department of transportation, the Hawaii State Teachers Association, and the Chamber of Commerce of Hawaii.

Your Committees are aware that a study on this matter had been done for the Oahu Metropolitan Planning Organization in 1981. This study indicated that the schools that would have the most potential for affecting traffic congestion would include universities, large private schools, and public intermediate and high schools within the urban corridor.

In considering a later starting time, the study indicated that staggering the closing and opening of schools can greatly relieve traffic congestion. The study found that up to 1973, most public schools started at 8:30 a.m. However, because of collective bargaining agreements seeking a uniform finishing time, public schools began at 8:00 a.m.

While your Committees believe that peak-hour traffic congestion would be greatly reduced in public schools started later, your Committees concur with the department of transportation recommendation that this matter be studied further before the opening and closing times of schools are changed. It was suggested that a follow-up study to the 1981 report be carried out. The department recommended that the study consider, among other things, the problems posed to students and their families by changing school hours, and that the results of the study be used to draft an implementation plan. The department of education also indicated that such a study would be useful, since the department of education would require time to draft an implementation plan if school hours were changed. Both departments noted that the participation of the department of accounting and general services would be needed for the study, as that department has responsibility for school bus contracts.

Given these considerations, the resolution has been amended to request further study on this matter. The resolution has been retitled: "SENATE RESOLUTION REQUESTING THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES, THE DEPARTMENT OF EDUCATION, AND THE DEPARTMENT OF TRANSPORTATION TO CONDUCT A JOINT STUDY TO IMPLEMENT A CHANGE IN THE STARTING AND CLOSING TIMES OF CERTAIN PUBLIC SCHOOLS ON OAHU TO REDUCE PEAK HOUR TRAFFIC CONGESTION."

The resolution has been further amended to require that the scope of this study shall include, but not be limited to, the impact that a change in school hours will have on peak-hour traffic congestion, the identification of all schools on Oahu that will be affected, and the effects that this will have on school bus transportation programs. The department of accounting and general services, the department of education, and the department of transportation should jointly participate in studying the feasibility of relieving traffic congestion by changing public school hours. The departments are also requested to submit their findings twenty days before the opening of the 1986 Legislature.

Your Committees on Education and Transportation concur with the intent and purpose of S.C.R. No. 83, as amended herein, and recommend its adoption as S.C.R. No. 83, S.D. 1.

Signed by all members of the Committees except Senators Abercrombie, Chang, Cobb, Hagino, A. Kobayashi and Soares.

SCRep. 1155                      Transportation on S.R. No. 133

The purpose of this resolution is to request the department of transportation and the department of transportation services to provide directional signs for the Bishop Museum on the H-1 freeway and streets leading to the Museum.

Your Committee heard testimony from the Office of Hawaiian Affairs in support of this resolution. The agency testified that over the years, the area surrounding the Bishop Museum has changed, and it is now difficult for residents and tourists to locate the museum.

Your Committee also heard testimony from the department of transportation which said that such destination signs on the H-1 are usually reserved for directing traffic to major areas, rather than specific locations. Moreover, the department would need to confer with the federal government before placing a sign on the H-1 freeway, which is a federally funded route.

Should there be any federal prohibition on the placement of such directional signs, the department of transportation should report such findings to the Legislature next session.

Additionally, this report should include alternatives which would assist the public in locating the museum, including the placement of directional signs in areas that are visible but not part of any federally funded highway project.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 133 and recommends its adoption.

Signed by all members of the Committee except Senators Chang, Cobb, Hagino and Soares.

SCRep. 1156                      Ways and Means on H.B. No. 1272

The purpose of this bill is to support the planned and continuing development of that part of the Ewa plain of Oahu which includes James Campbell Industrial Park, West Beach, Ewa Plantation, Ewa Marina, and Makakilo by authorizing the issuance of up to \$25 million in special purpose revenue bonds. The proceeds of the bonds will be used to construct and install new water wells and to expand existing water storage and conveyance facilities for the continued growth of industrial and economic activities and the provision of housing.

Your Committee finds that issuance of these bonds pursuant to part V, chapter 39A, Hawaii Revised Statutes, is in the public interest and for a public purpose.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1272 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1157                      Education on S.R. No. 98

The purpose of this resolution is to request the Department of Education (DOE) to review and report on the newswriting and yearbook publications curriculum and programs offered in public secondary schools.

