

SCRep. 323-84 Consumer Protection and Commerce on H.B. No. 1821-84

The purpose of this bill is to extend the Board of Chiropractic Examiners' sunset review for another six years until December 31, 1990.

The Board of Chiropractic Examiners agreed with the Legislative Auditor's Report and stated that there is a continued need to regulate the profession and that proper steps would be taken to correct current irregularities as outlined in the Report. The President of Hawaii State Chiropractic Association also testified in support of the bill.

Although your Committee is in agreement with the need to continue the Board, there are several things which disturbs the Committee.

Your Committee finds that the Board has failed to resolve the on-going problem which has arisen because of the philosophical differences between the "straight" and "mixer" schools. Further, the Board has compounded matters by establishing their own accreditation guidelines which would accept graduates of CCE approved schools at the expense of excluding current Hawaii students at non-CCE accredited schools. Accordingly, in view of the Board's ineffectiveness and lack of concern for Hawaii residents studying on the mainland, your Committee has amended the repeal date to be effective December 31, 1986.

It is the intent of your Committee that the Board be reevaluated sooner in order to determine whether accord has been reached within the chiropractic profession and whether the Board has exercised better wisdom in addressing this serious problem.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1821-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1821-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 324-84 Consumer Protection and Commerce on H.B. No. 2181-84

The purpose of this bill is to amend Chapter 666, Landlord and Tenant, Hawaii Revised Statutes, by adding a new section which will provide the following:

(1) Establishes a rent trust fund for the deposit of rent, which either the landlord or tenant may request, in any court proceeding in which the payment or nonpayment of rent is in dispute. The court shall order the tenant to deposit any disputed rent as it becomes due and in the case where a rent invoice is in issue, the amount of rent prior to the increase; provided that the tenant shall not be required to deposit any rent if the tenant can show to the court's satisfaction that rent has already been paid or that the parties had executed a signed, written instrument agreeing that rent could be withheld or deducted;

(2) Provides that noncompliance by the tenant shall result in the landlord having judgment for possession and execution shall issue accordingly;

(3) Grant the court the power to hold in trust any rent deposited and to distribute the funds according to the resolution of the dispute by the court; and

(4) Grant the court, upon finding that either the landlord or the tenant raised the issue in bad faith, the power to order that person to pay the other party reasonable interest on the rent deposited in the court.

Currently, the provisions in H.B. No. 2181-84, are embodied in section 521-78, Residential Landlord-Tenant Code, Hawaii Revised Statutes, which was enacted in 1978. The rent trust fund provision in H.B. No. 2181-84, will apply to non-residential leases where the payment or nonpayment of rent is in dispute.

The Hawaii Association of Realtors and Michael Gibson, an attorney, testified in favor of this bill.

Your Committee believes that the establishment of a provision for the rent trust fund in Chapter 666, Hawaii Revised Statutes, is warranted and will expedite the resolution of these disputes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2181-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 325-84      Consumer Protection and Commerce on H.B. No. 2044-84

The purpose of this bill is to exempt the Public Employees' Health Fund from the detailed printing requirements of Chapter 431A, Readability of Insurance Contracts.

Chapter 431A protects an individual's contractual right by requiring each insurance company to use simplified language to explain benefit plan coverages. The law is necessary to assure individuals who deal directly on a one-to-one basis with their insurance company that the company will not use technical language to mislead or confuse them on how to obtain their benefits.

In the case of the Public Employees' Health Fund, the purpose of Chapter 431A is addressed through the training of personnel and fiscal officers to assist employees and retirees in understanding the benefits they receive. Educational informational workshops are regularly conducted to provide health fund members an opportunity to obtain information and answers to questions directly from health fund personnel. In addition, informational booklets are distributed to employees and retirees, and health fund personnel are available at their office or by telephone or mail to answer any inquiries that members may have. Yet, the Public Employees' Health Fund is still expected to comply with the requirements of Chapter 431A. In 1983, the Health Fund spent \$2,300 to comply with Chapter 431A, and estimates its cost for 1984 will exceed \$6,000.

Your Committee, in view of the Public Employees' Health Fund's sustained educational efforts to facilitate understanding of benefits and of how to access benefits, finds that the Public Employees' Health Fund meets the purpose of Chapter 431A, and that the expenditure of monies to comply with Chapter 431A is unnecessary.

Your Committee is in agreement with the purpose of Chapter 431A as outlined by the Department of Commerce and Consumer Affairs in its testimony, but finds that the Public Employees' Health Fund plans should be exempted from the requirements of Chapter 431A.

Your Committee has amended the bill by deleting section 1 which amends section 431A-8, and adding a new section 1 which amends section 87-22. The intent of the amendments is to exempt those carriers who contract for health benefit plans with the Public Employees' Health Fund from the requirements of Chapter 431A only as they apply to plans developed for the Health Fund.

Your Committee has further amended the bill by amending section 2 to be consistent with the amendment in section 1.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2044-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2044-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 326-84      Consumer Protection and Commerce on H.B. No. 2281-84

The purpose of the bill is to add a new section to chapter 514A, Hawaii Revised Statutes, in order to do the following: regulate the activities of managing agents of condominiums; add a new definition of managing agent; authorize the Commission to investigate and bring an action to enjoin a managing agent; provide for criminal and civil penalties; and increase the bond requirements.

The Real Estate Commission, Chaney, Brooks & Company, the Hawaii Council of Associations of Apartment Owners and concerned condominium owners testified in support of the bill.

Your Committee is in agreement with the testimonies offered as to the need to incorporate the proposed language into chapter 514A, Hawaii Revised Statutes.

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

- (1) To provide that "... and all properties managed by that managing agent which are subject to this chapter." be deleted from page 1, lines 8 and 9.
- (2) To provide that "..., and all records of its managed projects shall be maintained and filed in the State of Hawaii." be added to page 2, line 16.
- (3) To provide that "knowingly" be added on page 2, line 23, between the words "or" and "misapplies".

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2281-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2281-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 327-84      Consumer Protection and Commerce on H.B. No. 2025-84

The purpose of this bill is to amend section 442-2, Hawaii Revised Statutes, by requiring applicants for licensure in this State to be graduates of colleges accredited by the Council on Chiropractic Education.

The Board of Chiropractic Examiners testified in support of this bill. Also, testifying in support of this bill was the Chairperson of the Peer Review Committee of the Hawaii State Chiropractic Association. The latter stated that any lower standards would allow improperly trained or even untrained chiropractors to establish their practice in Hawaii.

Strongly in opposition to this bill however were graduates of Sherman College of Straight Chiropractic. These graduates testified that by accepting only CCE accredited schools, many current Hawaii students at non-CCE schools would not be able to practice in Hawaii.

Your Committee finds in view of the testimonies offered that there will be a great injustice to current Hawaii students at non-CCE chiropractic colleges if the bill is passed unamended. Further, realizing the need for accreditation standards, your Committee has investigated the Straight Chiropractic Academic Standards Association (SCASA), and has found no discernible difference between the former and CCE. Accordingly, your Committee has amended the bill by allowing chiropractic licensure candidates to be graduates from either CCE or SCASA accredited schools.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2025-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2025-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 328-84      Judiciary on H.B. No. 1839-84

The purpose of this bill is to establish two parts to chapter 572 of the Hawaii Revised Statutes. Part I shall be called "Requisites, Procedures", which shall include sections 572-1 to 572-16. Part II shall be called "Property Contracts, Debts, and Liabilities", and shall include sections 510-1, 573-6, and 573-7. All sections shall be appropriately renumbered.

The bill also provides that section 573-2 shall be appropriately renumbered and amended so that spouses may contract with others or each other as provided in the section. The provision that a married woman may make contracts, oral and written, sealed and unsealed, with persons other than her husband, in the same manner as if she were sole, was deleted.

Your Committee has heard testimony from the Hawaii State Commission on the Status of Women, the Committee on the Status of Women of the City and County of

Honolulu, the Americans for a Democratic Action, the Honolulu Branch of the American Association of University Women and the Family Court in support of this bill.

Your Committee finds that although section 573-2 may be outdated and superfluous in light of the Constitution of the State of Hawaii which guarantees "(e)quality of rights under the law shall not be denied or abridged by the State on account of sex", that "(n)o person shall be deprived of life, liberty or property without due process of law", that "(n)o person shall be denied equal protection of the laws", and that "(n)o person shall be discriminated against in the exercise (of a person's civil rights) because of...sex", repealing the provision may be seen as prohibiting married women from making contracts with other persons. Accordingly, your Committee has amended this bill by removing gender-specific language and replacing words which apply to only women with words which apply to both genders.

Your Committee also has amended the bill by deleting "with others" as recommended by the Family Court because the stated provisions specifically refer to only wives and husbands and not with others.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1839-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1839-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 329-84      Judiciary on H.B. No. 2333-84

The purpose of this bill is to exempt members of military and naval forces of the State and of the United States and mail carriers from the prohibition against firearms except in the performance of their official duty.

Under present law, members of military and naval forces of the State and of the United States, mail carriers, and law enforcement officers are exempted from the prohibitions against firearms as provided under sections 134-6 to 134-9 of the Hawaii Revised Statutes. Presently, members of military and naval forces and mail carriers may carry firearms as police officers, sheriffs, and other law enforcement officials, even during their off-duty hours.

Your Committee has heard testimony from the Department of the Prosecuting Attorney of the City and County of Honolulu, the Police Department of the City and County of Honolulu, the Hawaii Federation of Sportsmen, and the Hawaii Rifle Association in support of this bill.

Your Committee finds that there is no public necessity for members of the armed forces and mail carriers to carry firearms in their off-duty hours and that those who do so must be prosecuted similarly as other persons who violate the prohibitions against firearms.

For purposes of clarity, your Committee has amended the language of the bill so that the exemptions apply only to those members of the armed forces of the State and of the United States and mail carriers whose duties require them to be armed while in the performance of respective duties, or while going to and from their respective places of duty. Your Committee also has made technical, nonsubstantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2333-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2333-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 330-84      Judiciary on H.B. No. 2000-84

The purpose of this bill is to enable the administrative judge of the circuit court, subject to the direction of the chief justice, to assign all tax appeal court matters to such judge or judges of the circuit court of the first circuit whenever appropriate.



Your Committee has heard testimony from the State Judiciary in support of this bill.

Under present law, one judge is designated to hear cases in the tax appeal court. Your Committee finds that integrating the tax appeal court into the master calendar system will expedite all cases by authorizing the assignment of tax appeal cases to any available circuit judge of the first circuit.

Your Committee has made technical, non-substantive changes to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2000-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2000-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 331-84      Judiciary on H.B. No. 1981-84

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

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

In reviewing the Committee of the Whole Reports of the 1978 Constitutional Convention, your Committee notes that the commission on legislative salary was established to remove the burden from the legislators to prescribe their salaries by their own action. The report states: "Experience has clearly demonstrated that legislators are reluctant to prescribe their own salaries....Taxpayers are often critical of pay increases for legislators, and legislators run the risk of voting themselves out of office when they approve their own pay raises. Where the context dictates that emotion rather than rational thought govern, it is unrealistic to expect the legislators to prescribe their own salaries."

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

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

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

Your Committee has amended the bill by replacing "salary plan" with "recommended salary" for purposes of clarity. Accordingly, your Committee has deleted the word "plan" in page 2, line 23, and when the word "plan" appears in page 3,

lines 1, 2, and 4 of the bill and by adding the phrase "by the commission on legislative salary" in page 2, line 14, of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1981-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1981-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 332-84      Judiciary on H.B. No. 1988-84

The purpose of this bill is to allow the county attorney or corporation counsel in paternity cases to represent the custodial parent, or the custodial parent's representative or parent if the custodial parent has died, or any agency authorized to seek the determination and establishment of paternity. This bill also provides that the representation by the county attorney or corporation counsel shall not extend to disputes relating to custody or visitation except for the initial establishment of custody and visitation rights.

Your Committee has received testimony from the Hawaii State Commission on the Status of Women, the Department of the Corporation Counsel of the City and County of Honolulu, and the Department of Social Service and Housing in support of this bill.

Your Committee finds that when the Uniform Parentage Act was enacted in 1975, the county attorney or corporation counsel was authorized to establish paternity and support enforcement and represented only the mother in these paternity cases. Your Committee finds that in order to eliminate the possibility of discrimination in providing legal services, the county attorney or corporation counsel shall represent the custodial parent, whether male or female.

In addition, the county attorney or corporation counsel may represent an agency authorized to seek the determination and establishment of paternity for purposes of support enforcement. Your Committee, however, emphasizes that an agency may make the application for services only after attempt was made to obtain the cooperation of the custodial parent.

Your Committee has amended the bill by deleting the semicolon after the word "minor" in the title of the section upon the recommendation of the Department of the Corporation Counsel of the City and County of Honolulu.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1988-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1988-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 333-84      Judiciary on H.B. No. 2001-84

The purpose of this bill is to provide that the supreme court and the intermediate appellate court shall be in continuous session and shall conduct all business as provided under sections 602-8 and 602-53 of the Hawaii Revised Statutes.

Your Committee has received testimony from the State Judiciary in support of this bill.

Your Committee finds that the supreme court and the intermediate court of appeals have been in continuous session for several years due to their large number of cases. The provisions of this bill will conform the present practice of both courts to law.

For purposes of clarity and conformance with the Ramseyer format, your Committee has made technical, non-substantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2001-84, as amended herein, and recommends that it pass Second Reading in

Signed by all members of the Committee.

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Your Committee has received testimony from law practitioners of this State.

Your Committee finds that litigation has become more complex with advances in modern technology, and litigants in serious personal injury, land, and commercial cases are faced with rising costs. Parties have to make serious financial sacrifices to properly prepare for trial or run the risk of losing the case.

It is your Committee's intent to give the court the power in the first instance to either allow or disallow costs. If costs are allowed by the court, the court has the further power to determine which costs are reasonably necessary under all the circumstances provided that taxation of such costs in such amounts would not have the effect of denying people access to the courts.

Accordingly, your Committee has amended the bill to include in-state and out-of-state travel expenses for witnesses and counsel, deposition originals and copies, and other incidental expenses such as duplication costs, long distance telephone charges, postage, and the like that are deemed by the court reasonably necessary to the prosecution or defense of the action.

Your Committee has further amended the bill by deleting "expert witness fees" as a taxable cost because these costs should remain the responsibility of the litigating parties.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1220, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1220, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 337-84      Judiciary on H.B. No. 2142-84

The purpose of this bill is to provide for the assessment of alcohol dependence for persons convicted of a second offense of driving while under the influence of alcohol in addition to other penalties under section 291-4 of the Hawaii Revised Statutes.

Under present law, a person convicted on a second offense of driving while under the influence of alcohol faces the penalties of prompt suspension of the driver's license and any one of either ten days or more of community service work, forty-eight consecutive hours or more of imprisonment, or a fine of not less than \$500 but not more than \$1,000.

Your Committee has received testimony from the Department of Transportation and a substance abuse counselor in support of this bill.

Your Committee finds that alcoholism is a very serious problem and that protecting the public from those persons who abuse alcohol and drive while under its influence is a major concern. Your Committee understands that the assessment of alcohol dependence and the need for treatment by a credentialed substance abuse counselor, as provided in section 321-193 and 321-196, is a viable approach to reach that part of the problem of driving while under the influence of alcohol.

Your Committee finds that the problem is so severe that the assessment of alcohol dependence should also be conducted after conviction of a third offense. Your Committee has amended the bill accordingly and removed the word "and" from page 3, line 9, added the new sub-paragraph (C) and renumbered sub-paragraph (C) to (D).

A court may determine pursuant to its discretion any recommendation for treatment upon the findings and advice of the substance abuse counselor. Any fee for assessment or treatment shall be at the offender's expense.

Your Committee has made technical, non-substantive amendments to correct punctuation errors.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2142-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2142-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

## SCRep. 338-84      Judiciary on H.B. No. 2610-84

The purpose of this bill is to repeal section 18-1, Hawaii Revised Statutes, which sets forth the reapportionment of the first and second congressional districts.

Under the present law, the first congressional district includes the seventh through seventeenth representative districts and precincts one, and four through eight of the eighteenth representative district. The second congressional district includes the first through the sixth and nineteenth through twenty-seventh representative districts and precincts two and three of the eighteenth representative district.

Article IV of the Hawaii State Constitution provides that the State Reapportionment Commission shall reapportion congressional districts when required by federal law or by Article IV of the state constitution. Your Committee finds that section 18-1 must be deleted to conform with the requirement of Article IV.

Your Committee has heard testimony from the Lieutenant Governor in support of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2610-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

## SCRep. 339-84      Judiciary on H.B. No. 2605-84

The purpose of this bill is to require that whenever the legislature enacts a bill proposing a constitutional amendment, the bill shall contain the exact question that is to be printed on the ballot and that the question shall be phrased to require a "yes" or "no" response by the voter.

Under present law, there is no provision as to who shall frame the questions concerning proposed state constitutional amendments, proposed county charter amendments, or proposed initiative or referendum issues that are to be printed on the ballot for the electorate to consider. This function is frequently determined by the county clerks and election officers.

Your Committee has heard testimony from the Association of Clerks and Election Officers of Hawaii and the League of Women Voters in support of this bill.

Your Committee finds that the wording of the ballot question should be more properly determined by the proposer of the proposed amendment. This procedure will also provide greater opportunity for the public to participate in the electoral process by allowing the public at the time of the public hearing on the proposed constitutional amendment an opportunity to comment on how the question should be worded that will be placed on the ballot.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2605-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

## SCRep. 340-84      Judiciary on H.B. No. 2604-84

The purpose of this bill is to enable any person registered to vote to cast an absentee ballot if the person is able to generally affirm that the person: will be absent from the island, county or district on election day; confined to a hospital; confined in a public institution for the care of indigents or aged person; confined in an institution for Hansen's disease; confined in a penal institution for a misdemeanor or as a pre-trial detainee; confined at home because of illness, or has a conflicting religious belief.

Under present law, any person registered to vote may cast an absentee ballot without indicating any reason for requesting such a ballot.

Your Committee has heard testimony from the Lieutenant Governor, the Association of Clerks and Election Officers of Hawaii, the League of Women Voters, Common Cause of Hawaii, the Committee to Save Nukoli and a private citizen in support of this bill.

Your Committee finds that there is a need to reinstitute the requirement that a registered voter desiring an absentee must declare that the voter has a reason for so doing. Although absentee voting is an essential system of our election system, your Committee feels that a voter must be encouraged to vote in person at the polling place on election day. A voter should have access to voting assistance officials who can provide technical assistance. The right to a secret ballot is preserved as well as safeguarded from potential abuse of the unrestrained use of absentee balloting.

Furthermore, your Committee finds that unrestricted use of the absentee voting has the functional equivalent of creating a voting by mail system. This would result in tremendous burdens and administrative problems for the election system in verifying, mailing, opening and counting absentee ballots for which the county clerks and election officers are not prepared.

Your Committee further finds that the constitutional rights of voters are protected because the bill will only require the voter to affirm in general to any of the listed conditions (reasons) for requesting an absentee ballot.

Your Committee Judiciary is in accord with the intent and purpose of H.B. No. 2604-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 341-84      Judiciary on H.B. No. 2603-84

The purpose of this bill is to enable the county clerk, if there is evidence indicating that voter's registration should be transferred, to notify the voter by first-class mail of the intent to transfer registration. If there is no response to the notification, the transfer shall be processed. A voter may contest the transfer by presenting evidence of actual residence at the old address to the county clerk or the board of registration.

The bill further provides deletion of gender specific language and other technical non-substantive amendments.

Your Committee has received testimony from the Lieutenant Governor and the Association of Clerks and Election Officers of Hawaii.

Under present law, in order to keep the general register up to date, the election office must notify voters of transfers in their registration not only by mail but also in the newspaper; and if a voter fails to respond, a second attempt must be made either by mail, telephone, or personal contact. Once a transfer is made, it must be published in the newspaper. This is a lengthy process which must be initiated no later than three months prior to the primary election.

Your Committee finds that this bill will facilitate the transfer of a voter's registration and ensure that a voter will be voting in the proper district.

Your Committee has amended the bill by making technical, non-substantive changes to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2603-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2603-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 342-84      Judiciary on H.B. No. 1892-84

The purpose of this bill is to create a new offense of impersonating a peace officer which shall be a class C felony. The bill provides that the offense is

committed if the person pretends to be a peace officer and engages in any conduct in that capacity with the intent to deceive anyone. It shall not be a defense that the office or position the person pretended to hold did not in fact exist.

The bill also provides that impersonating a peace officer shall not be included in the offense of impersonating a public servant which is a misdemeanor as provided in section 710-1016 of the Hawaii Revised Statutes.

Your Committee has received testimony from the Department of the Prosecuting Attorney of the City and County of Honolulu and the Police Department of the City and County of Honolulu in support of this bill.

Your Committee is concerned over the alarming increase of peace officer impersonators who prey on women motorists at night and over the use of false pretense of authority as a prelude to the commission of other crimes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1892-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 343-84      Health on H.B. No. 1658-84

The purpose of this bill is to furnish an itemized bill detailing each service or good provided to each patient receiving their services.

Your Committee finds that the provisions of the bill in its present form would be difficult to implement. The Hospital Association of Hawaii has testified that presently, an itemized bill is routinely sent only to primary payers, e.g., Medicaid, Medicare, a private insurer or a patient without insurance coverage. The cost of additional copies for each patient, as proposed under this bill, could be significant, as demonstrated by a Hospital Association of Hawaii exhibit of a 39-page itemized bill that was submitted to Medicaid.

Your Committee has heard testimony from the Department of Health regarding the limitations of the flat-fee billing system used in County/State hospitals. Your Committee finds that the State would incur considerable costs for either the immediate conversion to an itemized billing system or for the manual labor required to itemize each County/State hospital bill.

Despite the cost considerations and other difficulties inherent to the furnishing of itemized hospital bills, your Committee commends the intent of this measure as an attempt to heighten the awareness of consumers of the problem of spiralling health care costs in this State.

Since those private hospitals with itemized billing capability already provide itemized bills to patients on request, your Committee has amended this bill by replacing the initially proposed requirement for all health care facilities to furnish patients with itemized bills with new language requiring only those health care facilities already preparing itemized bills to inform their patients that an itemized bill is available to them upon request.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1658-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1658-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 344-84      Health on H.B. No. 1737-84

The purpose of this bill is to allow the Department of Health to adopt changes made to pesticide tolerances and action levels for food contaminants by the federal government without regard to the procedural requirements of Chapter 91, Hawaii Revised Statutes: to give the Department of Health authority to require a person to keep records relating to the manufacture, distribution, or sale of various consumer goods; and to clarify that penalties provided in Chapters 322 and 328,



Hawaii Revised Statutes, may be imposed by the director of Health and not the courts.

Your Committee finds that pesticide tolerances and action levels for food contaminants are continuously being revised by the federal government pursuant to 40 Code of Federal Regulations Part 180, "Tolerances and Exemptions from Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities", and the United States Food and Drug Administration Compliance Policy Guides. Since revisions may occur weekly, it is not feasible for the Department of Health to adopt each revision pursuant to Chapter 91, Administrative Procedure, Hawaii Revised Statutes. Your Committee finds that a delay in adopting revised tolerances or action levels may have an adverse impact on the health and welfare of the consumer. Thus, to facilitate the protection of the public's health and welfare, the Department should be allowed to adopt new federal standards without regard to the procedural requirements of Chapter 91.

Presently, the Department of Health has the authority to demand records relating to the manufacture, distribution, and sale of consumer commodities, but lacks the authority to require that such records be kept. The Department has testified to the need for this authority in instances of contamination of a commodity. Your Committee finds that a record-keeping requirement is essential in ensuring that information contained in manufacturing records is made available to determine the cause of a contamination, to prevent future contamination, and to enable the effective recall of a contaminated commodity.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1737-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 345-84      Health on H.B. No. 1744-84

The purpose of this bill is to clarify statutory language relating to the responsibilities of the Department of Health in providing for programs servicing handicapped children, and to eliminate references to outdated federal statutes, rules, and regulations under which federal financial assistance for such programs may be obtained.

Your Committee finds that this bill deletes an existing citation of federal statutes that have been superceded by the institution of federal block grants. Specifically, federal amendments were made in 1981 involving the Title V, Maternal and Child Health Services Block Grant program. Rather than, continuing to cite in state law a particular piece of federal legislation, which may itself change, the general terminology of "applicable federal legislation" has been proposed under this bill to substitute for the current citation. Other proposed amendments update this section to the current language style used in the Hawaii Revised Statutes.

Your Committee finds that the changes proposed under this bill are minor in nature, and will make it easier for the Department of Health and the State to respond to changes made in enabling the legislation for federal funding of services for handicapped children.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1744-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 346-84      Health on H.B. No. 2561-84

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

Your Committee finds that following a recent Department-initiated recall of muffin and cake mixes contaminated with the pesticide ethylene dibromide (EDB), a national food conglomerate initiated litigation which questioned the Director of Health's authority to withhold a product from the market because of suspected

health hazards. Your Committee finds that if the courts determine that the Director lacks this authority, the Director will be unable to protect the State from products known or suspected of being contaminated with a potentially harmful substance.

Your Committee has heard testimony from the Hawaii Food Industry Association regarding the heavy financial burden of product embargoes, detentions, and recalls on local food processors, which may include bankruptcy. Your Committee has therefore amended the bill to adopt the recommendation of the Hawaii Food Industry Association that new language be inserted to provide for a 48-hour period during which the Department of Health must either prove the existence of a health hazard or rescind its action on the product in question.

Your Committee also made a technical, nonsubstantive amendment to improve clarity.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2561-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2561-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 347-84      Health and Judiciary on H.B. No. 1729-84

The purpose of this bill is to repeal the statutory requirement that the Attorney General represent any person seeking to obtain the involuntary civil commitment for treatment of a mentally ill or substance abusing person. The bill also extends the time for filing a commitment or psychiatric evaluation petition from noon of the day following the end of a 48-hour emergency hospitalization, if ending on a weekend or holiday, to the end of that business day. Section 334-60, HRS, is also reorganized into seven new sections.

This bill results, in major part, from concern that a privately initiated action for the civil commitment of a mentally ill or substance abusing person may be inadvertently given tacit State endorsement through the mandated representation of the petitioner by the Attorney General. However, your Committees received testimony from the Family Court that the present systems works in a satisfactory manner and provides suitable checks and balances to safeguard the rights of all parties involved. The court also testified that there appears to be no other suitable agency or individual with the resources and manpower to aid the petitioner and present his or her case in court. Accordingly, your Committees have amended Section 3 of the bill by reinserting the pertinent provisions of the Hawaii Revised Statutes which mandate the Attorney General to represent petitioners seeking the involuntary civil commitment of mentally ill or substance abusing persons.

Your Committees have also made technical, nonsubstantive amendments to the bill.

Your Committees on Health and Judiciary are in accord with the intent and purpose of H.B. No. 1729-84, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1729-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 348-84      Health and Judiciary on H.B. No. 2233-84

The purpose of this bill is to clarify the definition of "dangerous to self", a term which is used as one of the criteria for involuntary civil commitment for mental illness or substance abuse.

Your Committees heard testimony from the Family Court that the definition of "dangerous to self", as it is currently worded, is difficult to interpret and is resistant to consistent interpretation by judges of the Family Court. In response to this situation, this bill provides a greater uniformity of interpretation of one of the criterion for involuntary hospitalization among judges of the Family Court. The bill does not change the involuntary civil commitment law. Instead, it specifies and makes more explicit some of the guidelines through which Family

Court judges determine whether a person is, in fact, dangerous to himself or herself and thus in need of involuntary inpatient treatment.

Your Committees on Health and Judiciary are in accord with the intent and purpose of H.B. No. 2233-84 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 349-84      Health and Consumer Protection and Commerce on H.B. No.  
1781-84

The purpose of this bill is threefold: to clarify the statutory definition of the term, "acupuncture"; to allow visiting licensed acupuncturists to conduct demonstrations or lectures by permit; and to restrict medical doctors, osteopaths, and dentists from teaching or tutoring acupuncture unless they are licensed acupuncturists.

Your Committees find that there is confusion with the term, "acupuncture" and its use by persons in other medically-related practices. The Board of Acupuncture, Department of Commerce and Consumer Affairs, has testified that the re-definition proposed by this bill would clarify the scope of practice and allow licensed acupuncturists to practice the complete methods of treatment within their practice. Also, the clarified definition will protect the public by enabling them to better identify and utilize a properly trained acupuncturist.

The Board of Acupuncture has testified to the need for visiting acupuncture lecturers to demonstrate and instruct at schools and before associations by permit. Your Committees agree that although these lecturers may not be licensed in this State, the lecturers will be subject to Board control through the permit process.

Your Committees further find that although medical doctors, osteopaths, and dentists are allowed to practice acupuncture without licenses, in the interest of protecting students, they should not be permitted to teach or tutor acupuncture unless specifically licensed in acupuncture. This bill therefore provides this restriction.

Your Committees find that presently, the Board of Acupuncture is indiscriminately recognizing some schools of acupuncture and not others, an unacceptable situation that could be remedied with a requirement that the Board accredit schools and private tutorships. Accordingly, for the purposes of consistent administration, your Committees have amended the bill by adding new material to Section 436D-6, Hawaii Revised Statutes, to require the Board of Acupuncture to accredit acupuncture schools and private tutorships. A conforming amendment has been made to Section 436D-4.

Upon further consideration, your Committees have also amended Section 436D-4, Hawaii Revised Statutes, to remove all male gender references from provisions relating to the requirements for acupuncture examinations. A technical, non-substantive amendment was also made.

Your Committees on Health and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 1781-84, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1781-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 350-84      Energy, Ecology and Environmental Protection and Water, Land  
Use, Development and Hawaiian Affairs on H.B. No. 1711-84

The purpose of this bill is to allow the Hawaii Natural Energy Laboratory to expand its activities from current research and development to include commercial activities.

This bill seeks to enable projects currently progressing at the research level at the Natural Energy Laboratory of Hawaii to be expanded into a commercial scale at the Laboratory. This would facilitate the difficult transition of research into commercialization, while creating income for the State.

Your Committees are in agreement that due to the excellent natural resources of the Natural Energy Institute, the potential benefits of increasing the scale of unique work being done at the Laboratory from research to commercial use is great.

Concern was raised regarding the wording of the bill to include commercial development of aquaculture offshore of NELH. The Chairmen of the Departments of Planning and Economic Development and Land and Natural Resources both agreed that if any development did occur, it would still be under all laws, rules and regulations, that all state lands are subject to, since NELH, including the lands and facilities, are owned by the State.

Your Committees have amended this bill to alleviate any ambiguity regarding what areas of NELH may be commercialized by omitting the following sentence in Section 1, Subsection 227-1. "For the purpose of such activities, the outdoor research facility shall include the land at Ke-Ahole Point, the waters offshore, and the structures constructed or erected thereon or therein, as determined to be required by the managing board of the Natural Energy Laboratory of Hawaii." It was agreed upon by both Committees that this sentence is unnecessary.

Your Committees on Energy, Ecology and Environmental Protection and Water Land Use Development and Hawaiian Affairs are in accord with the intent and purpose of H.B. No. 1711-84 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1711-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 351-84      Public Employment and Government Operations on H.B.  
No. 1724-84

The purpose of this bill is to permit the Department of Accounting and General Services to adopt rules and regulations to provide for the orderly use of State buildings and to facilitate uninterrupted public service by the tenant agencies.

According to testimony, the Department has encountered problems dealing with groups demonstrating in or around state buildings, and vagrants sleeping in the buildings or grounds at night.

Under present law Section 26-6 does not provide the Department with the authority to adopt rules and regulations necessary for the management of state buildings.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of H.B. No. 1724-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 352-84      Finance on H.B. No. 1871-84

The purpose of this bill is to repeal HRS section 248-6 which provides that the various counties shall receive state grants-in-aid at least equal to the amounts received pursuant to that section that the respective counties received for the fiscal year 1971-1972.

The grants-in-aid program under HRS section 248-6 currently costs the State approximately \$19 million annually with about \$8 million granted to Honolulu, \$3 million to Maui, \$4 million to Hawaii and \$3 million to Kauai. The original rationale for this grants-in-aid program was based on the fact that policymaking for all taxes levied in Hawaii was vested in the State. This situation no longer exists. As a result of the 1978 Constitutional Convention, policymaking for the real property tax is now entirely vested in the counties. This includes the power to set the tax rates, to determine how property is to be assessed and classified, and to levy and collect the tax.

Since the counties now have unlimited power over the real property tax, there appears little justification for maintaining the current grants-in-aid system which in of itself is no longer based on the needs of a particular county. Further, with

the current grants program, the relationship between those policymakers who must raise the taxes and those who spend those dollars no longer exists.

By repealing the grants program, the legislature should have no apprehension in granting financial assistance to the counties based on their relative "fiscal capacity and relative fiscal need." Each county's financial demands and the resources available through the property tax can now be weighed case-by-case on a regular and timely basis. Further, just as much as each state program must compete with other programs for the limited state dollars, providing justification for the level being requested, the counties would also have to provide proper justification for requesting assistance from the State.

Your Committee has amended this bill to change the effective date of the repeal to July 1, 1985.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1871-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1871-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 353-84 Finance on H.B. No. 2438-84

The purpose of this bill is to add a new section to the Hawaii Revised Statutes to provide that the department of taxation shall not use the worldwide method of unitary taxation, and that it is the intent of the legislature that the department of taxation continue to apply the income tax law and the multistate tax compact as it had before the worldwide unitary tax concept was upheld by the United States Supreme Court.

This legislation is a result of the decision of the United States Supreme Court on June 27, 1983 in Container Corporation of America v. The Franchise Tax Board that the worldwide unitary method of determining income for tax purposes was acceptable. This case set off an uproar among the states and many foreign countries. The states saw this methodology as a quick way to gain large revenues. The foreign countries saw this method as violating tax treaties and double taxing foreign income.

The concept itself is not a tax, but a method of apportioning the income of a company that may be doing business in more than one state and county. The apportionment theory can be traced to the Multistate Tax Compact of which Hawaii is a member (chapter 255, Hawaii Revised Statutes) and the Uniform Division of Income for Tax Purposes Act (sections 235-21 to 235-39, Hawaii Revised Statutes).

The apportionment concept provides that although it is hard to determine exactly what income should be taxed by a state the use of the following formula will result in a relative accurate determination of income.

$$\frac{\text{In-State property}}{\text{Total property}} \times \frac{\text{In-State payroll}}{\text{Total payroll}} \times \frac{\text{In-State sales}}{\text{Total sales}} \times \text{Total corporate income} = \text{Income taxable by the State}$$

Because the formula uses total sales it is obvious that use of the formula may lead to greater income tax revenues to a state in worldwide economic good times while in worldwide economic bad times the income tax revenues to the state will be reduced.

Florida immediately adopted the worldwide unitary tax concept and many states initiated it or reviewed the manner in which it was working. Florida was informed by many large corporations that prior plans to enter Florida were being canceled while other large resident corporations reviewed the possibility of leaving Florida. Florida is presently closely considering repealing the unitary methodology. Illinois has been besieged by applications for income tax refunds by multinational corporations, and the Governor of Indiana issued the following statement:

Indiana is known for its favorable business climate. I am much more interested in improving that climate than I am in broadening our tax base. I believe the adoption of a policy of requiring the combined reporting method for a unitary business would be extremely detrimental to Indiana's future economic growth.

The executive branch in Hawaii has given business conflicting signals. Shortly after the Container case was decided the Department of Taxation indicated that it would be adopting rules to provide for the unitary method of taxing multinational corporations. Several months after that statement the Governor indicated that the State would not be adopting the worldwide unitary methodology. After the Governor's statement, however, the Department of Taxation had a public hearing on rules which would have implemented the worldwide unitary methodology.

At this point the Committee notes that the Multistate Tax Compact and the Uniform Division of Income for Tax Purposes law has been on the books from 1968 and 1967, respectively, and the time is long past due for the Department of Taxation to adopt the necessary rules under those laws. The rules once adopted, of course, should conform to the provisions of House Bill No. 2438-84.

As the bill points out Hawaii has made many statutory statements encouraging foreign investment. Your Committee agrees that such a statement regarding the adoption of the worldwide unitary method of determining income for tax purposes also must be made. Your Committee notes that the Department of Taxation is in favor of this bill but objects to the fact that the department is bound not to use this method but the taxpayer is not similarly bound. Your Committee agrees with the department and has amended the bill to provide that taxpayers shall not be allowed to use the unitary method as the department shall not.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2438-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2438-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 354-84      Finance on H.B. No. 1185

The purpose of this bill is to establish an office of the public guardian in the judiciary.

Your Committee finds that there is a serious need to provide public guardians for seriously incapacitated people who are unable to take care of themselves and are unable to make rational decisions. These seriously incapacitated people generally are elderly and without family or friends.

Public guardians are provided by law in seven states: Alaska, California, Delaware, Illinois, Missouri, Nevada, and Oregon. These states allow either a public officer or a private individual to be appointed as a public guardian for incapacitated adults when there are no other suitable persons available.

Your Committee supports the establishment of a public guardianship agency. The public guardian is to be appointed by the chief justice. The office of the public guardian will:

- (1) provide a guardian, limited guardian, testamentary guardian, or temporary guardian for the seriously incapacitated person;
- (2) have the powers and responsibilities of a private guardian;
- (3) assist the family court as necessary in proceedings for the appointment of guardian of a person and in the supervision of persons, corporations, or agencies appointed as guardians of the person;
- (4) aid those seeking appointment as a guardian for an incapacitated person and provide advice, information, and guidance to assist guardians in the discharge of their duties;
- (5) assist without court appointment as guardian any individuals who request assistance or to aid those interested in maintaining the independence of an incapacitated person; and
- (6) inform the public on guardianship and encourage able and willing persons to serve as guardian of the person.

Funds for the purchase of services for this program shall be included in the judiciary budget.

Your Committee has amended this bill to provide that fees received by the public guardian shall be deposited in the state general fund.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1185, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1185, H.D. 1.

Signed by all members of the Committee.

SCRep. 355-84 Finance on H.B. No. 1739-84

The purpose of this bill is to allow collection agencies, in collecting moneys from emergency ambulance service accounts written off as bad debts, to retain a portion of such receipts as their fee for services rendered.

Presently, the department of health is constrained in its administration of emergency ambulance service accounts receivable because all moneys collected through collection agencies must now be deposited into the state general fund. Collection agency fees are then paid out of the departmental budget.

Your Committee finds that this bill provides a more efficient system of collection and payment which will maximize the collection of bad debt accounts.

Your Committee has amended line 10 of this bill by adding the phrase "for bad debt accounts" after the word "services". By this amendment, your Committee intends to make it clear that no special fund is being created and that only collection agency fees for the collection of "bad debt accounts" shall be retained; the balance of the "bad debt" collected shall be deposited into the state general fund.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1739-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1739-84, H.D. 1.

Signed by all members of the Committee.

SCRep. 356-84 Finance on H.B. No. 1741-84

The purpose of this bill is to allow the department of health to contract for needed mental health services with private, for-profit corporations as well as with private, nonprofit corporations.

Presently, HRS section 334-8 allows the director of health to enter into agreements for mental health services only with private, nonprofit corporations; whereas, HRS section 42-2 allows the contracting of services with both for-profit and nonprofit corporations. In the interest of consistency and administrative flexibility, your Committee is in agreement that section 334-8 should conform to section 42-2.

Your Committee finds that this bill will not affect the department's preference for the services of nonprofit groups. Services of for-profit corporations would be sought only when the services of nonprofit corporations are not available.

Your Committee has amended this bill by making a single stylistic change.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1741-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1741-84, H.D. 1.

Signed by all members of the Committee except Representative Levin.

SCRep. 357-84 Finance on H.B. No. 1751-84

As received, the purpose of this bill was: 1) to authorize the Hawaii Career Information Delivery System program (Career Kokua) of the Department of Labor



and Industrial Relations (DLIR) to make agreements and contracts with public and private entities within and without the State of Hawaii to provide occupational and career information as well as related technical assistance and personal services on a "cost reimbursement" basis and 2) to establish a special fund in which such "cost reimbursements" would be deposited. The special fund would be administered solely by the DLIR and would be deemed to have been appropriated to the use and for the sharing of information or technical assistance for such purpose, in essence deeming the special fund to be a continuing appropriation.