Presently, newswriting and yearbook publication courses and programs in public secondary schools face many problems. First, the DOE seems to lack clear guidelines in this area to promote and encourage journalism courses and programs. Secondly, journalism courses and programs seem to be inconsistently administered statewide resulting in some schools having inadequate facilities or unqualified teachers, or both. Thirdly, compensation for newswriting and yearbook advisors are inconsistently administered statewide. Fourthly, funding for journalism programs are also inconsistently administered resulting in questionable use of funds earmarked for school publications.

Your Committee finds that journalism and yearbook courses and programs serve to promote the talents and qualities of students to become effective communicators and writers and also serves as an informational source between students, the school, and the community.

Therefore, it is imperative that such courses and programs continue to be encouraged and supported in our school system, and that the DOE review its courses and programs to identify problem areas to ultimately improve journalism courses and programs.

Your Committee amended the resolution by specifically listing the information and action requested of the Department of Education.

Your Committee on Education concurs with the intent and purpose of S.R. No. 98, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 98, S.D. 1.

Signed by all members of the Committee except Senator Soares.

SCRep. 1158                      Agriculture on S.R. No. 124

The purpose of this resolution is to request the U.S. Secretary of Agriculture to include Hawaii in the Federal Crop Insurance Program.

In 1980, Congress enacted the Federal Crop Insurance Act and created the Federal Crop Insurance Program. The program provides farmers a risk management tool by lowering risk levels, through insurance, and thereby assists farmers in safely investing their moneys to maximize yields and profits.

Your Committee finds that the Federal Crop Insurance Program will benefit Hawaii's farmers of sugarcane, macadamia nuts, papayas, bananas and other crops by allowing farmers to insure up to 75 percent of their farms' insurable crop average yield. The program participation is open to owner-operators, tenants, renters, crop-share landlords, partnerships, corporatives, and estates.

Your Committee has amended the resolution by requesting the Secretary of Agriculture to provide crop insurance for diversified agricultural products as well as sugar and pineapple.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 124, as



amended herein, and recommends its adoption in the form attached hereto as S.R. No. 124, S.D. 1.

Signed by all members of the Committee except Senator Soares.

SCRep. 1159 Higher Education on Gov. Msg. No. 134

Recommending that the Senate advise and consent to the nominations of JULIA FROLICH, M.D., and JAMES F. GARY to the Board of Regents, University of Hawaii, for terms ending December 31, 1988.

Signed by all members of the Committee except Senator Soares.  
Senator Abercrombie did not concur.

SCRep. 1160 Economic Development on S.R. No. 165

The purpose of this resolution is to request the Department of Land and Natural Resources (DLNR), using existing resources, to develop criteria and specific legislation, as well as proposed rules to implement the legislation, to protect the public's use and enjoyment of the reefs surrounding our islands.

Your Committee supports this measure as a means of addressing Article XI, Section 6 of the State Constitution which mandates the Legislature to establish guidelines regulating mariculture in order to protect the public's use and enjoyment of the reefs. Your Committee has amended this measure by inserting a last "WHEREAS" clause to read as follows:

"WHEREAS, the Legislature needs the advice and assistance of the Department of Land and Natural Resources to develop and establish legislative guidelines which will address the constitutional mandate; now, therefore,"

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 165, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 165, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki, Henderson and Soares.

SCRep. 1161 Economic Development on S.C.R. No. 136

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources (DLNR) to codify and convert the aquatic resources management provisions of the Hawaii Revised Statutes to Administrative Rules and to amend existing Rules for clarity and comprehensiveness.

The DLNR testified that although it supports the intent of this measure, it does not currently have the resources to conduct such a codifying and converting effort.

Your Committee finds that the codification and conversion requested by this measure would reduce, over time, the sometimes confusing duplicating of regulatory provisions contained in statute and administrative rules and regulations. In particular, the placement in statute of certain provisions tends to unduly restrict government's ability to quickly respond to changing circumstances when all that may be required are rule changes adopted under appropriate administrative procedures. Moreover, such procedures will secure the broad participation of the public-at-large, because of the network available to the department and the more flexible time frames for administrative rules as compared to the limited public notice given during legislative sessions.