Your Committee finds that Career Kokua has already "tied up" approximately \$48,000 because it does not have the statutory authority to receive and expend outside sources of funds.

Your Committee further finds that Career Kokua appears to have taken actions in excess of its statutory authority. Your Committee does not agree that the solution to the problem is to establish a special fund enabling the program to receive and expend such funds independently of the legislature, with the funds to be deemed a continuing appropriation for the purpose of providing for the sharing of information or technical assistance for such purpose.

However, your Committee is in agreement with the DLIR that Career Kokua has career, labor market, occupational, and educational information, which would be of use to states, territories, and other public and private entities and which could be delivered to them if costs were reimbursed.

Accordingly, your Committee has amended H.B. No. 1751-84 to allow the DLIR to enter into agreements and contracts with other public and private entities to provide occupational and educational information on a "cost reimbursement" basis, but have such "cost reimbursements" deposited into the state general fund. The bill is further amended to clarify language to conform to the intent of the bill as amended.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1751-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1751-84, H.D. 1.

Signed by all members of the Committee.

SCRep. 358-84      Finance on H.B. No. 1794-84

The purpose of this bill is to authorize the department of social services and housing (DSSH) to charge non-welfare clients fees for legal services provided to establish and enforce child support obligations and to establish paternity.

The Child Support Enforcement Program is a federal/state program which was created for the purpose of enforcing the support obligations owed by absent parents to their children, locating absent parents, establishing paternity, and obtaining child support. This service is federally mandated and is available to any custodial parent or his/her personal representative.

Your Committee finds that this bill authorizes the DSSH to charge fees for services provided to individuals not receiving Aid to Families with Dependent Children (AFDC) and who have completed an application for child support services. Currently, these services are being provided free of charge to individuals not receiving AFDC who complete an application.

Currently, 24 states charge application fees and 12 states charge recovery costs.

Your Committee agrees that this bill will reduce administrative cost by allowing the department of social services and housing to charge a minimal application fee.

Your Committee has rewritten this bill to clarify its language; no substantive changes have been made.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1794-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1794-84, H.D. 1.

Signed by all members of the Committee.

SCRep. 359-84 Finance on H.B. No. 1796-84

The purpose of this bill is to provide that the expenses and fees incurred by the Hawaii Housing Authority or its designee in arbitrating lease rent renegotiations pursuant to HRS chapter 519 shall be paid equally by both the lessees and lessors.

Under current law, in the event that parties to a lease are unable to achieve an agreement under any lease rent reopening provision, the Hawaii Housing Authority or its designee shall arbitrate, and its findings shall be binding and conclusive on both parties. However, the law does not specify which party or parties shall bear the costs of such arbitration. The absence of specific language to address this problem may be misconstrued to mean that the State should bear the burden of all expenses incurred in lease rent arbitration proceedings. Therefore, your Committee finds that apportioning the financial burden of lease rent arbitration proceedings equally between lessees and lessors constitutes an equitable and necessary resolution of the issue.

Your Committee has amended H.B. No. 1796-84, H.D. 1, by adding to both subsections 519-2(b) and 519-3(b) the requirement that a deposit be collected from the lessees and lessors, and that expenses and fees be paid for on a monthly basis. Your Committee has also added provisions allowing for penalties to be incurred by both lessors and lessees in the event they fail to comply with the requirements of subsections 519-2(b) and 519-3(b) as amended by this bill. This bill was further amended by clarifying the allocation of the costs of arbitration in the event of more than one lessor or lessee to an arbitration proceeding. A single typographical error was also corrected.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1796-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1796-84, H.D. 2.

Signed by all members of the Committee.

SCRep. 360-84 Finance on H.B. No. 1797-84

The purpose of this bill would enable the Hawaii Housing Authority (HHA) to use funds from the Fee Simple Revolving Fund, created under HRS section 516-44, for lease rent renegotiation activities under HRS Chapter 519.

Your Committee finds that, while HRS Chapter 519 provides that the authority or its designee shall arbitrate in the event that the parties to a lease are unable to agree under any reopening provision, the law does not provide for a source of funds to enable the authority to cover administrative costs related to such an arbitration. However, HRS Chapter 516, which covers the leasehold to fee simple conversion process, does provide a "Fee Simple Residential Revolving Fund" for the administration of that conversion process. Since there are no general fund appropriations for either of these programs and both HRS Chapters 516 and 519 deal with lease-related issues, this bill would provide the Hawaii Housing Authority with a source of administrative funds to carry out the lease rent renegotiation activities set forth in HRS Chapter 519.

This bill addresses only HHA's administrative expenses.

Your Committee has corrected one typographical error in this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1797-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1797-84, H.D. 1.

Signed by all members of the Committee.

SCRep. 361-84 Finance on H.B. No. 1798-84

The purpose of this bill is to allow for the charging of fees for child support enforcement services to non-welfare clients.

This bill amends HRS section 576-25 of the Uniform Reciprocal Enforcement of Support Act, allowing fees to be charged to plaintiffs who are otherwise unable to

hire private counsel. The Corporation Counsel, Family Support Division, is directed to represent the plaintiffs in these cases.

Your Committee finds that, currently, the plaintiffs are referred to the Family Support Division because of their inability to pay for a private attorney. However, your Committee agrees that a fee system based upon ability to pay is an equitable means of allocating these costs among the users of these services.

Your Committee has amended this bill to correct certain typographical and drafting errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1798-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1798-84, H.D. 1.

Signed by all members of the Committee.

SCRep. 362-84 Finance on H.B. No. 1800-84

The purpose of this bill is to increase by \$400 million the amount of tax-exempt mortgage revenue bonds which may be issued by the Hawaii Housing Authority (HHA) under HRS chapter 356.

The current authorized limit is \$475 million. This increase will enable the HHA to continue the state tax exempt revenue bond program, known as Hula Mae, for at least another two and one-half years, contingent upon congressional extension of authorization to states to issue tax exempt housing bonds.

Your Committee finds that the program has been a valuable tool in providing home financing assistance to the first-time home buyer. To date, \$371 million of the current \$475 million authorized for mortgage revenue bonds has been issued and some 2,775 families have become home buyers.

Your Committee has amended this bill by adding reference to the amending act of the 1979 law and making a single typographical change.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1800-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1800-84, H.D. 1.

Signed by all members of the Committee.

SCRep. 363-84 Finance on H.B. No. 1950-84

The purpose of this bill is to: (1) increase the number of members of the Criminal Injuries Compensation Commission from three to five members and change the rate of compensation to members, (2) increase the number of members that constitute a quorum from two to three members, (3) require the commission to record by electronic means the hearings of each applicant and to retain the recording until the applicant's right to appeal to the Hawaii Supreme Court expires, or until the completion of the proceedings before the Hawaii Supreme Court if the applicant appeals the commission's decision, (4) provide that the applicant has the right to appeal an order or decision of the commission on the ground that the order or decision was arbitrary and capricious, (5) allow payment of compensation to a relative of a victim if such relative has incurred expenses as a result of the victim's injury and death, and (6) repeal the provision prohibiting an award of compensation to a victim except for expenses actually and reasonably incurred as a result of the injury or death of the victim if the victim is a relative of the offender or was living with the offender as a spouse or member of the offender's household.

Your Committee finds that enlarging the membership of the commission is necessary to broaden the commission's perspective by increasing community members' input. Recordation of the commission's hearings will provide both the commission and the applicant an accurate record of what transpired during a hearing in the event of an appeal.

Your Committee also finds that the standard of arbitrary and capricious is more objective and more in accordance with standards used by other state boards and commissions.

This bill will expand the class of persons to whom the commission may order the payment if such person has incurred expenses as a result of the victim's injury and death by allowing such payment to a relative rather than to a parent of an adult deceased victim or to an adult son or daughter of a deceased victim. Lastly, this bill repeals the provision prohibiting the award of compensation to a victim except for expenses actually and reasonably incurred as a result of the injury or death of the victim if the victim is a relative of the offender or was living with the offender as spouse or member of the offender's household.

Your Committee has amended this bill to correct errors in grammar and to make minor style changes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1950-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1950-84, H.D. 2.

Signed by all members of the Committee except Representative Gaulty.

SCRep. 364-84      Finance on H.B. No. 162

The purpose of this bill is to grant immunity from civil liability to members of state boards and commissions who serve without compensation.

Your Committee has received testimony that claims for money damages for injuries or losses allegedly suffered as a result of board or commission members' execution of their official duties were being brought against members in their personal capacity, with increasing frequency. As a consequence, members have had to endure the stresses and uncertainties which inure against defendants in any lawsuit; in a few instances members have had judgments rendered against them personally.

This bill amends HRS chapter 26 by adding a new section which offers absolute immunity to board and commission members at the expense of individuals who may incur injury or loss as a result of board or commission action; in those instances where immunity cannot be conferred and liability is possible, indemnification insures board and commission members against having to personally satisfy any judgment. To mitigate against the expenses inherent in defending in a civil action, the bill provides for representation by the department of the attorney general. The bill establishes minimum prerequisites which all board and commission members must satisfy before they may secure the benefits of immunity, indemnification, or legal representation. Immunity, indemnification, or representation is not available to a member who acts with malicious intent, in bad faith, or in a wilful or wanton manner.

Your Committee has amended the definition of "member" by excluding (1) any person on a board or commission who has land trust obligations and (2) any person elected to a board or commission. Further, certain drafting errors have been corrected.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 162, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 162, H.D. 2.

Signed by all members of the Committee except Representative Levin.

SCRep. 365-84      Finance on H.B. No. 1746-84

The purpose of this bill is to revise the basic contribution rate schedule to provide various rate schedules at rate differentials of 0.6 per cent to each level of tax rate above 3.0 per cent and increase the maximum contribution tax rate from the present 4.5 per cent to 5.4 per cent effective January 1, 1985, and thereafter; increase the standard rate from 3.0 per cent to 5.4 per cent effective January 1, 1985; set the basic contribution tax rate for new or newly covered employers at 3.6 per cent; assign a tax rate of 3.6 per cent to new or newly covered successor employers when two or more predecessors have different

contribution rates; and to charge extended benefits paid to claimants directly to an employer's account rather than the Unemployment Insurance (UI) Trust Fund by amending HRS section 383-68(c), 383-66(1), 383-66(2), 383-66(5), and 383-65(e), respectively.

Under the current law, the maximum contribution rate is 4.5 per cent, the standard rate is 3.0 per cent, new employers are assessed at the rate of 4.5 per cent and one half of extended benefits paid to claimants are charged to the UI Trust Fund. Inasmuch as the federal government amended the Federal Unemployment Tax Act (FUTA) under Public Law 97-248 to increase the federal unemployment tax on wages paid to employers effective January 1, 1985, from the present 3.5 per cent to 6.2 per cent with tax credit allowable to employers on taxes paid to the State from the present 2.7 per cent to 5.4 per cent, Hawaii and all other states whose maximum tax rate is below 5.4 per cent are forced to raise their maximum tax rate to at least 5.4 per cent. If the maximum tax rate is not increased, Hawaii employers will not be able to receive the maximum tax credit allowable under FUTA, which means in effect that employers will be required to pay more in federal unemployment tax.

In addition to raising the maximum tax rate to 5.4 per cent, this bill will establish various rate schedules at a rate differential of 0.6 per cent to each level of the tax rate above 3.0 per cent. This is in keeping with the provisions of section 3301(a)(1) of FUTA which requires that a state's experience rating system for rate differentials between the minimum rate and maximum rate reasonably reflects the variation of the experience of individual employers with respect to employment or other factors directly related to unemployment risks.

Further, this bill increases the standard rate from 3.0 per cent to 5.4 per cent beginning January 1, 1985, which conforms to the FUTA definition.

This bill also proposes a basic contribution tax rate for new or newly covered employers of 3.6 per cent. This is the maximum rate for positive reserve employers under the proposed revised schedule. Your Committee finds that it is fairer to assign a positive rate to these employers rather than a rate assigned to negative-rated employers.

In HRS section 383-66(5), where two or more predecessors have different contribution rates, the successor as used in this sentence refers to new or newly covered employers. Since such employers are to be assigned a rate of 3.6 per cent under this proposal, your Committee finds that it is necessary that the word "maximum" be deleted from this sentence. If the deletion is not made, new or newly covered employers under this paragraph will be assigned 5.4 per cent.

Finally, HRS section 383-65 has been amended to charge employers rather than the UI Trust Fund on extended benefits paid to claimants to curtail "fictitious reserves". Your Committee finds that a large amount of fictitious reserves may result in premature triggering of lower tax rates which may jeopardize the program's solvency.

Your Committee has amended this bill by adding HRS subsections 383-68(a) and (b) and making other stylistic changes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1746-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1746-84, H.D. 2.

Signed by all members of the Committee.

SCRep. 366-84      Finance on H.B. No. 1911-84

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 1984-1985, for the purchase of small tools and equipment and for overtime payment relating to inmate supervision.

The community service program provides not only a service to the community, but also provides meaningful activity for the inmates. The appropriation would enable the department of general services and housing to continue and expand this program.

Your Committee has made several nonsubstantive technical and stylistic amendments to this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1911-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1911-84, H.D. 2.

Signed by all members of the Committee.

SCRep. 367-84      Finance on H.B. No. 2192-84

The purpose of this bill is to allow the department of Hawaiian home lands to develop multi-family dwelling units on its residential lands.

Current statutes restrict grants of residential homestead leases by the department of Hawaiian home lands only in the form of subdivided lots. According to testimony, the department needs greater flexibility to explore alternative development models in order to hasten the process of grants of these homestead awards. The bill would diversify the types of residential units to be made available to potential lessees, accelerate the rate of the grant awards, and reduce the cost of land development and home ownership.

Your Committee has made several nonsubstantive technical and stylistic amendments to this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2192-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2192-84, H.D. 1.

Signed by all members of the Committee.

SCRep. 368-84      Finance on H.B. No. 2193-84

The purpose of this bill is to allow the department of Hawaiian home lands the option to enter into contracts for the maintenance of its water systems and for the billing and collecting of water fees from consumers.

This bill grants authority to the department of Hawaiian home lands to contract for services of local water supply departments or qualified private entities in performing tasks related to water system maintenance and customer servicing. Your Committee is in agreement that the bill would reduce costs to the department's beneficiaries and to the State, without sacrifice of safety and efficiency.

Your Committee has made several nonsubstantive technical and stylistic amendments to this bill.

Your Committee on Finance is in accord with the intent and purpose H.B. No. 2193-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2193-84, H.D. 1.

Signed by all members of the Committee.

SCRep. 369-84      Finance on H.B. No. 2195-84

The purpose of this bill is to allow the department of Hawaiian home lands to make licenses for mercantile establishments available to all native Hawaiians by removing existing specification that licenses be granted only to current homestead lessees.

Current statutes specify that mercantile licenses for uses such as theaters, service stations, markets, and stores may be issued only to current lessees of department of Hawaiian home lands homesteads, thereby excluding native Hawaiians who are not lessees. This bill would bestow benefits upon as many native Hawaiians as possible, and not only upon those who are lessees.

Your Committee has amended this bill to correct certain typographic, technical, and stylistic errors; no substantive changes have been made.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2195-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2195-84, H.D. 1.

Signed by all members of the Committee.

SCRep. 370-84 Finance on H.B. No. 1920-84

The purpose of this bill is to appropriate funds for the repair and maintenance of public schools.

The department of accounting and general services, in conjunction with the department of education, has identified a total of \$40 million of repair and maintenance work in the department of education for the 1983-85 biennium. The total BUF 101 appropriation for all of the State's repair and maintenance projects in the 1983-85 biennium is \$3.8 million. Consequently, the department of education's share would be only a fraction of its needs.

Your Committee agrees that an attractive school environment positively complements learning and will promote a positive attitude in students who will then take more pride in their schools and themselves.

Your Committee has amended this bill by setting the amount of the appropriation for the statewide repair and maintenance of schools at \$5 million. Your Committee has also made a nonsubstantive, technical amendment to this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1920-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1920-84, H.D. 2.

Signed by all members of the Committee.

SCRep. 371-84 Finance on H.B. No. 1754-84

The purposes of this bill are: 1) to restore subparagraphs (11) and (12) of HRS section 171-6, which were inadvertently deleted by Act 170, SLH 1983 and 2) to add a new subparagraph to HRS section 171-6 to enable the board of land and natural resources to set, charge, and collect reasonable fines for violation of HRS chapter 171 or any rule adopted thereunder.

Your Committee finds that the board of land and natural resources should be able to treat violations of provisions of HRS chapter 171 in the manner now applicable to encroachment on state lands and to violations of conservation districts.

Your Committee has amended this bill to correct certain drafting errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1754-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1754-84, H.D. 2.

Signed by all members of the Committee.

SCRep. 372-84 Education and Judiciary on H.B. No. 2602-84

The purpose of this bill is to permit the chief election officer of the State to adjust the departmental school districts defined in section 13-1, Hawaii Revised Statutes (HRS), in terms of representative districts to conform to the new districting scheme of a reapportionment plan.

Under present law, departmental school districts are defined in terms of the representative districts of the districting scheme under which the 1980 elections were held. Therefore, after each new reapportionment of the State, the law must be updated to reflect the current representative district numbering and geographic scheme. This bill would obviate this necessity by allowing the Lieutenant Governor by proclamation to designate the representative districts that comprise the departmental school districts.



Your Committees find that handling the problem of continually having to redefine the definitions of the departmental school districts administratively rather than statutorily is more efficient and therefore preferred. Moreover, because the discretion granted to the chief election officer is limited by specifying that the new departmental school districts have to be similar to the ones presently described in section 13-1, HRS, your Committees believe that stability and consistency will result.

Your Committees received testimony, however, that the reference to departmental school board districts in the bill is incorrect inasmuch as there are departmental school districts and school board districts but no departmental school board districts. In addition, your Committees were informed that school board districts are also defined in section 13-1, HRS, in terms of representative districts and would, therefore, also have to be accommodated. Accordingly, your Committees have amended this bill to correct these deficiencies.

Your Committees on Education and Judiciary are in accord with the intent and purpose of H.B. No. 2602-84, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2602-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 373-84      Housing on H.B. No. 2252-84

This bill would amend Chapter 519, Section 3, Hawaii Revised Statutes, by altering the formula for determining the amount of real property lease rent payable by a cooperative housing corporation pursuant to lease rent renegotiation. Other amendments delete the arbitration provision of said section and add clarifying language to specify that renegotiations pursuant to said section shall take place at such times as specified in the lease document, but in no event more than once every ten years, with the sole exception of the first renegotiation following the initial date of the lease.

Testimony received indicated that a formula which increases lease rents from a set starting point and by a set percentage, rather than upon determination of owner's basis, would eliminate the need for appraisers, lawyers and ultimately, the Hawaii Housing Authority as arbitrator, to be involved in a process which should be vastly simplified from what is currently provided in the law. Moreover, your Committee believes that the mathematical calculation approach embodied in this bill would result in lease rent increases which provide an appropriate return on investment to lessors.

This bill is in keeping with proposed changes to other residential lease rent formulations. Your Committee has added language to provide for the automatic increase of lease rents from year to year, following the initial renegotiation.

Your Committee has further amended the bill to conform this section to the Internal Revenue Service definition of a "cooperative housing corporation."

In keeping with the above, your Committee has amended Section 1, paragraph (a)(2) of the bill to read as follows:

"Upon renegotiation, the lease rent payable by a cooperative housing corporation as lessee shall not exceed the amount derived by multiplying the ["owner's basis" by the original percentage rate.] amount of the lease rent being paid at the time of the reopening by five and one-half percent (5.5%) compounded annually for every year that said rent has been in effect up to the date of renegotiation. For the year following said renegotiation, and for every year thereafter, the lease rent payable shall increase by 5.5% over the lease rent of the preceding year."

Section 1, paragraph (c)(1) of the bill is also amended by adding a new subsection (D) to read as follows:

"(D) Which derives 80 percent (80%) or more of its gross income for any taxable year from tenant stockholders."

Your Committee on Housing concurs with the intent and purpose of H.B. No. 2252-84, as amended herein, and recommends that it pass Second Reading in the

form attached hereto as H.B. No. 2252-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 374-84      Housing on H.B. No. 2240-84 (Majority)

The purpose of this bill is to add a new section to Chapter 519, Hawaii Revised Statutes, to cover lease rent renegotiations of real property in multi-family apartment use.

Currently, Chapter 519 covers lease rent renegotiations of residential and cooperative housing leases. Your Committee was informed that a new section was necessary to cover the situation of lease rent renegotiations of ground rents where the lessee or sublessee owns a multi-family apartment building on the subject property. This lessee/sublessee class has no protection from tremendous increases in ground rents imposed on them by their lessor or master lessor. Lessees/sublessees in this class have informed your Committee that they have experienced ground rent increases of over 600%. These increases must be borne by someone, in these cases, the tenants residing on the subject ground rent property. The lessees/sublessees who spoke in favor of this measure informed your Committee that this would mean raising the rents on their units by over \$100 per unit, a step they were reluctant to take, as most of their tenants were low-moderate income tenants.

Your Committee believes that it is in the public interest to extend the lease rent renegotiation protection afforded other lessees/sublessees under Chapter 519 to the above-mentioned group of lessees/sublessees. To do otherwise would adversely affect the affordability of rental units, particularly those units comprising the older rental inventory in the rental market.

Your Committee finds that using a fixed percentage to calculate ground lease rent increases is an appropriate method to determine these increases. Your Committee has amended the bill to add language to provide for the automatic increase of ground lease rents from year to year by the aforementioned percentage, in keeping with proposed changes to other lease rent renegotiation provisions contained in the chapter.

Your Committee wishes to reiterate and clarify that the lease rents referred to in the bill are ground rents pertaining to properties in multi-family apartment use, rather than the residential unit rents paid to live on such properties. Moreover, discussion revealed that such properties should be defined as those containing five or more dwelling units per structure, in order to more properly identify the type of real property covered by this section.

In keeping with the above findings, your Committee has amended Section 1 of the bill to read as follows.

"SECTION 1. Chapter 519, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

'§519- Leases of real property in multi-family apartment use; lease renegotiations. (a) All leases, including subleases, of real property in multi-family apartment use, whether executed prior to or after the effective date of this Act, which provide for the reopening of the contract for renegotiation of ground lease rent terms, shall provide or be construed in conformity with the following provision: Upon renegotiation, the ground lease rent payable shall not exceed the amount derived by multiplying the amount of the ground lease rent being paid at the time of the reopening by five and one half (5.5) per cent compounded annually for every year that said rent has been in effect up to the date of renegotiation. For the year following said renegotiation, and for every year thereafter, the ground lease rent payable shall increase by 5.5% over the ground lease rent of the preceding year.

(b) For the purpose of this section, "multi-family apartment use" means the leased premises contain one or more structures containing five or more dwelling units in each structure, intended by the lessee or sublessee to be let as rental units. Leased premises containing condominiums, cooperatives, or other structures for multi-family use do not constitute multi-family apartment use for the purposes of this section.' "

Your Committee on Housing concurs with the intent and purpose of H.B. No. 2240-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2240-84, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 375-84      Housing on H.B. No. 2239-84

This bill would amend Section 519-2, Hawaii Revised Statutes, to provide deposit and payment requirements for arbitration proceedings conducted by the Hawaii Housing Authority or its designee pursuant to disagreement on lease rent by the parties to a residential lease under any reopening provision. It further provides penalties for each party in the event that either one does not comply with the aforementioned provisions.

Testimony from the Hawaii Housing Authority indicated that such a bill is necessary to address concerns of nonpayment of expenses by the parties to an arbitration and concerns that such non-payment would eventually deplete the Fee Simple Residential Revolving Fund, assuming passage of other pending legislation to allow the use of that fund for the administrative expenses of such arbitrations. Further testimony revealed that certain amendments to the bill should be made to improve its effectiveness and clarity. Specifically, the authority suggested that the bill be amended so that the penalty to the lessor consists of having to accept the most recent lease rent paid by the lessee as the new lease rent in the event of the lessor's noncompliance with the new section, rather than a penalty of the original fixed lease rent as the new lease rent as provided in the bill. Also suggested was a new subsection to clarify that all new lease rents, except those established pursuant to noncompliance with the section, shall be effective as of the date of rent reopening.

Testimony from a major lessor, Bishop Estate, suggested further amendments to clarify the meaning of "forfeiture of any remedy under this chapter" by the lessee in the event of the lessee's noncompliance with the section; to clarify the

amount to be paid in advance equally by both the lessees and lessors; and to clarify that the Hawaii Housing Authority shall set the amount of expenses and fees to be paid in advance. Your Committee has amended the bill in keeping with the aforementioned suggestions and concerns.

In view of the fact that the arbitration provisions contained in Section 519-2 are identical to the provisions contained in Section 519-3, relating to lease rent renegotiations by cooperative housing corporations, your Committee has further amended the bill to track the language of this bill, as amended, in said Section 519-3 by adding a new Section to this bill. Sections 2 and 3 of the bill have been renumbered as Sections 3 and 4 of the bill, accordingly. Your Committee has also made other nonsubstantive amendments to the bill.

Your Committee on Housing concurs with the intent and purpose of H.B. No. 2239-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2239-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 376-84      Human Services and Education on H.B. No. 1802-84

The purpose of this bill is to: (1) clarify and make certain specified exclusions in the definition of a child care facility; (2) provide the Department of Social Services and Housing with flexibility in setting the licensing period for various day care facilities; (3) update references to the "Fire Marshall" to reflect the transfer of that function to the counties; and (4) increase the penalty for non-licensure to a misdemeanor.

Your Committees find that the current definition of child care centers is ambiguous and difficult to implement. For example, there is concern that programs for children in sports, foreign language, music, or martial arts, which are now excluded from regulation, should receive regulatory oversight if such programs are

incidental to the regular provision of care and supervision for young children. This bill will make the necessary changes to clarify these ambiguities.

After due consideration of the bill's provisions, your Committees have amended this bill in the following principal respects:

(1) To also exclude from day care regulations programs in the Hawaiian language or drama, and community associations promoting recreation, health, safety, or social group functions for their exclusive membership.

(2) To retain a one-year licensing period for day care facilities in the interest of ensuring the quality of care provided to young children.

(3) To specify that rules promulgated by the Department conform to the procedural requirements of Chapter 91, HRS.

Your Committees on Human Services and Education are in accord with the intent and purpose of H.B. No. 1802-84, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1802-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 377-84 Human Services and Judiciary on H.B. No. 2268-84

The purpose of this bill is to include grandparents in the list of those parties eligible for reasonable visitation rights with a child under Section 571-46(7), Hawaii Revised Statutes.

Your Committees find that although the present statute does not preclude the courts from awarding reasonable visitation rights to a minor's grandparents, it does not specify visitation rights for grandparents.

The Family Court has testified in favor of this bill as it would establish legislative intent regarding the custody of a minor. Specifically, this bill would clarify that the minor's best interests may be furthered by continued contacts with the minor's grandparents.

Your Committees on Human Services and Judiciary are in accord with the intent and purpose of H.B. No. 2268-84 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 378-84 Human Services and Judiciary on H.B. No. 537

The purpose of this bill is to provide the Department of Social Services and Housing with a mechanism which would allow the department to verify assets of applicants or recipients of public assistance.

Your Committees received testimony indicating that many persons illegally receive public assistance benefits even though they have substantial assets which, if disclosed to the department, would disqualify them from eligibility. Often these assets take the form of accounts at banks and savings institutions. Presently, the department has no way of knowing if such accounts exist. The consequence of this dilemma is that an applicant or recipient can totally falsify his/her application, and escape detection for many months or even years.

Your Committees find that a public welfare system that permits widespread fraud and abuse can only defeat the purpose of humane public assistance programs. Welfare waste and duplication must be eliminated if we are to maintain public confidence and fiscal integrity in programs to assist those who are truly in need. This can be accomplished with independent verification of the resources of applicants or recipients.

This bill will authorize the department to verify the bank deposits of welfare applicants and recipients through computer cross-matching. The bank match process originates with a request from the department to a bank or group of banks, to match the social security numbers of welfare recipients against their

deposit records. The banks then produce a tape of welfare recipients by social security number who have deposits in excess of the welfare eligibility standard. This tape is then forwarded to the department's data processing section for certain checks to validate the information received.

The actual names of public assistance applicants or recipients are never released to the banks, nor are the names of bank depositors released to the department, thereby insuring that individual rights to privacy and confidentiality are protected. If the department determines that an applicant or recipient has excess assets, a termination notice will be sent and the case will be referred for investigation.

Your Committees are sensitive to the concerns of the financial community and of individuals who are legitimately entitled to be free from governmental intrusion into their private financial affairs, and accordingly, has made amendments designed to ensure that financial institutions have clear authority to release depositor information; to protect depositors who are not public assistance applicants or recipients; and to require that the state, and not the banks, bear the cost of computer matches.

Your Committees have also made technical, non substantive amendments for purposes of conformity.

Your Committees on Human Services and Judiciary are in accord with the intent and purpose H.B. No. 537, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 537, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 379-84 Finance on H.B. No. 2402-84

The purpose of this bill is to amend Act 15, First Special Session Laws of Hawaii 1981, by extending the date for the issuance of special purpose revenue bonds from June 30, 1984, to December 31, 1991.

Act 15 authorized the issuance of a total of \$72.2 million in special revenue bonds to the four major utilities for multi-project capital improvements programs, including generating facilities. This bill will extend the date for the issuance of special purpose revenue bonds by the department of budget and finance. Further, consistent with Act 15, this bill will continue to prohibit the use of these special purpose revenue bond funds for new fossil fuel generating plants or nuclear fuel generating plants.

Your Committee has received testimony from the department of planning and economic development and the Hawaiian Electric Company in support of this bill.

Your Committee on Finance is in accord with the intent and purpose for H.B. No. 2402-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 380-84 Finance on H.B. No. 847

The purpose of this bill is to amend HRS section 294-35.5 to provide that insurer fees assessed for the purpose of driver education be increased from \$1.00 to \$1.25 per insurance policy on each insured vehicle and be allocated forty per cent to the driver education program operated by the judiciary and sixty per cent to the department of education for high school driver education.

The department of education testified that the additional funds will make it possible to provide needed services to 1,800 students on the schools' driver education waiting lists.

Your Committee has made several nonsubstantive technical and stylistic amendments to this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 847, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 847, H.D. 1.

Signed by all members of the Committee.

SCRep. 381-84 Finance on H.B. No. 769

The purpose of this bill is to delete exemptions under HRS section 244-4(6) and 244-4(7), as well as to remove an exemption for locally produced rum under HRS section 244-4(8).

The changes proposed by this bill are to become effective upon the entering of a judgment holding unconstitutional the provisions to be deleted.

Your Committee has made several nonsubstantive technical amendments to this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 769, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 769, H.D. 2.

Signed by all members of the Committee.

SCRep. 382-84 Finance on H.B. No. 582

The purposes of this bill are to remove the responsibility of licensing physical therapists from the department of health and to establish a board of physical therapy placed within the department of commerce and consumer affairs for administrative purposes.

This bill is largely a result of a recent study by the legislative reference bureau entitled "Regulation of Physical Therapy in Hawaii."

Your Committee on Finance concurs with the findings of your Committee on Consumer Protection and Commerce in Stand. Com. Rep. No. 206-84.

Testimony in support of this bill was received from the department of commerce and consumer affairs and the Hawaii Chapter of the American Physical Therapy Association. However, the Hawaii State Chiropractic Association and the Hawaiian Society of Naturopathic Physicians testified in opposition to this bill.

Your Committee agrees with the concerns of those opposing H.B. No. 582, H.D. 1, that the scope of regulation covered by this bill is too broad and would adversely affect the medical, chiropractic, osteopathic, clinical psychology, and naturopathic professions. Furthermore, your Committee finds that the "exemption" provision of this bill, which was intended to exempt the protesting professions from its scope of regulation, is ineffectual as written.

Accordingly, your Committee has amended the first sentence of the "exemption" provision by deleting the phrase "... offer physical therapy services, or bill for physical therapy services unless licensed under this chapter." As amended, the sentence reads: "Nothing in this chapter shall be construed to prohibit any person from acting within the scope of a license issued to that person under any other law; provided that the person shall not claim to be a physical therapist."

Your Committee has also made several nonsubstantive technical and stylistic amendments to this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 582, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 582, H.D. 2.

Signed by all members of the Committee.

SCRep. 383-84 Finance on H.B. No. 2110-84

The purpose of this bill is to amend HRS section 201-3 by deleting the effective time period in which the department of planning and economic development may be the central agency to coordinate film permit activities in the State. Presently, section 201-3 allows for the effective period to extend from June 9, 1983, to June 30, 1984.

According to testimony by the department of planning and economic development, there is a need to develop a "one-stop" permit system; this bill would make the department a film permit coordinating agency (not, however, a permit issuing agency).

Your Committee has made several nonsubstantive technical and stylistic amendments to this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2110-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2110-84, H.D. 2.

Signed by all members of the Committee.

SCRep. 384-84      Finance on H.B. No. 2194-84

The purpose of this bill is to allow, upon the death of a lessee of a homestead grant awarded by the department of Hawaiian home lands, payment of net proceeds for lessee improvements to the spouse or children who are not qualified to succeed in the leasehold.

Current statutes permit pay-out of net proceeds only upon cancellation or surrender of a leasehold interest. When a lessee dies, leaving a spouse or children not qualified to succeed to the homestead interest, and there are no qualified relatives to succeed, the lease is cancelled and the pay-out of the net proceeds is made to the legal representatives of the deceased lessee. However, should the lessee die, having a spouse or children not qualified to succeed to the homestead, and there are qualified relatives to succeed to the homestead, no such pay-out is authorized. According to testimony by the department of Hawaiian home lands, more and more native Hawaiians with non-native Hawaiian spouses and children are receiving homestead awards. Since such lessees are unable to provide for their immediate families upon their deaths, the only feasible alternative is to surrender their homestead interests; this bill would remedy this situation.

Your Committee has amended this bill to clarify its intent and better effectuate its purposes. Your Committee has also made several nonsubstantive, technical amendments to this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2194-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2194-84, H.D. 1.

Signed by all members of the Committee.

SCRep. 385-84      Finance on H.B. No. 2203-84

The purpose of this bill is to increase energy conservation in storage water heaters, thereby saving the consumer added monthly utility costs and reducing the State's dependence on imported fossil fuels. This bill amends HRS chapter 196 by requiring that all water heaters sold in Hawaii after June 30, 1984, meet the energy efficiency standards of the American Society of Heating, Refrigerating and Air Conditioning Engineers, Inc. (ASHRAE), which are currently set forth as ASHRAE Standard 90-75.

Your Committee has received testimony from the department of planning and economic development and PRI Energy Systems that, if this measure were to pass, the consumer could recover the slightly higher cost of purchasing an energy efficient water heater in less than one year due to savings in lower utility bills. PRI Energy Systems estimated that Hawaii residents could save over \$12 million in their gas and electric bills by using storage water heater which meet ASHRAE 90 Standards.



Your Committee has amended this bill by deleting reference to "residential type" storage heaters. This bill would simply refer to all storage water heaters.

Your Committee on Finance, is in accord with the intent and purpose of H.B. No. 2203-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2203-84, H.D. 2.

Signed by all members of the Committee.

SCRep. 386-84 Finance on H.B. No. 2406-84

The purpose of this bill is to establish a permanent job-sharing program within the department of education.

Your Committee finds that the job-sharing pilot project in the department of education has been successful in providing employment to teachers who wish to simultaneously take a more active role in the rearing of their children, as well as to unemployed teachers. Your Committee is satisfied that this program provides an attractive employment alternative to the growing number of tenured teachers within the department of education.

Your Committee has made several nonsubstantive technical and stylistic amendments to this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2406-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2406-84, H.D. 2.

Signed by all members of the Committee.

SCRep. 387-84 Finance on H.B. No. 2486-84

The purpose of this bill is to amend HRS section 286-51 relating to fees chargeable by county ordinances for certificates of vehicle registration and to expand the permissible uses for such fees from the beautification of county primary highways to the beautification of all county highways.

Under present law, in addition to any other vehicle registration fees set by law, the counties may, by ordinance, establish a fee for the registration of a vehicle of not more than 50 cents per certificate of registration. This bill retains the present statutory scheme under HRS section 286-51, except that it has raised the maximum fee charged per certificate to \$1 per certificate.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2486-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2486-84, H.D. 2.

Signed by all members of the Committee.

SCRep. 388-84 Consumer Protection and Commerce on H.B. No. 1882-84

The purpose of this bill is to provide protection to buyers under Agreements of Sale from liens or encumbrances of sellers under such Agreements of Sale.

Under an Agreement of Sale, a buyer does not acquire title to the subject real property until after the seller is paid in full. Between the time that the Agreement of Sale is recorded at the Bureau of Conveyances and/or filed in the Land Court, and until the time that the buyer subsequently acquires title, there may be judgements and other liens against the seller which affect the real property involved. There is currently a question whether such liens against the seller will adversely affect the title to the subject real property that the buyer subsequently receives. While many attorneys, lenders, escrow companies and title companies take the position that the buyer's title is not adversely affected, there is a minority view that takes the opposite position.

At the hearing on this bill, attorney Jeff Grad, and representatives of the Mortgage Bankers Association of Hawaii, the Hawaii League of Savings Institutions, and the Hawaii Association of Realtors, all testified in favor of the intent of and the need for such a bill; they also believed that the bill could be strengthened. Jeff Grad proposed certain amendments to the bill and he testified in favor of those amendments. The Mortgage Bankers Association of Hawaii, the Hawaii League of Savings Institutions, and the Hawaii Association of Realtors submitted subsequent written testimony in favor of those proposed amendments.

Your Committee believes that this bill, as amended, will make it clear that once the Agreement of Sale seller is paid in full, any conveyances (including mortgages) by or judgments against the seller arising after the Agreement of Sale is recorded or filed, will not affect the title or rights of the buyer to the real estate covered in the Agreement of Sale. The Agreement of Sale buyer would thus be able to obtain title to the property free and clear of any such conveyances by the seller or judgments against the seller.

Your Committee has amended this bill to add new sections in this regard to Chapter 501, Hawaii Revised Statutes, dealing with Land Court Registration, and to Chapter 502, Hawaii Revised Statutes, dealing with Bureau of Conveyances recordation. Your Committee has also amended this bill to clearly set forth the specific types of situations where the rights of the Agreement of Sale buyer is accorded priority. Other amendments define the words "conveyance", "Agreement of Sale", "filed", "filing", "recorded", "recording", "buyer", "seller".

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1882-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 1882-84, H.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 389-84      Consumer Protection and Commerce on H.B. No. 2418-84

The purpose of this bill is to:

1. Require that all three professional members of the Board be graduates from different chiropractic colleges;
2. Require that any person appointed by the Board will have to have been in practice in this state for at least five years immediately prior to the date of appointment;
3. Grant legislative immunity for Board members based upon their duties or other professional acts when performed in good faith as members of the Board;
4. Provide for a continuing education requirement for re-registration of licenses, which will promote the continuing professional competence of licensees and aid in the protection of the public;
5. Provides terminology for the limitation, restriction and probation of a license; and
6. Require any person making application for reinstatement of a license which has been revoked, suspended, restricted, limited or placed under probation to complete an approved course of continuing education or study as the Board may require, as part of the relief granted for the reinstatement of his or her license.

Dr. J. T. Rathjen, President of the Board of Chiropractic Examiners and Dr. Randy Collins, President of the Hawaii State Chiropractic Association testified in favor of this bill.

Your Committee amended the bill by deleting legislative immunity for Board members. Your Committee agreed that this would set a precedent for other Boards.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2418-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2418-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 390-84      Consumer Protection and Commerce on H.B. No. 2477-84

The purpose of this bill is to resolve occurrences of mathematical impossibilities in the current law requiring that the terms of at least one-third of the members of a condominium association's board of directors shall expire annually.

Your Committee has heard testimony from the Hawaii Council of Associations of Apartment owners and the Waikiki Residents Association in support of this bill.

Your Committee finds that whenever the number of directors is not a multiple of three, it is mathematically impossible for precisely one-third of the terms to expire. This bill provides that if the number of persons constituting the board of directors of a condominium association is not a multiple of three, the terms of that number of directors most nearest to representing one-third of the directors shall expire annually.