Your Committee further finds that the department should be assisted by the State Attorney General's Office and the Legislative Reference Bureau in fulfilling the intent of this measure and has accordingly amended the "BE IT RESOLVED" clause.

Your Committee on Economic Development 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 except Senators Kawasaki, Henderson and Soares.

SCRep. 1162 Economic Development on S.R. No. 100

The purpose of this resolution is to request the Department of Planning and Economic Development (DPED) to undertake an educational and promotional program with respect to employee stock ownership programs, establish an employee stock ownership advisory committee



The purpose of this resolution is to request the Corps of Engineers to conduct a study using aerial photographs of the beaches on all Hawaiian islands other than Oahu for the purpose of assessing beach erosion on the neighbor islands.

Your Committee concurs with testimony indicating that a prototype study of Oahu beaches completed in 1981 which utilized aerial photography to determine shoreline changes provides a sound basis for supporting this measure. Your Committee believes that adoption of this resolution would emphasize the need for and importance of the study, which was previously requested in 1982. Although the Corps of Engineers concurred with the need for the study, they were unsuccessful in securing needed funding. Your Committee has amended the last "WHEREAS" clause to indicate that while the Corps of Engineers may provide financial support for planning assistance for the study under the 1974 Water Resources Development Act, funding for the study under other applicable laws or from other sources should also be considered.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 152, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 152, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki, Henderson and Soares.

SCRep. 1166                      Economic Development on S.R. No. 181

The purpose of this resolution is to request the Department of Land and Natural Resources (DLNR) to study the full implementation of Part II of the Kapuku Plan developed in 1977 into a statewide "kapu" system, in order to plan for the management and protection of Hawaii's ocean resources.

Your Committee recognizes and commends DLNR for administering the development of a Kapuku plan in 1977 and the establishment of the experimental Waikiki-Diamond Head Shoreline Fisheries Management area to determine the effectiveness of the Kapuku system in protecting and managing ocean resources in this area. Your Committee believes that the 1977 Kapuku plan remains generally applicable; however, this measure requests (1) an examination of the resources necessary for the expansion of the Kapuku system beyond the Waikiki-Diamond Head area, (2) development of an educational plan for the general public on the harvesting of limu and seaweed beds to allow for replenishment, and (3) a comprehensive review of the State's coastal areas to determine the need for anticipatory and preventive conservation measures for the national resources in each coastal management area.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 181 and recommends its adoption.

Signed by all members of the Committee except Senators Kawasaki, Henderson and Soares.

SCRep. 1167                      Economic Development on S.C.R. No. 138

The purpose of this concurrent resolution is to request the University of Hawaii's Department of Urban and Regional Planning, the state departments of Land and Natural Resources and Hawaiian Home Lands, and the Office of Hawaiian Affairs to continue their efforts in studying the feasibility of setting aside State lands to offer certain residents the opportunity to practice a subsistence lifestyle as previously requested by H.R. No. 304, H.D. 1, adopted in 1984.

Your Committee believes that the progress report submitted to this body in response to H.R. No. 304, H.D. 1, indicates that additional research is warranted and necessary to determine the feasibility of offering certain residents the opportunity to practice a subsistence lifestyles.

Your Committee received testimony from the Office of Hawaiian Affairs and the Department of Land and Natural Resources that in spite of this report much work still needs to be done in terms of soliciting additional input, conducting further research and refining findings and recommendations of the report.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 138 and recommends its adoption.

Signed by all members of the Committee except Senators Kawasaki and Soares.

SCRep. 1168                      Economic Development on S.R. No. 184

The purpose of this resolution is to request the University of Hawaii's Department of Urban and Regional Planning, the state departments of Land and Natural Resources and Hawaiian Home Lands, and the Office of Hawaiian Affairs to continue their efforts in studying the feasibility of setting aside State lands to offer certain residents the opportunity to practice a

subsistence lifestyle as previously requested by H.R. No. 304, H.D. 1, adopted in 1984.

Your Committee believes that the progress report submitted to this body in response to H.R. No. 304, H.D. 1, indicates that additional research is warranted and necessary to determine the feasibility of offering certain residents the opportunity to practice a subsistence lifestyles.