Your Committee has amended section 514-82 to read 514A-82 in order to correct a drafting error.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2477-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2477-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 391-84      Housing; Water, Land Use, Development and Hawaiian Affairs;  
and State General Planning on H.B. No. 2598-84

The purpose of this bill is to amend Section 46-15, Hawaii Revised Statutes, to allow a county, through a designated county agency or official, to submit to its county council preliminary plans and specifications for certain housing projects to obtain certain exemptions from existing county statutes, ordinances and regulations.

Section 46-15 created broad authority for the counties to develop experimental and demonstration housing projects to meet the need for affordable housing. The current statute requires submittal of final plans, rather than preliminary plans, to the respective county council. Final plans and specifications are both costly and time consuming to prepare and do not provide a significantly increased level of information to the council on which to base a determination regarding requested exemptions. In other words, submittal of preliminary plans, which contain the requested exemptions, provides adequate information to the council from which exemption decisions may be made.

While not all of those who testified on this measure agreed that planning standards should be exempted, your Committees trust that if a county administration did not wish to exempt projects from planning standards, it need not do so, simply by not submitting exemption requests for those standards.

Your Committees have made a technical, non-substantive amendment to Section 1 of the bill for purposes of consistency throughout the section.

Your Committees on Housing, Water, Land Use Development and Hawaiian Affairs, and State General Planning concur with the intent and purpose of H.B. No. 2598-84, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2598-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Isbell.

SCRep. 392-84      Judiciary on H.B. No. 2416-84

The purpose of this bill is to enable the Family Court to require parties to participate in mediation in any action where the custody of a minor child is in dispute before making an award of custody.

Your Committee has received testimony from the Department of Social Services and Housing, the Family Court of the First Circuit, the Neighborhood Justice Center, Inc., and a concerned individual.

Your Committee finds that mediating disputes of a child custody issue which arises during divorce or separation proceedings can be accomplished outside of the courtroom. Professional mediation conducted by a trained facilitator may be very effective in settling personal conflicts in an environment where private conversation can take place in a relaxed situation.

However, mediation in cases involving disputes of child custody which arise in child abuse and neglect proceedings as well as adoptions, termination of parental rights, and guardianship proceedings, or mandatory mediation in any contested action in divorce or separation proceedings is limited by public and private resources. Presently, the courts are incapable of handling the numerous cases, and private agencies do not maintain the personnel and funds required to accommodate the vast number of potential referrals. Hence, your Committee finds that, for the present time, mandatory mediation should be limited only to those contested actions for divorce or separation or paternity where there is at issue a dispute as to the custody of a minor child.

Accordingly, your Committee has amended the bill in page 1, line 5, by inserting the word "contested" and the phrase "for divorce or separation." Additionally, section 2 has been deleted from the bill and sections 3 and 4 have been renumbered as sections 2 and 3, respectively.

Furthermore, your Committee finds that the Family Court should be provided adequate time to implement procedures and ensure that the Neighborhood Justice Center has trained mediators available to accommodate referrals by the court. Consequently, your Committee has also amended the bill to provide that the act shall take effect on July 1, 1985.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2416-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2416-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 393-84      Judiciary on H.B. No. 2368-84

The purpose of this bill is to enable the State to prove the elements of venue by a preponderance of the evidence rather than beyond a reasonable doubt.

Your Committee has heard testimony from the Department of the Prosecuting Attorney of the City and County of Honolulu in support of this bill.

A defendant has the right under both the United States and the Hawaii State Constitutions to a trial where the offense or any part of it has occurred. Under section 701-114 of the Hawaii Revised Statutes, the proper place to try the defendant must be proven beyond a reasonable doubt.

Recently in State v. Miyashiro, 3 Haw. App. 229, 647 P.2d. 302 (1982), the Hawaii Intermediate Court of Appeals held that a defendant can sit through a trial in district court, be proven guilty, and then escape his conviction on appeal if the trial was held in one district and the crime was committed in another district. The decision was based largely on the fact that section 701-114 requires proof of venue beyond a reasonable doubt.

Your Committee finds that a preponderance standard will not deprive a defendant of his right to proper venue nor relieve the State of the burden to prove venue as an element of the case. This bill will be similar to the federal court requirement and the venue provision of other states, including California and New York.

It is also your Committee's intent that a defendant who makes no objection to venue before the close of the trial, that the defendant waives the issue of proper venue. A defendant may also affirmatively waive the right to venue at any time prior to or during the trial.

Your Committee has made technical, non-substantive amendments to the bill for clarity and conformance to Ramseyer format by (1) inserting a quotation mark in page 1, line 3, in front of the section number; (2) bracketing sub-paragraph (d) in page 1, line 11; and (3) renumbering (e) to (d) and deleting a bracket in page 1, line 12.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2368-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2368-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 394-84      Judiciary on H.B. No. 628

The purpose of this bill is to bring before the electorate of this State a proposed amendment to Article III, Section 15, of the Constitution of the State of Hawaii to require that printed copies of a bill in the form to be passed shall be placed on the desks of the members of that house at least forty-eight hours prior to third or final reading .

Currently, the State Constitution requires that a bill shall be made available to the members of either house at least forty-eight hours prior to third or final reading.

In reviewing the Committee of the Whole Reports of the 1978 Constitutional Convention, your Committee notes that in determining the necessity of the forty-eight hour period, "(t)he increasing numbers of bills being introduced in the legislature and the public concern expressed on the difficulty of following the many bills through the legislature in the closing days of the session...(t)he... 48 hours, during which a legislator or a constituent could review a bill before third or final reading, would help both legislator and constituent to avoid hasty decisions and surprises regarding the bill."

Your Committee notes that the purpose of the forty-eight hour requirement was to afford the legislators and the public more time to review and, therefore, make better decisions on the bill. Your Committee finds that this bill will clarify the forty-eight hour requirement by providing that the period shall start from the time that the bill is placed on the desks of the members of either house.

Your Committee has received testimony from Common Cause of Hawaii and concerned individuals in support of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 628 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 395-84      Judiciary on H.B. No. 1845-84

The purpose of this bill is to repeal section 580-75 of the Hawaii Revised Statutes, which enables the Family Court, whenever a decree of separation is granted, to issue a decree which has the effect during the separation to reinstate the wife, whether the wrongdoer or not, in the right to sue or be sued, to alienate and convey property, to make contracts, and to do all other acts as if she were a single person.

Your Committee has received testimony from the Committee on the Status of Women of the City and County of Honolulu, the American Association of University Women, Honolulu Branch of the the Americans for Democratic Action and the Family Court.

Your Committee finds that this bill is in accordance with the 1978 State Constitutional Convention's amendment to the Constitution. Under present law, however, married women are provided the right, during the period of a separation and as part of the separation decree, to be reinstated in the right to sue or be sued, to alienate and convey property, to make contracts, and to do all other acts as if

she were a single person. Your Committee does not intend to repeal this right by deleting this provision of the law.

Accordingly, your Committee has amended this bill by removing gender-specific language and, for purposes of clarity, requiring that the decree of separation shall have the effect of allowing each of the spouse to perform any act as if the spouse were a single person.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1845-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1845-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 396-84      Judiciary on H.B. No. 2340-84

The purpose of this bill is to require that a person shall provide his name and address, or any proof thereof, upon lawful order of any police officer when the person is detained for a violation of Chapter 291C, Hawaii Revised Statutes.

Under present law, any police officer, in the course and scope of his duties, may order a person to provide his name, address, and any proof of identification.

Your Committee has received testimony from the Department of the Prosecuting Attorney of the City and County of Honolulu and the Honolulu Police Department in support of the bill.

In a recent Supreme Court case State v. Dang, Sup. Ct. No. 8964, the defendant appealed on several grounds, one of which was that the present statute, section 291C-172, could be construed so that the word "and" takes on a strictly conjunctive denotation.

Your Committee intends to add clarity by requiring that a person shall provide the person's name and address or any proof thereof.

Additionally, your Committee has amended the bill by inserting the words "or both" in line 6 of the bill to provide for circumstances in which all elements of identification can be lawfully ordered by a police officer and by replacing a gender specific word with a neutral term.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2340-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2340-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 397-84      Judiciary on H.B. No. 2332-84

The purpose of this bill is to provide that the possession of all firearms and ammunition shall be confined to the possessor's place of business or residence, but that firearms and ammunition, or both, may be carried in separate enclosed containers from the place of purchase to the purchaser's residence or place of business, or between these places and a place of repair or a target range.

Your Committee has received testimony from the Department of the Prosecuting Attorney of the City and County of Honolulu, the Hawaii Federation of Sportsmen, the Hawaii Rifle Association, the Pig Hunters Association of Oahu, the Hawaii Gun Control Coalition, and other concerned individuals.

Under present law, firearms and ammunition may be carried while in sojourn. It is your Committee's intent to reaffirm that firearms may be carried only between allowable locations. However, your Committee finds there are also places of sojourn which are legitimate. Accordingly, your Committee has amended the bill by allowing unloaded firearms to be carried while in sojourn.

Your Committee also has amended the bill by providing that an enclosed container shall mean a rigidly constructed receptacle or a commercially manufactured gun case or its equivalent that completely encloses the firearm.

Your Committee has amended the bill further by providing that a violation of section 134-6 shall be a misdemeanor. Presently, section 134-6 states that the penalty shall be a fine of not more than \$1,000 or imprisonment of not more than one year, or both. Your Committee also has restated the penalty provided under section 134-9 of the Hawaii Revised Statutes for unlawfully carrying or possessing a loaded firearm or carrying or possessing a pistol or revolver, loaded or unloaded without a permit, which shall be a class C felony.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2332-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2332-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 398-84      Judiciary on H.B. No. 2163-84

The purpose of this bill is to create a new offense under chapter 712 of the Hawaii Revised Statutes of promoting intoxicating liquor to a minor which shall be a misdemeanor.

Currently, there is no law which prohibits adults from giving liquor to minors. Existing law prohibits the sale of liquor to minors by licensees as provided under section 281-78(a)(2)(A) of the Hawaii Revised Statutes and prohibits an adult from purchasing liquor for the purpose of consumption by a minor as provided under section 281-101.5(a).

Your Committee has heard testimony from Judge Leland Spencer of the Circuit Court of the First Circuit, the Police Department of the City and County of Honolulu, and a representative of the Liquor Dispensers of Hawaii and Retail Liquor Dealers Association who support the intent of the bill.

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

Your Committee has amended the bill to clarify the language of the affirmative defense section. It is an affirmative defense that the intoxicating liquor provided to the minor was an ingredient in a medicine prescribed by a physician, or that the intoxicating liquor was provided to the minor as part of a recognized religious ceremony, or that the defendant provided the intoxicating liquor to the minor with the express consent of the parent or legal guardian and with a belief that the minor would not consume any portion of the substance, or that the minor would consume the substance only in the immediate presence of a parent or legal guardian, or that the minor had attained the age of majority.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2163-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2163-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 399-84      Judiciary on H.B. No. 1999-84

The purpose of this bill is to enable the administrative judge of the circuit court of the first circuit, subject to the direction of the chief justice, to assign a land court matter to any judge among the judges of the circuit court of the first circuit. The bill also repeals the provision that a circuit court judge of the first circuit shall be designated by the chief justice as the second judge of the land court, who shall act as the judge of the land court in case of disqualification, disability, or absence of the land court judge.



The bill further provides that in a land court matter a jury trial may be had in the first instance upon demand (presently a jury trial may be had only after the holding of proceedings before the land court judge); and all issues shall be framed by the circuit judge to whom the case has been assigned.

The procedure for appeal of any party aggrieved by the decision of the land court to the circuit court as provided under sections 501-61 and 501-62 of the Hawaii Revised Statutes is repealed.

Your Committee has heard testimony from the State Judiciary in support of the bill.

Your Committee finds that integrating the land court into the master calendar system will aid in expediting cases by authorizing the assignment of land court cases to any available circuit court judge of the first circuit. The bill will also streamline procedures in the land court by permitting jury trial upon demand in the first instance.

Your Committee has made technical, non-substantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1999-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1999-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 400-84      Judiciary on H.B. No. 1983-84

The purpose of this bill is to create a legal duty by any person at the scene of an emergency who knows that another person is exposed to or has suffered grave physical harm and to give reasonable assistance to the exposed person to the extent that he can do so without danger or peril to himself or others. Reasonable assistance may include obtaining or attempting to obtain aid from law enforcement or medical personnel. A person failing to comply with this duty shall be guilty of a misdemeanor.

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

Your Committee has heard testimony from the Office of the Public Defender, the Police Department of the City and County of Honolulu, the State Department of Health, the Hawaii Council of Churches, and the Department of the Prosecuting Attorney of the City and County of Honolulu.

Your Committee finds that there is a need to promote public safety and welfare by encouraging people to come to the aid of others exposed to or suffering grave physical harm. However, because of the broadness of the scope of the bill, your Committee has amended the language of the bill so that the duty to assist arises when the person in fact knows another person is suffering from grave physical harm.

Your Committee also has reduced the penalty from a misdemeanor to a petty misdemeanor so that swifter and less expensive adjudication would be achieved while still compelling bystanders to assist at emergencies.

Your Committee has also amended the bill by providing that any person who provides reasonable assistance shall not be liable in civil damages, unless the person's acts constitutes gross negligence or wanton acts or omissions. Your Committee feels that, in order to encourage aid, the legislature should discourage or prohibit the filing of civil action against the good samaritan.

Your Committee has also provided that any person who fails to provide reasonable assistance shall not be liable for civil damages. Your Committee feels that the penalty of a petty misdemeanor is adequate for purposes of this Act.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1983-84, as amended herein, and recommends that it pass Second Reading in

the form attached hereto as H.B. No. 1983-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 401-84      Judiciary on H.B. No. 1982-84

The purpose of this bill is to provide for the payment of legislative salaries in equal semimonthly amounts beginning with the first pay period for state employees in November of the year the legislator is elected. The bill will also amend the title of chapter 24, of the Hawaii Revised Statutes, to read, "Allowance and Salary for Legislators".

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

Currently, there is a commission on legislative salary, which is appointed by the governor. The Commission meets every eight years and submits, to the legislature and the governor, its recommendation for a salary plan for members of the legislature. Unless specifically rejected, the plan takes effect.

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

In making the proposal for a constitutional amendment and providing by law for the scheduling of payments, your Committee does not intend to change the authority granted to the commission on legislative salary to determine the annual salary of state legislators. Nor will these changes result in any pay increases for legislators. Your Committee, however, finds that there is a need for a more equitable scheduling of payments, to be determined by law.

For purposes of clarity and conformance with the Ramseyer format, your Committee has made technical, non-substantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1982-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1982-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 402-84      Judiciary on H.B. No. 1953-84

The purpose of this bill is to enable Family Court the discretion to require parents to make restitution to any victim who suffers loss as a result of their children's law violation.

Your Committee believes that giving Family Court the discretion to require restitution from parents may have a positive result in making parents more accountable for the actions of their children. Your Committee feels that if the child is in the custody of his or her parents, the parents need to accept the responsibility for the child's actions.

Your Committee has received testimony from Family Court, the Office of the Public Defender, Victim/Witness Kokua Services of the Department of the Prosecuting Attorney of the City and County of Honolulu, and the Retail Merchants of Hawaii.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1953-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 403-84      Judiciary on H.B. No. 1948-84

The purpose of this bill is to bring before the electorate of this State a proposed amendment to Article III, Section 10, of the Constitution of the State of Hawaii to allow the legislative recess to be split into two or more parts and allow the recess to occur any time after the bill introduction deadline.

As established by the 1978 Constitutional Convention, the present Constitution requires a mandatory recess of not less than five days, at some period between the twentieth and fortieth days of the regular session.

Your Committee finds that there are at least two important dates in the legislative calendar which warrant a recess, the deadline for introduction of bills and the deadline for bills to be exchanged by the two houses.

The current practice is for the recess to occur shortly after the deadline for bill introduction. At this point, all of the bills have been introduced and referred to committee. It is an appropriate time to have a recess. It allows everyone time to review all of the bills that have been introduced and their referrals, before any deadlines for the movement of bills have passed.

The chief problem with having a five day recess shortly after the deadline for bill introductions is the length of the recess. Five days is too long for the legislative process to pause, especially with a limited period of time in which to hold hearings. As a consequence, it has become standard practice to hold hearings during the recess. This practice may well be contrary to the intent of the drafters of the constitutional provision for a recess.

Currently, there is no recess after the deadline for the exchange of bills between houses. Such a recess would be very appropriate because the "crossover" deadline effectively separates the majority of bills that cannot pass in the current year from the minority of bills which are still "alive". This too is a good point to pause and assess the status of the various bills.

Some people prefer for the recess to occur earlier in the session, so they can review all of the legislation that has been introduced before any of it has been "lost in the shuffle". Other people prefer for the recess to occur after the "crossover" deadline, so that they can concentrate their efforts on the bills that have a reasonable chance of passing.

If the constitutional amendment embodied in this bill is approved by the electorate, the legislature will have flexibility to have the five day recess split. For example, there can be a three day recess shortly after the deadline for bill introduction and a two day recess after the "crossover" deadline.

Also, if there are two recesses and each is of a shorter duration, it is more likely that the legislature will be able to forgo the holding of hearings during each recess. Thus, two shorter recesses will better serve the needs of the public and the objectives of the drafters of the recess provision.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1948-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 404-84      Consumer Protection and Commerce on H.B. No. 2285-84

The purpose of this bill is to add three new sections to Chapter 514A, Hawaii Revised Statutes, which would permit arbitration of any dispute relating to the interpretation, application or enforcement of Chapter 514A. The bill further provides that the dispute be settled in the manner provided for by the Horizontal

Property Regime Rules for Arbitration of Disputes of the American Arbitration Association and Chapter 658.

The Real Estate Commission, various associations and concerned citizens testified in support of the bill. The Real Estate Commission did however express concern as to language which would mandate arbitration in every condominium dispute.

Your Committee supports the concept of arbitration for condominium disputes. Currently, the only available remedies for aggrieved parties are through costly and timely civil suits. Arbitration could therefore be an effective means of resolving internal disputes that arise either out of the ownership or operation of a condominium.

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

- 1) Your Committee has added a purpose clause in an attempt to set forth the types of disputes the bill would encompass.
- 2) The bill has been amended by adding the parties the Committee felt arbitration should cover, namely disputes concerning apartment owner(s), associations, directors and managing agents.
- 3) The bill was amended to give parties the option of which arbitration rules would apply.
- 4) The bill was amended to list the disputes which are not intended to be included for arbitration.
- 5) Finally, a section was added whereby a party could bring a summary action in court to obtain a judicial determination of whether a dispute was unsuitable for arbitration.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2285-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2285-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 405-84      Consumer Protection and Commerce and Judiciary on H.B. No.  
2103-84

The purpose of this bill is to require all licensed premises to post a sign in or about the premises so that customers and other persons are informed of the penalties of driving under the influence of intoxicating liquor as provided in section 291-4 of the Hawaii Revised Statutes. The sign is to be posted conspicuously so that it is seen by an ordinarily observant person.

Your Committees have heard testimony from the Department of the Prosecuting Attorney of the City and County of Honolulu and a representative of the Liquor Dispensers of Hawaii and Retail Liquor Dealers Association.

Your Committees find that making people aware of the penalties of driving under the influence of intoxicating liquor will aid in reducing the number of drunk drivers on Hawaii's roads and the number of deaths resulting from accidents involving drunk drivers. This awareness and education will help to deter people from driving after drinking and will contribute in protecting liquor licensees from liability under Hawaii's dram-shop law.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 2103-84 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 406-84      Consumer Protection and Commerce on H.B. No. 2224-84

The purpose of this bill is to increase from 10 percent to 25 percent the mandated insurance premium discount available to policy holders of motorcycles,

motor scooters, and vehicles with less than four wheels who have successfully completed a safe driving course approved by the Director of Transportation.

The Department of Commerce and Consumer Affairs testified that it sees no logic in permitting a discount to the entire no-fault policy premium where certain coverages would not be affected by the fact that the driver has had a course in driver safety. Although it may be possible to establish a relationship between successful completion of a safe driving course and liability or first-party personal injury protection coverages, the discount would have no relationship relative to other material damage coverages relating to theft, vandalism, etc.

The Department of Commerce and Consumer Affairs further testified that the Insurance Division's consulting actuary has been unable to locate data upon which to justify the discount proposed by this bill.

Your Committee has found that there is no data upon which to justify such an increase in discount proposed in this bill.

However, your Committee agrees that the high insurance premiums motorcyclists pay must be addressed.

Currently, the law authorizes a 10 percent discount to an operator purchasing a no-fault policy who has successfully completed a safe driving course approved by the Director of Transportation. The Department of Transportation's Motor Vehicle Safety Office and Hawaii Insurers Council shall furnish information to the Insurance Commissioner so that proper data can be obtained to justify the 10 percent discount.

Reports from the Insurance Commissioner shall be furnished to the Legislators on an annual basis.

Upon the recommendation of a study done by the Legislative Reference Bureau, received by all Legislators in March 1984, your Committee amended the bill by providing a higher deductible for motorcycle personal injury protection. This way the motorcyclists will pay for their own personal injury without incurring high premium costs. The rationale is that they would pay a lower premium for personal injury protection on the condition that they be responsible for the deductible amount. Accordingly, your Committee has amended the amount from \$1,000 to \$5,000.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2224-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2224-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 407-84      Consumer Protection and Commerce on H.B. No. 654 (Majority)

The purpose of this bill is to repeal section 403-38.5, Hawaii Revised Statutes, and to add a new section to chapter 403 which would establish a filing requirement for individuals and corporate entities seeking a controlling interest in Hawaii banks.

Currently, section 403-38.5, Hawaii Revised Statutes, provides that no more than 25 per cent of the total voting stock of banks regulated under chapter 403 shall be held or acquired by foreign corporations or nonresident aliens, unless prior written approval is obtained from the Bank Examiner. The proposed language replaces 403-38.5, Hawaii Revised Statutes, with a requirement that any person seeking to acquire control of a section 403, Hawaii Revised Statutes, bank or holding company must provide 60 days' prior written notice to the State Bank Examiner.

To understand the merits of this proposal, it is important to consider the change in Bank Control Act of 1978, Title VI of the Financial Institutions Regulatory and Interest Rate Control Act of 1978 (hereinafter referred to as the "Act.")

The Act gives the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency the authority to disapprove changes in control of insured banks and bank holding companies. Similar to

section 403-38.5(b), Hawaii Revised Statutes, the "Act" defines control as the power, directly or indirectly, to vote 25 per cent or more of any class of voting securities or to direct the management or policies of an insured bank. 12 U.S.C.S. §1817(j)(8)(B). The Act goes much further than section 403-38.5, Hawaii Revised Statutes, in that it requires extensive written notice to be filed with the appropriate Federal banking agency. More importantly, the Act, unlike section 403-38.5, Hawaii Revised Statutes, lists the factors and standards that the Federal banking agencies are to consider in determining whether a proposed acquisition should be disapproved. These factors address the concerns expressed in section 403-38.5, Hawaii Revised Statutes, in that they require consideration of financial condition, competence, experience, and integrity of the acquiring party, as well as the effect of the acquisition on competition.

Your Committee is in agreement that section 403-38.5, Hawaii Revised Statutes, should be repealed since the State is regulating an area already fully and effectively regulated by the Federal government. The Federal government has the resources to more adequately regulate this area. The State's interest is also adequately protected by the notification of the State Bank Examiner in the existing Federal statute and the proposed legislation. Should the Bank Examiner have objections to the potential acquiring party, those objections can be made to the Federal regulating authority. Additionally, the application of section 403-38.5, Hawaii Revised Statutes, may result in a conflict between the State and Federal statute concluding in the State statute being pre-empted by the Federal statute.

Your Committee, upon further consideration, has amended the bill by requiring the Bank Examiner to submit appropriate views and recommendations on the proposed acquisition to the Federal Deposit Insurance Corporation.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. no. 654, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 654, H.D. 1 and be placed on the calendar for Third Reading.

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

SCRep. 408-84      Consumer Protection and Commerce on H.B. No. 2484-84

The purposes of this bill are as follows:

(1) To define the "articles" of nonstock consumer cooperative associations for purposes of chapter 421C, Hawaii Revised Statutes; (2) To provide for the collection of fees from both stock and nonstock consumer cooperative associations; (3) To require the articles of a consumer cooperative association rather than the by-laws to contain the term "cooperative" or some abbreviation thereof; (4) To permit an annual "review" instead of requiring an "audit" for consumer cooperatives; (5) To remove the provision of section 421C-22, Hawaii Revised Statutes, permitting a vote of the majority of the members of a consumer cooperative association, voting at a regular or special meeting, to order the directors to purchase the stock of a withdrawing member.

Your Committee received testimony from the Business Registration Division of the Department of Commerce and Consumer Affairs and from a spokesperson for a local consumer cooperative association favoring passage of this bill.

However, the Business Registration Division recommended several amendments to the bill and your Committee has made amendments to H.B. No. 2484-84 in response to these recommendations.

Your Committee has amended section 2 of the bill to clarify the amendment of the definition of "Articles" for purposes of chapter 421C. Your Committee has further amended this section of the bill to include a definition of "consumer cooperative association" and to amend the definition of "association" from a "group enterprise incorporated under this chapter" to a "consumer cooperative association". Your Committee has therefore also renumbered the definitions in section 421C-1, Hawaii Revised Statutes.

Your Committee has also amended section 4 of the bill to require that the articles of a consumer cooperative association be signed and acknowledged by the incorporators and to contain more than just the name of the association. To

conform to the format used in chapter 421, Hawaii Revised Statutes, relating to agricultural cooperative associations, your Committee has amended the bill to require the following additional information in the articles for consumer cooperative associations: its address; the purposes and powers of the association; the duration of the association; information regarding the incorporators and initial officers and directors; and other information.

Finally, your Committee has made stylistic amendments to the bill to conform it to recommended bill drafting style.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2484-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2484-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 409-84      Education and Judiciary on H.B. No. 571 (Majority)

The purpose of this bill is to bring before the electorate of this State a proposed amendment to Article X, Section 2, of the Constitution of the State of Hawaii to provide for a Board of Education appointed by the Governor, by and with the advice and consent of the Senate.

Your Committees find that the current governance structure of our educational system is basically one established in 1964, when the Constitution was amended to provide for an elected State Board of Education. This change, in effect, created a tripartite governance system for our public schools, with the Board, the Governor, and the Legislature each having a role. We further find, from the Committee of the Whole Reports of the 1978 Constitutional Convention, that, in deciding to continue tripartite governance over the Department of Education, the Con Con intended to "...give the board of education jurisdiction over the internal organization and management of the public school system to the fullest extent possible." However, at the same time, the Con Con further intended that the Legislature "...define those matters relating to the internal organization and management of the public school system which will be within the jurisdiction of the board."

The Constitutional Convention also recognized "...that the department of education is an executive department subject to the governor's statewide policy-making and executive powers." Therefore, the Con Con intended that the Governor and the Board "have concurrent jurisdiction in certain matters affecting the public school system." Additionally, the Con Con intended that the 1978 Constitution would

...not affect the governor's authority over the board of education with respect to policy formulation affecting the public budget preparation.... Nor would the budget-making powers of process of the legislature be altered

Your Committees find that this tripartite governance structure definitely does not reflect an efficient system of management for an organization as large as the Department of Education. We find that this system is, in fact, a confused mix of two divergent theories of educational administration: separated administration and integrated administration.

The Legislative Reference Bureau's 1961 study on "School Boards and Public Education" indicates that the theory of separated administration stems from a conviction that,

...because education affects so many people and requires the largest state expenditure, education is deserving of a government unto itself--independent from the rest of the government structure.

Therefore, separated administration is built around the belief that education should be considered apart from other public services and should have a large degree of autonomy. As described in the Legislative Reference Bureau's 1978 Constitutional Convention Study on education, this system of educational governance is constructed of three major components:



...(1) an independently elected state board, (2) the authority to appoint its own superintendent of education, and (3) some fiscal authority of its own.

The theory of integrated educational administration, on the other hand, is linked with the belief that education is a public service, as is public health and public welfare. As such, education must be administered through the executive branch, and accountability must lie with the Executive. The Legislative Reference Bureau's 1978 Constitutional Convention Study indicates that the adoption of an integrated system of governance

...would reduce the autonomy of the state education agency and expand gubernatorial control. The reasons for integrating the state education agency into the executive branch are based on the need for better accountability and responsiveness, more comprehensive planning and efficient use of state resources, and the access to gubernatorial influence.

Your Committees find that, while our current educational governance system most resembles the separated form of administration, it is deficient in its most important component: fiscal autonomy. However, your Committees further find that in all states with elected state boards of education, no such board is afforded fiscal autonomy. The powers to tax and to create indebtedness are only accorded elected boards at the more localized levels of government.

The reason for this dearth of fiscally autonomous state boards is clear: democracies demand the maintenance of systems of checks and balances. In the democratic construct of government, the power of the purse rests with the legislative body. The legislature has the duty to oversee the public treasury and to ensure that its funds are appropriately and efficiently spent; to not do so would be an abrogation of its privilege, of its responsibility and, indeed, of its purpose.

Therefore, your Committees find that it is impossible to entertain the idea of establishing a pure form of separated governance for our educational system. At the same time, however, we find that the mixed governance structure we have created to be unwieldy, burdensome, and a source of a great deal of confusion for the public when the question of accountability arises. This very problem of confused accountability was foreboded in July of 1964, by the Tax Foundation of Hawaii, in a discussion on the then proposed amendment to the State Constitution calling for an elected school board:

An elected school board will result in confusion. It will be neither responsible to the legislature, which basically determines school policies through its power to appropriate, nor to the Governor who is the administrative head of government. If there results a poor school system, the voters will be unable to fix the blame. Is the Governor as chief administrator, who will have little to say in operating the schools, at fault? Is the Legislature, which imposes the tax and appropriates the funds for schools, to blame for improper appropriation of funds? Is the school board, elected by the people to operate the schools, responsible for poor operations? Responsibility is, at best, confusing with an elected school board.

It is because we have floundered in this muck of confused accountability for almost twenty years that your Committees find a desperate need to address the governance structure of our educational system. We are concerned, however, that any amendment to the Constitution provides us a system of governance which is best capable of most efficiently managing a bureaucracy the size of the Department of Education, while still ensuring a clear line of accountability.

Your Committees find that the integrated system of governance, while providing a more traditional pyramidal management structure for the Department of Education, ensures a line of accountability which leads to a single individual, the Governor, for an accounting of action or inaction on the part of the Department. To accommodate this governance structure, however, the Constitutional amendment proposed in this bill must be adopted by the electorate.

In hearings on this bill, your Committees heard concerns that the adoption of this Constitutional amendment would result in a diminution of democratic principles. Your Committees believe that just the opposite will be the case. We find that the blurred line of accountability which currently afflicts the educational system does more harm to the concept of "government of the people, by the people, and for the people." The surgical procedure necessary to clear this line of accountability may initially be the cause of some pain to the public senses, but will eventually provide the public with the clear vision necessary to identify the individual with

the ultimate responsibility for maintaining the educational system, the Governor. Further, the accountability of the Governor is maintained by the will of the electorate.

Your Committees have amended this bill to provide for a membership of nine individuals on the Board of Education, with at least one member from each departmental school district and two members appointed at-large.

Your Committees on Education and Judiciary are in accord with the intent and purpose of H.B. No. 571, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 571, H.D. 1, and placed on the calendar for Third Reading.

Signed by all members of the Committees.

(Representatives Apo, Hagino, Hee, Ige, Matsuura, Takamine, Tungpalan and Jones did not concur.)

SCRep. 410-84      Transportation and Education on H.B. No. 2036-84

The purposes of this bill are 1) to amend Section 286-102(b), Hawaii Revised Statutes, to replace the requirement that a school "bus" operator must hold a Department of Education bus operator certificate with the requirement that school "vehicle" operators must comply with Department of Transportation regulations; and 2) to amend Section 286-181(c), Hawaii Revised Statutes, to provide school vehicles weighing less than 10,000 pounds; owned by a day care center, child care facility, headstart program, or preschool; and primarily used to transport pupils of such facilities, an exemption from Department of Transportation regulations dealing with vehicle and equipment design, construction and identification, and with safety inspection standards so long as certain other standards are met.

Your Committees received testimony from numerous child care facilities and preschools favoring this bill. They protest a mandate from the State Department of Transportation that they must comply with certain Department school bus design, construction and equipment regulations which would require them to purchase school vehicles beyond their financial means. Your Committees find that it is in the public interest to permit children to be taken on excursions and to and from their homes or schools by day care centers, child care facilities, headstart programs and preschools.

However, your Committees are concerned that children being transported by vehicles owned by day care centers, child care centers, headstart programs or preschools be protected to the maximum extent feasible.

Under present law, motor vehicles which are on the public highways in furtherance of a commercial or educational enterprise are encompassed by Part XI of Chapter 286, Hawaii Revised Statutes, and the regulations adopted thereunder. Some of these regulations are contained in General Order Number 2 of the Public Utilities Commission relating to all motor carriers in the State. Hence, vehicles operated by preschools, etc., for these purposes must comply with General Order Number 2 which, among other things, imposes requirements relating to insurance, driver qualification, driving of the vehicles, necessary vehicle parts, accident reporting and vehicle inspection and maintenance.

House Bill No. 2036-84, as it was referred to your Committees, would require school vehicles falling within the proposed exemption from Department of Transportation rules to "meet the same standards for vehicle and equipment design, construction and identification applicable to a motor vehicle of the same type which is not used as a school vehicle or motor carrier vehicle under part IX." Your Committees believe that preschool, day care center, child care facility and headstart vehicles should, at a minimum, be required to comply with the same laws, rules and regulations as other motor vehicles operated on the public highways and used to transport persons in furtherance of commercial or educational enterprises. That is, the vehicles exempted from Department of Transportation rules under the proposed Section 286-181(c), Hawaii Revised Statutes, should have to meet the State Public Utilities Commission standards relating to motor carrier safety.

Your Committees have therefore amended Section 2 of the bill, page 4, lines 13-17 to require that the subject vehicles "meet the same standards as a motor vehicle engaged in the transportation of persons on the public highways in

furtherance of a commercial or educational enterprise for vehicle and equipment design, construction and identification, and safety inspection" applicable to such a motor vehicle.

Your Committees wish to emphasize that these vehicles shall remain subject to regulations of the State Department of Transportation relating to school vehicle driver qualification and training, school vehicle operation, maintenance, maintenance records and vehicle loading and unloading.

Your Committees have also replaced the word "the" with the word "those" on page 4, line 17 of the bill, as received by your Committees.

Your Committees received testimony that some vehicles operated by day care centers, child care facilities, headstart programs, and preschools are actually owned by churches, employees of the program, or others. Thus, your Committees' intent to exempt vehicles operated by these programs would be better served by exempting vehicles "operated" by them rather than vehicles "owned" by them. Your Committees have thus amended Section 2, page 4, line 8 of the bill, as it was received by your Committees, to replace the word "owned" by "operated".

Finally, your Committees are concerned that student athletes and school athletic staffs may be unable to attend school related athletic activities in the absence of an exemption for school vehicles used to transport these persons to such activities. Therefore, your Committees have amended Section 2 of the bill by adding a new exemption from the Department of Transportation regulations on vehicle and equipment design, construction, and identification and safety inspection for school vehicles used for the purpose of transporting these persons to such activities.

Your Committees on Transportation and Education agree with the intent and purpose of H.B. No. 2036-84, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2036-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 411-84      Judiciary on H.B. No. 2308-84

The purpose of this bill is to update the controlled substance schedules to conform with that of the federal by adding the substances alpha-methylfentanyl, parahexyl, sufentanil, tilidine, alprazolam, halazepam, temazepam, triazolam, and synthetically produced cocaine.

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

Your Committee has received testimony from the Department of Health, the Chairman of the Pharmacy Committee of the Hawaii Medical Association, and the Department of the Prosecuting Attorney of the City and County of Honolulu.

Your Committee finds that the addition of the substances will conform with federal requirements. However, your Committee finds that the requirement of pre-printed official prescription forms will provide additional expenses to the State and private medical practitioners.

Under present law, prescriptions for Schedule II drugs are written and signed in duplicate and that these prescriptions are clearly identified with the prescriber's name, address, and DEA (narcotics) number. Your Committee feels that the problem of verification of prescriptions is adequately met at this time.

Accordingly, your Committee has amended the bill by deleting section 5, which refers to the requirement for an official prescription form.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2308-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2308-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 412-84      Judiciary on H.B. No. 2329-84

The purpose of this bill is to allow the Family Court, in the case where a final decree or order provides for the termination of alimony upon remarriage, to enter an order terminating alimony without the necessity of a hearing upon the receipt from either party of written notice of the remarriage of the party receiving payments for support and maintenance. The notice shall include evidence which the court finds sufficient to establish that the remarriage has occurred.

This bill protects the party receiving the payments by assuring that the court follow notice procedures to adequately protect the procedural due process rights of the party receiving payments.

Your Committee has received testimony from the Family Court and an attorney in private practice.

Under the present law, the remarried party is required to file with the Family Court notice of remarriage within thirty days of the remarriage. However, the notice to the court does not provide a procedure where an order terminating alimony may be entered. A hearing must be held to have a court order terminating alimony. The law requires that only the remarried party must file notice. No procedure is available where the party making the payments may file notice.

Your Committee concurs with the concerns of the Family Court and has adopted the court's recommendations by deleting language in the bill relating to specific court procedures. Your Committee finds that the court is capable of formulating its own procedures to implement the intent of this bill.

Your Committee has also amended this bill by providing that the delivery of a notice of termination of payments for support and maintenance to the address at which the payments are received shall constitute adequate notice.

Your Committee has made technical, non-substantive changes to clarify the language of this bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2329-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2329-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 413-84      Judiciary on H.B. No. 2077-84

The purpose of this bill is to appoint the chief clerk of a respective court as the true and lawful attorney for a nonresident person or association when that nonresident person or association cannot be located for service of process or notice in any action growing out of the acts, business, or activities within the state giving rise to any cause of action and subjecting the nonresident person or association to the jurisdiction of this State.

Your Committee has received testimony from the state Judiciary and the Department of Commerce and Consumer Affairs expressing their concerns over the administration of these procedures.

Under present law, the Director of Commerce and Consumer Affairs is served notice for any action or proceeding where the defendant cannot be found in the State. These provisions are referred to as the State's "long-arm statutes" providing for service of process and gaining court jurisdiction over the nonresident person or association who does business or engage in other activities in the State.

It is an established principle that a state may impose conditions upon a foreign corporation doing business with the state and within these conditions prescribe a particular mode of service which would bring a nonresident person or association within the jurisdiction of the state's courts. Hawaii has undertaken to exercise the right to extend the jurisdiction of its State Court and has designated the

Director of Commerce and Consumer Affairs as a State official who shall receive service of process.

Due process requires that the nonresident person or association have notice of the manner by which a state achieves jurisdiction. It is sufficient notice if the manner of service is provided for by statute. However, in order to perfect service or process, it is necessary that personal service also be made upon the person or association or that constructive service by registered or certified mail or by publication is completed. Your Committee finds that the requirements of personal or constructive service sufficiently protects the due process rights of the nonresident person or association without the need for service upon the Director of Commerce and Consumer Affairs.

In addition, your Committee notes that after acknowledging receipt of these services, the Director of Commerce and Consumer Affairs takes no further action except to log and maintain a record of all services received. The receipt, storage, and maintenance of these services places an immense burden on the personnel and facilities of the department's Business Registration Division.

Your Committee finds that there is a conflict of interests or impartiality on the part of the court if a clerk of the court were designated as the representative of the nonresident person or association.

Your Committee, therefore, has amended the bill by deleting those portions of the bill which refer to service of process to the Director of Commerce and Consumer Affairs or to the chief clerk of the respective court and, in its place, has added new material as follows:

1. Page 1, line 12 of the bill: "acts subjecting the association to the jurisdiction of the courts of this State".
2. Page 3, line 7 of the bill: "an act subjecting the person to the jurisdiction of the courts of this State".
3. Page 4, line 11 of the bill: "an act subjecting the person to the jurisdiction of the courts of this State".
4. Page 5, line 19 of the bill: add "service" after the brackets.