Your Committee received testimony from the Office of Hawaiian Affairs and the Department of Land and Natural Resources that in spite of this report much work still needs to be done in terms of soliciting additional input, conducting further research and refining findings and recommendations of the report.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 184 and recommends its adoption.

Signed by all members of the Committee except Senators Kawasaki and Soares.

SCRep. 1169                      Economic Development on S.R. No. 175

The purpose of this resolution is to request that the State seek ways to protect the sea birds nesting outside of the Kilauea Point Wildlife Administrative Site on Kauai and to request the Department of Land and Natural Resources to conduct a study of the actions that could be taken to resolve this concern, including but not limited to State or county acquisition of the property followed by a lease agreement with the U.S. Fish and Wildlife Service to manage the sea birds on a day-to-day basis.

Your Committee finds that the Kilauea Point Wildlife Administrative Site is one of the few nesting areas in the State where the public can easily view the Red-Footed Bobby, the Wedge-Tailed Shearwater, the Laysan Albatross, the Frigate Bird, and the Red-Tailed and White-Tailed Tropic Birds. As a result of Hurricane Iwa, which destroyed the nesting areas, these birds have relocated on private land outside of the protection of the U.S. Fish and Wildlife Service.

Your Committee intends that among other things, the study requested will address the estimated costs for obtaining control of the property in question, as well as for the installation of necessary infrastructure and any questions of liability.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 175 and recommends its adoption.

Signed by all members of the Committee except Senators Kawasaki and Soares.

SCRep. 1170                      Economic Development on S.R. No. 142

The purpose of this resolution is to request the President of the Senate to appoint an interim task force to examine private sector activities which affect economic and community development, to define a new role for state government as the facilitator of economic development, and to build a climate conducive to the expansion of private sector activities.

Your Committee finds that private sector activities, because of their location, scale or operations, and presence throughout the State, significantly affect the social and economic welfare of Hawaii's residents. Businesses operate in a competitive economic environment in which government, particularly through policies relating to land use, taxes, and business regulation, may impose constraints on the activities of Hawaii based businesses which are not imposed by other jurisdictions on out-of-state competitors with local businesses and which adversely affect economic and community development in Hawaii. There is a need for defining a new role for state government in community development, which is conducive to the nurturing of a beneficial and mutually supportive relationship between economic activities and the welfare and values of residents in the communities that are host to those activities.

The resolution directs the task force, within the context of supporting community development activities such as the creation of a favorable climate for industries, implementation of human resource development programs that are more attuned to the needs of business and industry, and the implementation of a financial resource program to facilitate timely economic development, to concentrate on:

- (1) the wise use of natural resources, particularly land;
- (2) the impact of taxes on the ability of businesses to compete with out-of-state businesses; and
- (3) the effect of government regulations and constraints imposed on local businesses which are not imposed by other jurisdictions on out-of-state competitors.

Your Committee on Economic Development 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. 1171

Economic Development on S.C.R. No. 135

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources (DLNR) to study the full implementation of Part II of the Kapuku Plan developed in 1977 into a statewide "kapu" system, in order to plan for the management and protection of Hawaii's ocean resources.

Your Committee recognizes and commends DLNR for administering the development of a Kapuku plan in 1977 and the establishment of the experimental Waikiki-Diamond Head Shoreline Fisheries Management area to determine the effectiveness of the Kapuku system in protecting and managing ocean resources in this area. Your Committee believes that the 1977 Kapuku plan remains generally applicable; however, this measure requests (1) an examination of the resources necessary for the expansion of the Kapuku system beyond the Waikiki-Diamond Head area, (2) development of an educational plan for the general public on the harvesting of limu and seaweed beds to allow for replenishment, and (3) a comprehensive review of the State's coastal areas to determine the need for anticipatory and preventive conservation measures for the national resources in each coastal management area.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 135 and recommends its adoption.

Signed by all members of the Committee except Senators Kawasaki, Henderson and Soares.

SCRep. 1172

Economic Development on S.R. No. 155

The purpose of this resolution is to request the Department of Land and Natural Resources (DLNR) to conduct a study to determine whether these trees are contaminating watershed areas and to control the growth and eliminate stands of these trees in areas where they may be considered potentially hazardous, especially in residential, recreational and watershed areas.