Your Committee has made technical, non-substantive amendments to the bill for clarity and conformance to Ramseyer format.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2077-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2077-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 414-84      Judiciary on H.B. No. 2032-84

The purpose of this bill is to enable the Family Court to make an assignment of future earnings or income of a person (hereinafter "obligor") to insure that past due payments and payments which will become due in the future will be paid if there is a court order which provides for the automatic assignment of the obligor's wages upon the obligor's failure to timely pay or provide child support that the obligor is legally required to pay or provide through the clerk of the court, and the court or clerk finds that the obligor is delinquent in payments equal to or greater than the sum of payments for a two-month period.

The bill requires that the Family Court shall establish and follow notice procedures to protect the obligor's right to procedural due process and the obligor may file, within 14 days, a written objection to the assignment and a written request for a hearing, and the Family Court shall not issue an assignment until a hearing is held.

For purposes of clarity, without affecting the present substance of the first part of section 571-52(b), Hawaii Revised Statutes, the bill restates that the Family Court may order an assignment of future earnings or income if the person to whom child support payments are ordered to be made petitions the court and the court

finds that obligor delinquent in payments equal to or greater than the sum of payments for a two-month period.

This bill also provides that the wage assignment may cover accumulated arrears as well as future child support. Further, this bill provides that wage assignment for child support shall have priority over garnishment, attachments, etc., unless otherwise ordered by the court, and protects such wage assignments from exemptions and restrictions contained in the garnishment law.

Your Committee has received testimony in support of this bill from the Department of Social Services and Housing, Family Court, the State Commission on the Status of Women, the Department of the Corporation Counsel of the City and County of Honolulu, and an attorney in private practice.

Under the present law, the Department of Social Services and Housing must continuously refer cases back to the Family Court for a hearing in order to obtain wage assignments from delinquent payors in child support cases. This process is achieved only at considerable cost and time to the department and the corporation counsel providing the enforcement service.

This bill will cut down the cost and time expended by both the department and the corporation counsel and will allow the court to respond more quickly to assure resumption of support payments for the welfare of the child. This bill protects the obligor's rights by assuring the obligor two weeks within which to request a hearing to object to the wage assignment.

Your Committee has amended this bill by making grammatical and stylistic changes and by specifically providing that the automatic assignment shall be made by the Family Court upon its own motion.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2032-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2032-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 415-84      Judiciary on H.B. No. 1989-84 (Majority)

The purpose of this bill is to permit the Family Court to receive into evidence any report concerning a blood test ordered by the court to aid the determination of whether the alleged or presumed parent is or is not the natural parent of a child. The right to call witnesses to rebut the results of any blood test and any report is reserved to all parties.

Your Committee has received testimony from the Department of Social Services and Housing, the Family Court, the Hawaii State Commission on the Status of Women, the Department of the Corporation Counsel of the City and County of Honolulu, and an attorney in private practice.

Your Committee finds that red and white blood cell tests are now utilized in almost all cases in which a defendant denies paternity. The reliability of the results is so advanced that many courts are receiving the blood test results into evidence without the need for laying the foundation.

The experience of the Family Court has been that even where the defendant has not been excluded and the probability of paternity is extremely high, the defendant may nevertheless refuse to permit the results of the tests into evidence without laying a foundation. Laying a foundation requires calling as witnesses blood testing experts from the mainland, which is extremely costly.

Your Committee notes that a defendant's rights are protected because this bill reserves to all parties the right to rebut the results of any blood test and any report. While the effect of this will be to place the burden on the defendant to rebut the result without the opportunity to cross-examine, your Committee notes that paternity proceedings are civil, not criminal, in nature and that due process rights need not be as strictly applied.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1989-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

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

SCRep. 416-84      Judiciary on H.B. No. 1980-84

The purpose of this bill is to amend the wiretap law by including in the definition of "intercept" oral communication through the use of any electronic, mechanical, or other device. The bill will also allow the intercepting or monitoring of any wire or oral communication when at least one party to the communication has consented to the interception or monitor of such communication. The bill further provides that the provisions of the wiretap law shall be effective until June 4, 1990.

Your Committee has heard testimony from the Office of the Public Defender, the Police Department of the City and County of Honolulu, the Department of the Prosecuting Attorney of the City and County of Honolulu, the Office of the Prosecuting Attorney of the County of Maui, the Office of the Prosecuting Attorney of the County of Hawaii, Local 142 of the ILWU, and the American Civil Liberties Union of Hawaii.

The wiretap law was enacted during the 1978 legislative session of the State Legislature with the provision that the law shall terminate on June 4, 1984 in order to provide a six year period to serve as a trial period.

Over the past six years, the law enforcement officials have been provided with an invaluable investigative tool. Law officials have been able to conduct the interception of wire communication which resulted in the successful prosecution of a murder-for-hire case, a major drug ring, organized gambling activities, and the Honolulu Police Department's "Project Hukilau".

Your Committee notes that when the wiretap law was enacted in the 1978 legislative session of the State Legislature, the House Judiciary Committee clearly prohibited the interception and disclosure of wire or oral communications except that wiretap communications may be applied for and used under limited circumstances. In the House Standing Committee Report No. 605-78, House Journal in page 1661, the committee stated: "...the bill incorporates added safeguards against unwarranted invasions of privacy. The most significant differences between the bill and the federal and most other state wire-tapping statutes are the complete prohibition of court-ordered bugging, the use of an appointed attorney to oppose the wiretap application, the limitation of wiretap orders to very serious crimes or to other specific offenses when the involvement of organized crime is shown, the rigorous, notice, disclosure, and destruction provisions."

Section 803-42(b)(3) currently provides that it shall not be unlawful for a person to intercept a wire or oral communication where such person is a party to the communication or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of the constitution or laws of the United States or of this State for the purpose of committing any injurious act. The provision also adds that the installation in any private place of any device for recording, amplifying, broadcasting sounds or events, without the consent of the person or persons entitled to privacy therein and the installation or use outside a private place of such device to intercept sounds originating in that place which would not ordinarily be audible or comprehensible outside, without the consent of the person or persons entitled to privacy therein, are prohibited.

The bill proposes to expand the area of lawful interception by allowing the interception or monitor of any wire or oral communication when at least one party to the communication has consented to the interception or monitor.

Your Committee re-affirms the legislative intent and purpose of the wiretap law. Absent the showing of a compelling state interest, your Committee will not dilute the prohibitive nature and plain meaning of the law. Your Committee has amended the bill accordingly by deleting the proposed amendments.



Your Committee also notes the decision of the Hawaii State Supreme Court in State v. Lo, Sup. Ct. Haw. (No. 8741, 1983) in addressing the area of consensual monitoring. The court stated that the language of section 803-42(b)(3) plainly outlaws the "bugging" of any private place unless the parties entitled to privacy therein have consented. This Committee affirms the court's statutory construction of the provision.

Your Committee has further amended the bill by deleting the sunset provision terminating the wiretap law in recognition of the indispensable and invaluable tool the law is for our State's law enforcement agencies.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1980-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1980-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 417-84      Judiciary on H.B. No. 1947-84

The purpose of this bill is to bring before the electorate of this State a proposed amendment to Article III, Section 12, of the Constitution of the State of Hawaii to allow the Legislature to establish the deadline for introducing bills to be considered in the regular session prior to the twentieth day of the session.

Currently, Article III, Section 12, of the Constitution of the State of Hawaii provides that the deadline for introducing bills to be considered in the regular session shall be after the nineteenth day of the session and shall precede the commencement of the mandatory recess.

The amendment proposed by this bill, if ratified by the electorate, will allow the Legislature to provide for an earlier cut-off date for the introduction of bills and would be combined with a greater reliance on "prefiling" of bills, prior to the convening of the Legislature.

The combined effect of prefiling of bills and an earlier cut-off for bill introduction would be a substantial improvement in legislative operations. To illustrate some of the potential benefits of this approach, your Committee offers the following hypothetical scenario for the 1985 legislative session:

(1) Bill introduction begins on the first Wednesday in January, two weeks before the Legislature convenes.

(2) Bills are printed, numbered, and made available to the general public beginning on the second Wednesday in January, one week before the Legislature convenes. This allows the public to familiarize itself with legislation, prepare testimony, and consult with legislators, before the legislators' time is taken up by committee meetings. It allows the public more time to research the issues and prepare more detailed and thoughtful testimony. The Speaker will be able to review the bills before the Legislature convenes and decide on referrals.

(3) The Legislature convenes on the third Wednesday in January. Non-essential legislative business is deferred, according to custom and tradition, to allow for the opening day festivities.

(4) The first week of the session would see the Legislature in full-swing. Committee Chairmen would be holding hearings. This would be in contrast to the current "slow period" at the beginning of each session which results from the relative dearth of legislation.

(5) Bill introductions would be cut-off sometime after the first week, but before the end of the second week of session. The result of this approach is to spread the workload more evenly over the 60-day session. The principal benefits of this would be:

(a) More time would be available for hearings by the Committees. Thus, shorter agendas would be possible. Shorter agendas would result in more deliberative hearings, shorter waiting periods for persons wishing to testify, and

would allow Legislators to stay for the entire hearing without having to leave periodically to take care of other matters.

(b) Committee Chairmen could more easily group bills which deal with the same or related subject matters onto a single agenda. This would be a great convenience to people who wish to testify; including members of the public, lobbyists, and department personnel.

(c) There would be less pressure to hold hearings during the legislative recess or during late evening hours which are inconvenient to the general public.

(d) It would be possible to provide more timely notice of hearings to the general public.

(e) The second committee, when there is a double referral, would have more time in which to work on bills.

While there are many significant advantages to an earlier cut-off date for bill introductions, it will require adjustments that will increase the workload of legislators and their staff. A part of the printshop staff will need to begin working approximately two weeks earlier. The Speaker will need to begin working on bill referrals two weeks earlier. Members will need to begin working with their constituents and staffs somewhat earlier.

While this will require the staff and legislators to begin working earlier, it should not result in any significant cost increase in the operations of the Legislature. The Legislature will find that there are partially offsetting savings. The workload will be more evenly apportioned and the "peak load", to which staffing is geared, will have been reduced.

The consequences of the ratification of this proposed constitutional amendment will be to allow for a more deliberative, open, and rational legislative process. The result should be better legislation.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1947-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 418-84      Judiciary on H.B. No. 1629-84

The purpose of this bill is to amend Part VII of Chapter 286, Hawaii Revised Statutes, by adding two new sections which authorize and set minimum standards for the establishment of intoxication control roadblock programs.

The bill provides that:

(1) Police departments of each county are authorized to establish intoxication control roadblock programs;

(2) Any county establishing an intoxication control roadblock program shall specify by rule procedures to be followed, subject to minimum standards set by statute;

(3) Either all motor vehicles approaching a roadblock shall be stopped, or vehicles shall be stopped in a specified random numerical sequence;

(4) Roadblocks shall be scheduled only between set hours when expected traffic is light;

(5) Roadblocks shall be located at fixed points, rather than be roving in nature;

(6) Minimum safety precautions shall be provided at every roadblock;

(7) The length of time of any delay shall be limited; and

(8) Speedy compliance with purpose of the roadblock and a minimum of inconvenience shall be assured.

Your Committee has received testimony from the State Department of Transportation, the Honolulu Police Department, the Retail Liquor Dealers of Hawaii, the Office of the Prosecuting Attorney of the County of Hawaii, and the Department of the Prosecuting Attorney of the City and County of Honolulu.

Your Committee finds as follows:

(1) The problem of intoxicated drivers is widely recognized and well documented. There is grave danger to the safety and welfare of the people of this State caused by the presence of drivers operating under the influence of alcohol.

(2) The National Highway Traffic Safety Administration has estimated that for every intoxicated driver charged by police there are 2,000 intoxicated drivers on the highways. Hawaii's experience parallels the shocking scenario painted by this estimate, and this low rate of detection and apprehension of drunk drivers must be remedied.

(3) Intoxication control roadblocks are a reasonable means of protecting the vital public interest in removing intoxicated drivers from the public highways, a means for which there is no practical alternative.

(4) In analysis of legislation of this type, concern over constitutional implications is well-founded and proper. Cognizant of fundamental Fourth Amendment protection against unreasonable searches and seizures, legislation authorizing the establishment of intoxication control roadblocks must provide minimum standards which limit officer discretion and the level of intrusion on individual rights.

(5) This bill affirms by statute the practice of the Honolulu Police Department which was upheld in State v. Austin (Hawaii District Court, Honolulu Division, February 1984). It also provides for minimum standards beyond those existant in that case, further assuring the reasonableness of this exercise of the police power of the State.

(6) The minimum standards for intoxication control roadblock standards should generally be provided for by statute, with specific procedures to be established by rules and regulations adopted pursuant to Chapter 91.

In accordance with these findings, your Committee has amended this bill by deleting paragraphs (a)(2) in page 3 of the bill, leaving the determination of the hours during which roadblocks will be allowed to the rulemaking process, in which relevant information and empirical data are to be considered.

Your Committee further amended this bill by amending paragraph (a)(3) in page 3, clarifying the requirement that authorized roadblocks be located at fixed locations for a limited time period.

Paragraph (a)(5) in page 4 has been delted, to leave the determination of the allowable length of any delay to the rulemaking process.

Paragraphs (a)(3), (a)(4), and (a)(6) in pages 3 and 4 have been renumbered for the purposes of consistency.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1629-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1629-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 419-84      Judiciary on H.B. No. 633

The purpose of this bill is to bring before the electorate of this State a proposed amendment to Article I, Section 13, of the Constitution of the State of Hawaii, to limit the right to a jury trial to those civil cases which involve a claim of at least five thousand dollars.

The State Constitution currently provides for a right to a jury trial in any civil action which involves a claim of as little as one thousand dollars.

Your Committee finds that allowing jury trials in civil cases involving relatively small amounts is extremely wasteful of the courts' time and resources and adds to the expenses of the parties.

Your Committee has amended the bill to provide that there shall be a right to trial by jury in all civil cases which are tried in the circuit courts. Presently, all civil cases involving less than \$5,000 are tried in the district courts. Cases between \$5,000 and \$10,000, under certain circumstances, may be tried in the district courts. These district court cases do not warrant the added cost of a jury trial.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 633, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 633, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 420-84      Judiciary on H.B. No. 2179-84

The purpose of this bill is to allow the use of electrically charged attachments to the interior side of fences, or to posts supporting wire fences, built along the boundary of any government road or within the exterior boundaries of any leased public land or lot for the purpose of confining of any leased public land or lot for the purpose of confining animals or protecting farms against the trespass of animals.

Under present law, the use of electrically charged fences is prohibited along the boundary of any government road.

Your Committee has received testimony from the Kahua Ranch, Ltd. located in Kohala on the Big Island of Hawaii in support of this bill.

Your Committee finds that the use of electrically charged fence attachments will increase the efficiency and viability of livestock operations by reducing fence construction and maintenance costs and will decrease the incidence of stray animals on public highways and lands.

Further, your Committee finds that attaching the electrically charged attachments to the interior side of the fence, approximately two feet from the ground and one foot from the existing fence (and in the case of wire fences, installing the attachments on the interior side of the posts supporting the wire), will not pose a threat to public safety.

However, your Committee is concerned about the State's liability and, therefore, recommends that any person who constructs or maintains an electrically charged fence or fence with electrically charged attachments shall be liable for any claim of bodily injury or property damage which may occur. Accordingly, your Committee has amended the bill to include this provision.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2179-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2179-84, H.D. 1.

Signed by all members of the Committee.

SCRep. 421-84      Consumer Protection and Commerce on H.B. No. 2016-84

The purpose of this bill is to effectuate substantial changes to the existing law concerning medical malpractice insurance by: (1) requiring all health care providers to participate in the Patients' Compensation Fund; (2) requiring all health care providers to carry a minimum amount of malpractice insurance; (3) limiting the amount of damages and attorney's fees recoverable in medical malpractice claims; and (4) adopting a "risk management program" that will hopefully reduce the incidence of malpractice. There also are certain administrative provisions which limit the liability of the Fund, thereby clarifying existing law.

In 1976, the Legislature established a Patients' Compensation Fund (the "Fund"). At the time, health care providers were required to carry minimum malpractice

insurance (then \$100,000), or its equivalent. The Fund was the "exclusive agency" through which excess coverage could be obtained. The next Legislature eliminated the minimum insurance requirement and the Fund became no longer the "exclusive agency". Thus, under existing law, malpractice insurance has been a purely voluntary matter. Health care providers have been free to enroll in the Fund, or purchase other malpractice insurance, or not carry any insurance at all.

Your Committee finds that the present malpractice insurance system under the Fund is wholly unsatisfactory. The Fund has been exposed to an enormous increase in the size and number of malpractice claims, judgments and settlements. Moreover, in 1977, the Legislature made the Fund liable for the entire amount of damages (up to its statutory maximum) on any claim instituted more than six years after the occurrence of the medical tort, freeing the basic carriers of such responsibility.

In its early years the Fund had no loss experience upon which to base its membership assessments, and the "annual surcharge" was relatively low. Recently, however, the Fund's actuarial analysis prescribed a dramatic increase in the surcharge to 114 percent of basic coverage. Meanwhile, private carriers of excess coverage have been able to offer competitive premium rates by being more selective and leaving higher risks to be handled by the Fund.

Understandably, health care providers have had little incentive to remain in the Fund. Indeed, presently only about one-fourth of the medical profession is enrolled, and as the Fund's financial prospects worsen, greater decline will probably occur.

The increased exposure and declining membership have decimated the Fund. Currently it has assets of less than \$1.5 million and pending (unliquidated) claims exceeding \$7 million. Estimates of unreported (i.e., unknown but anticipated) claims vary from \$14 million to \$30 million.

Your Committee finds these circumstances to be alarming. Unless both known and unknown claims are settled or adjudicated for substantially less, the Fund will become insolvent. Claims may go unpaid, doctors and hospitals may have to declare bankruptcy, insurance rates will eventually skyrocket, the medical profession will be in chaos, medical services will be seriously impaired. In short, we are faced with a crisis of enormous proportions.

Your Committee believes that the Legislature, acting within the scope of its police powers, should find that the statutory remedy herein is intended to provide an adequate and reasonable remedy to protect the public health and safety presently and into the foreseeable future. Your Committee believes that it is essential to enact a substantial reform in the law regarding medical malpractice.

Upon consideration of this measure, we have made several changes to the bill. As amended, it would provide as follows:

1. Mandatory participation in Fund. Section 20 of the bill requires every health care provider to participate in the Fund, and authorizes the Director of Commerce and Consumer Affairs (the "Director") to notify appropriate licensing authorities of noncompliance. Participation in the Fund is made a requirement of licensure for health care facilities under section 1 of the bill, and for physicians under section 5. Your Committee believes that mandatory participation is necessary to provide adequate protection for patients. Moreover, the Fund cannot survive if it is left with a predominance of high risk members.

2. Mandatory basic coverage. Also as a condition of licensure, section 1 of the bill requires health care facilities to carry basic coverage or its equivalent, in an amount established by the Director. A similar requirement for doctors is provided in section 5, at the inception of practice.

We believe that a means should be available to all doctors, particularly newly licensed doctors, to meet the mandatory requirements of the new law. Section 2 of the bill follows the model established by the automobile no-fault law (§294-9, Hawaii Revised Statutes). An amendment to §431-115, Hawaii Revised Statutes, would prohibit all malpractice insurance companies in the State from refusing to provide basic coverage, except under very limited conditions.

Section 6 of the bill makes failure by a physician to maintain basic coverage, or coverage under the Fund, grounds for revoking or suspending a health care provider's license.

3. Liability of the Fund. Section 14 of the bill amends §671-31, Hawaii Revised Statutes, to restate what is already implicit in the law: that the Director, the Department or the State of Hawaii is not responsible for guaranteeing payment under the Fund.

Section 14 also deletes references in §671-31, Hawaii Revised Statutes, to obtaining loans from the State general funds. Similarly, in section 21 of the bill, §671-37, Hawaii Revised Statutes, has been repealed. That section also provides for a loan from the State general fund under limited conditions. These provisions have never been utilized. Moreover, the loan provisions detract from the principle that participants in the Fund are ultimately responsible for paying claims against the Fund. We should point out that the magnitude of the claims at present would find little relief from the loan provisions.

Section 15 amends §671-32, Hawaii Revised Statutes, by providing that the Fund will not be liable for "punitive damages," which is against intended to clarify already existing law.