Your Committee finds that although the Molucca Albizia (Albizia) is valued as a shade tree, timber crop and reforestation tree, they are highly susceptible to wind damage and uprooting and are consequently a potential hazard in recreational and residential areas. Your Committee also notes that there has been a study indicating that Albizias should not be planted near wells because Albizia roots can taint water sources.

Your Committee supports this measure as providing a necessary means of assessing the hazards of albizia in Hawaii. Your Committee has amended the "BE IT RESOLVED" clause to provide that the DLNR report on an implementation timetable and the identification of necessary manpower, resources and funds to control the growth and eliminate stands of Albizia in areas where they may be considered potentially hazardous.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 155, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 155, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki, Henderson and Soares.

SCRep. 1173

Economic Development on S.C.R. No. 114

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources (DLNR) to conduct a study to determine whether these trees are contaminating watershed areas and to control the growth and eliminate stands of these trees in areas where they may be considered potentially hazardous, especially in residential, recreational and watershed areas.

Your Committee finds that although the Molucca Albizia (Albizia) is valued as a shade tree, timber crop and reforestation tree, they are highly susceptible to wind damage and uprooting and are consequently a potential hazard in recreational and residential areas. Your Committee also notes that there has been a study indicating that Albizias should not be planted near wells because Albizia roots can taint water sources.

Your Committee supports this measure as providing a necessary means of assessing the hazards of albizia in Hawaii. Your Committee has amended the "BE IT RESOLVED" clause to provide that the DLNR report on an implementation timetable and the identification of necessary manpower, resources and funds to control the growth and eliminate stands of Albizia

in areas where they may be considered potentially hazardous.

Your Committee on Economic Development 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 except Senators Kawasaki, Henderson and Soares.

SCRep. 1174

Economic Development on S.C.R. No. 76

The purpose of this concurrent resolution is to request the Department of Planning and Economic Development (DPED) to undertake an educational and promotional program with respect to employee stock ownership programs, establish an employee stock ownership advisory committee to assist the Department in all matters relating to employee stock ownership, and to submit to the Regular Session of 1986 a report of the Department's activities relating to employee stock ownership. This measure also designates DPED as the State agency responsible for the encouragement and promotion of employee stock ownership programs.

Your Committee supports this measure as a means of overcoming a lack of movement and understanding regarding employee stock ownership programs. It is your Committee's understanding that \$25,000 has been included in the State budget to support activities requested by this measure. In particular, your Committee believes that funds should be used to sponsor a major public workshop on employee stock ownership and for educational and promotional efforts to increase the use of employee stock ownership programs.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 76 and recommends its adoption.

Signed by all members of the Committee except Senators Kawasaki, Henderson and Soares.

SCRep. 1175

Economic Development on S.R. No. 177

The purpose of this resolution is to request the Legislative Auditor to study and evaluate the costs and effects of amending the Hawaii State Constitution to provide for a single definition of "Hawaiian."

Your Committee recognizes that there has been considerable interest in, and discussion of, a legislative measure to place before the voters of Hawaii an amendment to the Hawaii State Constitution which provides for a unified or single definition for people of Hawaiian ancestry. The current existing constitutional definitions provide that "Native Hawaiians" are persons of more than 50 percent Hawaiian ancestry and "Hawaiians" are all others of Hawaiian ancestry. Your Committee believes that the proposed amendment should be acted upon by the Regular Session of 1986 and be placed upon the ballot in 1986. However, before final action is taken regarding the proposed amendment, both legislators and voters should have the benefit of the best available information regarding the costs and effects of providing a single constitutional definition of Hawaiian, including the costs of adequately preparing Hawaii's voters to knowingly vote on this matter, particularly voters of Hawaiian ancestry who may be most affected by the proposed amendment. In particular, your Committee believes that the Auditor's report would definitely find that the proposed amendment would not affect the Hawaiian Homes Commission Act of 1920 as amended, a view shared by your Committee. Your Committee concurs with the testimony supporting this measure as providing the information necessary to dispel misconceptions regarding the proposed constitutional amendment and informing the Legislature and the voting public of the costs and effects of providing a single constitutional definition of "Hawaiian".

Your Committee on Economic Development concurs with the intent of S.R. No. 177 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Kawasaki and Soares.

SCRep. 1176

Transportation on S.R. No. 153

The purpose of this resolution is to require that the department of transportation and the department of planning and economic development formulate jointly a plan to promote Hawaii's commercial harbors.

Your Committee held a hearing of House Bill No. 441, which would have included as part of the department of transportation's statutory responsibilities, the function of promoting Hawaii's commercial harbors. The department of transportation testified that they currently do not actively promote Hawaii's harbors, and stated that such function may be more properly delegated to the department of planning and economic development.

While the idea of promoting Hawaii's harbors has merit, your Committee believed that it should be explored further before consideration of any statutory revision to the department of transportation's responsibilities. Your Committee concurs with the recommendation of the department that a joint study exploring the commercial potential of the state harbors be conducted with the department of planning and economic development. In addition, your Committee requests that the departments should seek the assistance and recommendations of interested parties such as the Chamber of Commerce of Hawaii.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 153 and recommends its adoption.

Signed by all members of the Committee except Senators Chang, Cobb and Soares.

SCRep. 1177 (Majority) Consumer Protection and Commerce on S.C.R. No. 84

The purpose of this concurrent resolution was to request the Department of Commerce and Consumer Affairs (DCCA) to conduct a study on Hawaii's medical malpractice insurance system.

The medical profession's liability or malpractice insurance problems today are very serious and require immediate attention. More claims and suits are being filed against physicians and hospitals every year and the costs of awards and insurance have risen dramatically.

Your Committee received generally favorable testimony from the DCCA, the Hawaii Medical Association, the Hospital Association of Hawaii, the Hawaii Federation of Physicians and Dentists, and the Hawaii Academy of Plaintiffs' Attorneys.

DCCA testified that it does not currently have the staffing or money to conduct such a study, but that \$25,000 has been included in the biennial budget which becomes effective July 1, 1985. The House of Representatives has adopted House Resolution No. 410, H.D. 1, which requests a similar study. The DCCA said the funds could be utilized to accomplish the purposes of this concurrent resolution as well as H.R. No. 410, H.D. 1. Your Committee agrees and recommends that course of action.

Your Committee, upon further consideration, has amended this concurrent resolution by:

(1) Adding after the seventh "WHEREAS" clause on page 1 the following clause:

"WHEREAS, after the demise of the Patient's Compensation Fund in 1984, one of the largest commercial carriers in the State of Hawaii ceased to write malpractice insurance for physicians;"

(2) Adding after the second "WHEREAS" clause on page 2 the following clause:

"WHEREAS, the Legislature has taken measures to address issues related to medical malpractice insurance, such as the enactment of Chapter 671, Hawaii Revised Statutes, which provides, among other things, for Medical Claim Conciliation Panels (MCCP); but the effectiveness of these measures is in doubt;"

(3) Amending the second "BE IT FURTHER RESOLVED" clause to provide that DCCA shall consult with the Legislative Reference Bureau; and

(4) Amending the last "BE IT FURTHER RESOLVED" clause to provide that a certified copy shall be transmitted to the Legislative Reference Bureau.

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

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 84, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 84, S.D. 1.

Signed by all members of the Committee.  
Senator Kawasaki did not concur.

SCRep. 1178 (Majority) Consumer Protection and Commerce on S.R. No. 110

The purpose of this resolution was to request the Department of Commerce and Consumer Affairs (DCCA) to conduct a study on Hawaii's medical malpractice insurance system.

The medical profession's liability or malpractice insurance problems today are very serious and require immediate attention. More claims and suits are being filed against physicians and hospitals every year and the costs of awards and insurance have risen dramatically.

Your Committee received generally favorable testimony from the DCCA, the Hawaii Medical Association, the Hospital Association of Hawaii, the Hawaii Federation of Physicians and Dentists, and the Hawaii Academy of Plaintiffs' Attorneys.

DCCA testified that it does not currently have the staffing or money to conduct such a study, but that \$25,000 has been included in the biennial budget which becomes effective July 1, 1985. The House of Representatives has adopted House Resolution No. 410, H.D. 1, which requests a similar study. The DCCA said the funds could be utilized to accomplish the purposes of this resolution as well as H.R. No. 410, H.D. 1. Your Committee agrees and recommends that course of action.

Your Committee, upon further consideration, has amended this resolution by:

- (1) Adding after the seventh "WHEREAS" clause on page 1 the following clause:

"WHEREAS, after the demise of the Patient's Compensation Fund in 1984, one of the largest commercial carriers in the State of Hawaii ceased to write malpractice insurance for physicians;"

- (2) Adding after the second "WHEREAS" clause on page 2 the following clause:

"WHEREAS, the Legislature has taken measures to address issues related to medical malpractice insurance, such as the enactment of Chapter 671, Hawaii Revised Statutes, which provides, among other things, for Medical Claim Conciliation Panels (MCCP); but the effectiveness of these measures is in doubt;"

- (3) Amending the second "BE IT FURTHER RESOLVED" clause to provide that DCCA shall consult with the Legislative Reference Bureau; and

- (4) Amending the last "BE IT FURTHER RESOLVED" clause to provide that a certified copy shall be transmitted to the Legislative Reference Bureau.

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

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 110, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 110, S.D. 1.

Signed by all members of the Committee.  
Senator Kawasaki did not concur.

SCRep. 1179

Consumer Protection and Commerce on S.R. No. 146

The purpose of this resolution was to study the development, creation, and administration of the Hawaii Thrift Guaranty Corporation.

Since the inception of the Hawaii Thrift Guaranty Corporation (Thrift Guaranty), the State has loaned the corporation \$29 million of which approximately \$2 million of the principal has been paid. During the same period of time, seven members of Thrift Guaranty have gone bankrupt or have been put in receivership which has led to an onerous financial burden on Thrift Guaranty and the remaining members who paid and are still paying assessment fees. In 1984, the Legislature passed legislation which reduced the assessment payments by the remaining Thrift Guaranty members by an amount equal to payments made to the Federal Depositors Insurance Corporation. Accordingly, the current amount of assessments is insufficient to even pay the annual interest payments due on the outstanding loan of \$27 million owed to the State. Thus, Thrift Guaranty has ceased, for all practical purposes, to function effectively in the manner for which it was intended.

Your Committee heard testimony from the Bank Examiner who did not oppose this resolution. Your Committee finds that a thorough, substantive review of the development and administration of Thrift Guaranty should be made to sort out the complex issues and problems which have led to its controversial impending demise.

Your Committee, upon further deliberation, has amended the resolution to call for a special Senate investigative committee as authorized by Section 21-3, Hawaii Revised Statutes. The special committee shall thoroughly review the history of Thrift Guaranty from its creation to the present, including the circumstances existing at the time it was created, the over-all administration of the corporation including the reasons for payments to depositors in amounts over the guaranteed limit of \$10,000, the events and conditions that brought about its current financial problems, and the principal parties involved or responsible for those events and conditions. Accordingly, a new "BE IT RESOLVED" clause has been added to reflect the



aforesaid change.

Your Committee has also amended the title to reflect the amended purpose of this resolution.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 146, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 146, S.D. 1.

Signed by all members of the Committee.

SCRep. 1180

Consumer Protection and Commerce on S.R. No. 156

The purpose of this resolution is to request the Real Estate Commission, with the assistance of the Hawaii Bar Association, the Hawaii Association of Realtors, and other interested parties to study methods of simplifying the language and style of Horizontal Property Regimes (HPR) Public Reports by utilizing words with common and every day meanings to allow the "lay" person to better understand the required disclosures made regarding sale or resale of new or converted apartments.

The Real Estate Commission issues HPR Public Reports pursuant to statute to help the purchasers understand material information and make an intelligent decision relating to the purchase of apartments in condominium projects.

Your Committee heard testimony in support of this resolution from the Real Estate Commission and the Hawaii Association of Realtors and finds that past experience has shown that the basic informational and disclosure purposes of the Public Reports have been lost or obscured because they are written in language which is usually understood only by attorneys or persons specially trained in the legal aspects of real estate law.

Your Committee further finds that public reports on material facts which are written in plain language should help the consumer to understand the risks, if any, involved in purchasing an apartment and to formulate a more realistic expectation of the advantages and disadvantages of buying and living within the contemplated HPR project.

Your Committee has amended the resolution by making nonsubstantive language changes for the purposes of style and clarity.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 156, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 156, S.D. 1.

Signed by all members of the Committee except Senator Chang.