4. Annual surcharge rate. Your Committee believes that the annual surcharge of Fund members should not be tied to the premiums assessed by the basic insurance carrier. Rather, the Fund should have an independent rating structure. Section 14 of the bill would permit the Director to determine the surcharge based simply upon actuarial principles, without reference to the basic carrier's rates.

Furthermore, the Director is empowered to levy a "special surcharge" if it appears that all of the claims during the particular period cannot be paid by the existing fund balance. Such a determination will be left to the discretion of the Director who must weigh, among other things, the amount of disparity between the allowed claims and the Fund balance, what the surcharge presently is and has been over time, and the effect of a special surcharge on the medical profession and the community, which will ultimately bear the consequences of any surcharge. This provision is intended to permit greater flexibility in the operation of the Fund. However, this power must be exercised without reference to or consideration of any pending claims which have not yet been allowed.

Section 14 also deletes §671-31(c), Hawaii Revised Statutes, which allows for the reduction or waiver of a surcharge. In its seven years of operation, the Fund has never been able to reduce or waive a surcharge. Indeed, the Fund should be permitted to accumulate as much cash as possible in order to meet prospective claims. Thus, this provision amounts to unnecessary surplusage that might mislead Fund members into believing that the Director has the duty to reduce or waive surcharges.

5. Payment of claims against Fund. Section 15 of the bill amends §671-32(b), Hawaii Revised Statutes, to provide for annual computation and payment of claims, instead of the present quarterly system. Annual payments were originally proposed in the 1976 legislation, which was patterned after the Indiana law. Your Committee feels that annual determinations permit more flexibility with regard to settlement of claims and investment of Fund assets. It also allows for better analysis of the Fund's ability to pay claims allowed during the calendar year. If it becomes necessary to prorate claims because of insufficient Fund assets, any unpaid balance would not become due until the following year -- allowing for better planning than under the present law. All claims under the amended law would be paid by January 31 of the succeeding year, instead of the present January 15.

6. Post six-year claims. Section 17 of the bill repeals §671-33.5, Hawaii Revised Statutes, thereby removing the Fund's exclusive liability to pay claims made more than six years after the occurrence of a medical tort. Although the Fund has yet to encounter such claims, the possibility of such claims is very realistic. The enactment of §671-33.5, Hawaii Revised Statutes, in 1977 was intended to deal with the so-called "longtail" effect on some primary insurance premiums. That is, the possibility of experiencing claims after six years, coupled with inflation, could have a significant effect on premium rates. Section 671-33.5, Hawaii Revised Statutes, placed the burden of the "longtail" problem solely on the Fund. Your Committee believes that basic carriers should share in such risks.

Under the bill, both the primary carrier and the Fund will have to take the "longtail" effect into account in determining their rate structures.

7. Risk management program. Section 18 of the bill adds a major activity to the Fund, by amending §671-34, Hawaii Revised Statutes, to provide for a "risk management program". The program establishes a system to monitor the practices of health care providers which may give rise to medical malpractice claims. The focus of the investigatory, analytical, educational and developmental facets of the program will be preventive, not merely remedial, in nature.

Other states and segments of the private sector have employed similar programs with apparent success, and the Committee believes that the program will have a substantial impact on the number and size of claims against the Fund. Although more administrative expense will be incurred, the long-term savings and benefits will be even greater.

8. Costs of defense. Section 19 of the bill makes clear what is already implicit in the statute. The basic carrier or self-insured health care provider is responsible for defending the Fund in good faith. Further, although the Legislature intended the basic carrier or uninsured health care provider to be responsible to pay for all costs of defense, some carriers have resisted the Director's claims where counsel has been hired prior to any litigation.

Your Committee believes that where the amount of the claim involves the Fund, there may be an inherent conflict of interest for the basic carrier's counsel. Thus, it might be prudent for the Fund to hire independent counsel, whether or not litigation has been instigated. The amendment makes clear that in such instances, the basic carrier is liable to pay for such legal expenses.

9. Power to reinsure. Section 19 of the bill also empowers the Director to obtain reinsurance for the Fund, if available, on a fair and reasonable basis. This supposes that the current amendments to the law will make it attractive for a reinsurer to assume existing known or unknown liabilities of the Fund and to provide economical excess coverage in the future. If so, the amendment is intended to facilitate and encourage such action.

10. Changes to medical malpractice law. The bill contains a number of substantial changes to existing tort law with respect to medical malpractice. However, these proposals are not new. Indeed, many were part of the original package of legislation which created the Fund in 1976.

Your Committee believes that a burgeoning number of malpractice claims, enormous awards and settlements and tremendous legal fees and costs require forceful action to be taken now. The approach of this bill is two-fold: first, an attempt to reduce the incidence of medical malpractice by establishing a risk management program; second, proposing major reforms in medical malpractice law.

(a) Statute of limitations for minors. Under present law, any minor might theoretically bring an action up to twenty-four years after a malpractice incident. Section 7 of the bill requires a minor to institute suit within six years after an alleged malpractice incident, or before his tenth birthday, whichever period is longer. This is the type of formula utilized by several states. By the tenth birthday any injury caused by malpractice at birth should have manifested itself to the parents or would have been the subject of complaints by the child. It should be noted that the general six-year limitation period would be longer than the present period allowed adults. Further, the proposal tools the statute of limitations in case of collusion or fraud.

(b) Contingent attorneys' fee limits. Section 9 limits the amounts of attorney's fees in medical malpractice cases to one-third of the first \$50,000 recovered, 20 percent of the next \$50,000, and 10 percent of any amounts thereafter. This proposal is intended to neutralize the negative effects of the contingent fee arrangement. Under present law, fees in medical tort cases must be approved by the Court, and judges have as a matter of course approved contingent fees (usually 33-1/3 percent or 40 percent) in every case.

Your Committee believes that the contingent fee arrangement has caused too few recovery dollars to be delivered to the victim, has promoted nonmeritorious claims and has escalated costs disproportionately to benefits. What is perhaps most objectionable about this type of arrangement is that it encourages litigation in



general. This measure is intended to lower costs of insurance to health care providers, and ultimately to their patients.

(c) Restrictions on non-economic loss. Section 11 of the bill limits the amount of recovery for non-economic losses, principally "pain and suffering", resulting from a medical tort, to an aggregate amount of \$300,000 per case. A similar provision was originally proposed in 1976.

Large jury verdicts and settlements in malpractice cases have become evident in Hawaii. If this trend continues, it will become impossible to maintain reasonable medical costs, stabilize the medical profession and preserve the Fund. The bill therefore has provisions, adopted in a number of other states, limiting recovery for "pain and suffering". It should be noted that the proposed limitation would place no ceiling on the recovery of "economic losses", such as medical expenses or lost earnings.

(d) Eliminating "collateral source" rule. Section 12 is intended essentially to obviate the "collateral source" rule in medical malpractice cases. Under existing law, awards and settlements need not be reduced by the value of services or amounts received from "collateral" sources, such as health insurance plans, gratuitous services, replacement income from social security, TDI, disability insurance, workers compensation, sick leave and sick pay, life insurance benefits and accident insurance policies, and pension benefits. As a result, it is possible that a significant duplication of benefits may occur because of the overlap of tort damages and "collateral" sources.

Your Committee believes that such duplication of benefits is uneconomical and wasteful in view of the apparent limitation on our society's available economic resources. Eliminating the "collateral source" rule will have a significant effect in reducing the loss experience of malpractice insurance carriers and in reducing premiums charged. Several states have adopted similar provisions.

(e) Periodic payment of damages. Section 13 of the bill requires the court at the request of either party, to order periodic payments of future damages if the award equals or exceeds \$100,000. By reducing the opportunity for a large lump-sum judgment, the section will perhaps lead to lower settlements. The proposal will also encourage the preservation of benefits until actually needed, and will prevent a potential windfall to successors of the victim's interests. The measure will encourage the creation of structured settlements requiring less actual premium dollars; e.g., annuities or reversionary trusts.

11. Penalties. In addition to licensure sanctions throughout the bill, section 2 provides for the levying of "civil penalties" of up to \$1,000 for each violation of the statutes requiring the issuance of basic insurance to "all comers". Similarly, section 18 of the bill permits the Director to levy surcharges against health care providers who are found to be in violation of the "risk management program".

Present law provides for disciplinary action by the Board of Medical Examiners or the State Health Planning Agency for health care providers who do not comply with the reporting requirements. Additionally, insurance carriers who fail to comply are subject to a suspension of their certificate of authority.

12. Miscellaneous provisions. The remaining provisions of the bill are primarily housekeeping measures, intended to clarify parts of the law, or bring them into conformity with the proposed amendments.

Section 10 specifies who must provide reports to the Director regarding malpractice settlements, arbitration awards and judgments. Such information is essential in order to assure an adequate determination of the appropriate surcharge to be levied, and to administer the Fund properly.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2016-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2016-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

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Your Committee believes that such duplication of benefits is uneconomical and wasteful in view of the apparent limitation on our society's available economic recourses. Eliminating the "collateral source" rule will have a significant effect in reducing the loss experience of malpractice insurance carriers and in reducing premiums charged. Several states have adopted similar provisions.

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Present law provides for disciplinary action by the Board of Medical Examiners or the State Health Planning Agency for health care providers who do not comply with the reporting requirements. Additionally, insurance carriers who fail to comply are subject to a suspension of their certificate of authority.

12. Miscellaneous provisions. The remaining provisions of the bill are primarily housekeeping measures, intended to clarify parts of the law, or bring them into conformity with the proposed amendments.

Section 10 specifies who must provide reports to the Director regarding malpractice settlements, arbitration awards and judgments. Such information is essential in order to assure an adequate determination of the appropriate surcharge to be levied, and to administer the Fund properly.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2016-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2016-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

The purpose of this bill is to update provisions relating to the licensure, regulation, and supervision of financial institutions. The Bank Examiner, the Hawaii Bankers Association, and the Hawaii Consumer Finance Association testified in support of H.B. No. 2196-84, H.D. 1.

Specific changes in the bill include the following:

Section 1 clarifies uncertainties that currently exist in section 401-14, Hawaii Revised Statutes, as to who may demand access to confidential information relating to financial institutions that are supervised and examined by the Bank Examiner.

The amendment to section 401-14, Hawaii Revised Statutes, specifies information that constitutes property of the Bank Examiner and which should not be disclosed, except to certain specified parties such as federal or state banking authorities and to the institution under examination. The amendment would conform the State law to section 309.5 of the Federal Deposit Insurance Corporation Rules and Regulations and section 505.5 of the Federal Home Loan Bank Board Rules and Regulations for purposes of uniformity in joint supervision and examination of financial institutions.

Section 2 adds a new section to chapter 402 that imposes punishment as a class C felony (up to five years imprisonment) for circulating false statements about a financial institution. The amendment was prompted by the Committee's concern about last year's run on Honolulu Federal Savings and Loan Association.

Section 3 amends section 408-2.1, Hawaii Revised Statutes, to enable companies other than industrial loan companies to use the words "finance" or "financial" in their names or titles. Your Committee heard testimony by the Bank Examiner that the current law precludes many legitimate businesses from entering the State, without yielding an equivalent gain in terms of safety and soundness to the consumer.

Section 4 amends section 408-8, Hawaii Revised Statutes, to clarify and streamline the administrative licensure process by:

- (1) Requiring an industrial loan company to commence business within sixty days after receiving a license, with the possibility of an extension of time by the Bank Examiner; and
- (2) Requiring an administrative hearing only in cases where the Bank Examiner is inclined to deny an application for an industrial loan license.

Section 5 amends section 408-11.1, Hawaii Revised Statutes, to clarify ambiguities surrounding the transfer of a license--particularly the common misconception that an industrial loan license can be "bought" at a premium. The amendment clarifies administrative procedures for transferring a license or voting stock. Additionally, the amendment specifies that:

- (1) a transfer or assignment of an industrial loan license must be incidental to a sale of all or substantially all of a licensee's ongoing operations;
- (2) a transfer of voting stock requires the prior approval of the Bank Examiner; and
- (3) a potential license transferee must meet the same statutory criteria set forth in section 408-8, Hawaii Revised Statutes, that are imposed on a de novo applicant for licensure.

Section 6 amends section 408-14, Hawaii Revised Statutes, by: (1) specifying that an industrial loan company cannot issue investment certificates, unless the Bank Examiner determines that the company is in good standing under State law; (2) deleting obsolete requirements referring to the period prior to January 1, 1978; and (3) specifying and distinguishing administrative procedures applicable to a company's violation of ratio requirements, as opposed to violation of reserve requirements.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2196-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2196-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 423-84      Consumer Protection and Commerce on H.B. No. 1895-84

The purpose of this bill is to include practitioners under State prescription dispensing and labelling statutes. The bill also makes numerous clarifications and reorganizations of the statutes for the sake of clarity and readability.

Practitioners, who are nationally responsible for dispensing 12 percent of all prescriptions issued, are currently exempt from existing State statutory requirements relating to prescription dispensing and labelling, requirements which pharmacists must now comply. This bill will correct this double standard and ensure that prescription drugs are issued properly and utilized effectively by individuals.

The Hawaii Pharmaceutical Association testified in favor of this bill.

Your Committee agrees with the findings of your Committee on Health and has made no amendments to this bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1895-84, H.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 424-84      Consumer Protection and Commerce on H.B. No. 2526-84

The purpose of this bill is to amend chapter 281, Hawaii Revised Statutes, by adding a new section which would require suppliers to report all sales and shipments of liquor to wholesalers and military establishments.

The Wholesale Liquor Dealers Association and the Retail Liquor Dealers Association testified in favor of the bill.

Your Committee in agreement with the given testimonies finds that there is a need to determine the amount of alcoholic beverage entering the local market tax free via the military sector.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2526-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 425-84      Finance on H.B. No. 2407-84

The purpose of this bill is to: (1) extend the current term of the job-sharing pilot project in the public library system through fiscal year 1985-86 and (2) expand the scope of the project to include library assistants and library technicians.

Act 139, Session Laws of Hawaii 1982, established a voluntary job-sharing pilot project for full-time librarians in the public library system. This project has proven to be successful in two ways. First, it creates a higher degree of employee satisfaction by enabling the participants to pursue both personal and professional goals. Secondly, it allows the State to utilize the talents and resources of the two individuals at a cost-savings to the State.

This bill would also expand the job-sharing project to include library assistants and library technicians. Your Committee has found that the department of personnel services and the legislative auditor's office favor this concept.

Your Committee has amended this bill to correct nonsubstantive technical and typographical errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2407-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2407-84, H.D. 1.

Signed by all members of the Committee.

SCRep. 426-84      Finance on H.B. No. 2254-84

The purpose of this bill is to appropriate \$50,000 out of the state general fund for fiscal year 1984-1985 to be expended by the legislative auditor for the purpose of conducting a comprehensive review of the Hawaii No-Fault Law.

The insurance division of the department of commerce and consumer affairs, Hawaii Independent Insurance Agents Association, Hawaii Academy of Plaintiff's Attorneys, and ILWU Local 142 testified in support of this bill.

Your Committee concurs with the necessity of a complete review of the no-fault law in order to analyze whether it is achieving the results intended by the legislature.

Your Committee has made several nonsubstantive technical and stylistic amendments to this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2254-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2254-84, H.D. 2.

Signed by all members of the Committee.

SCRep. 427-84      Housing; Water, Land Use, Development and Hawaiian Affairs;  
and State General Planning on H.B. No. 2597-84

The purpose of this bill is to amend Section 359G-4.1, Hawaii Revised Statutes, to clarify legislative intent regarding exemptions from various county requirements which may be requested by the Hawaii Housing Authority ("HHA").

Section 359G-4.1 allows HHA to develop certain types of housing projects, either on its own or in conjunction with a private developer, for which exemptions from "statutes, ordinances, charter provisions, and rules of any governmental agency relating to zoning and construction standards" may be requested by HHA. The respective county council for the county in which the project is to be situated has the power to approve or deny these exemption requests.

Your Committees were informed that conflicting interpretations of the above-quoted provision necessitate this clarification in that one interpretation disallowed exemption under this provision from planning standards, since the word "planning" does not appear in the litany, while other interpretations include this planning exemption. Your Committees believe that the intent of this provision is to allow these types of housing projects to be handled expeditiously and given certain exemptions because these projects fulfill a public purpose in providing affordable housing. In view of this, and in view of the fact that even county charter provisions may be overridden, a literal interpretation of the statute to exclude planning standards is not warranted.

In providing this clarification, it is not your Committees' intent to stifle community input regarding a proposed project or to denigrate the importance of the counties' planning standards. Your Committees trust that HHA, before submitting exemption requests, and the county councils, in approving or denying such requests, will adequately address the issue of community input as well as any other issue of import to the proposed project.

Your Committees on Housing, Water, Land Use Development and Hawaiian Affairs, and State General Planning are in accord with the intent and purpose of H.B. No. 2597-84 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

## SCRep. 428-84      Transportation on H.B. No. 2116-84

The purpose of this bill is to amend the requirement that employed drivers of motor vehicles listed in Section 286-102(c), Hawaii Revised Statutes (primarily heavy trucks and buses), as part of the driver improvement program, annually attend driver safety courses approved by the State Director of Transportation to a biennial requirement.

Your Committee is in agreement with the intent of Section 286-108.5, Hawaii Revised Statutes, which requires employers to provide for every employed driver of vehicles listed in section 286-102(c), Hawaii Revised Statutes, a driver improvement program. Your Committee finds that the potential for serious accidents is compounded by the weight of the vehicles covered by this law and that participation by such drivers in periodic driver improvement programs, including approved driver safety courses, develops and reinforces positive behavioral responsibilities and also provides a mechanism to detect and eliminate those drivers who have bad driving attitudes and habits.

Your Committee also finds, however, that the driver improvement program, which includes a system for continuous driver evaluation, annual driver safety courses, and other activities, can burden the employer with additional costs and that annual driver safety courses can be repetitive and excessive, particularly for the experienced full-time driver.

Your Committee has adopted the essence of a recommendation of the Hawaii Transportation Association by amending page 1, line 7 of Section 1 to restore the original requirement for annual, as opposed to the proposed biennial, driver safety courses, and by adding, following the word "transportation" on page 1, line 9, the qualifying phrase, "provided that for drivers with five years of continuous experience with one employer, this requirement shall be biennial".

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2116-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2116-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

## SCRep. 429-84      Transportation on H.B. No. 2078-84

The purpose of this bill is to simplify the formula for determining geographical representation on the Commission on Transportation, and to set membership on the Commission at a maximum of eleven members.

Currently, the Commission on Transportation is composed of, "one member from each county having a population under 200,000, one member from each district of each county having a population of 200,000 or more, and three members at large." The term "district" refers to the districts set forth under Section 4-1, HRS.

Your Committee received testimony in support of this bill from the Director of the Department of Transportation indicating that the existing formula for selecting Commission members is "awkward and difficult to implement because of existing appointments and terms of office". The Director further indicated that since the Commission serves the Director in an advisory capacity only, the general public policy of requiring apportionment within the basic island units is not required.

Your Committee concurs with the testimony of the Director of the Department of Transportation that a Commission on Transportation, consisting of not more than eleven members, with each of the four counties being represented by at least one member, would have sufficient diversity to advise the Director of Transportation.

Your Committee has also adopted the recommendation from the Department of Transportation to delete the last sentence of the proposed new language in Section 1 of the bill, lines 5 and 6 of page 3, "The terms of the members shall be as designated by the director.", since the selection and terms of members of boards and commissions are already covered in Section 26-34, HRS.

Your Committee also made two technical, nonsubstantive amendments to the bill to correct an omission and a typographical error.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2078-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2078-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 430-84      Transportation and Consumer Protection and Commerce on  
H.B. No. 2275-84

The purpose of this bill is to add a new section to Chapter 291, Hawaii Revised Statutes, to regulate the height of bumpers on motor vehicles with a gross vehicle weight rating of 10,000 pounds or less.

Your Committees received testimony from the State Department of Transportation supporting the bill. However, the Department suggested that the bill be amended in several respects.

In response to the suggestions of the Department of Transportation, your Committees have amended section 1 of the bill as follows:

- (1) Your Committees have added an exemption from the requirements of this proposed new section of Chapter 291, Hawaii Revised Statutes, for motor vehicles which, at manufacture, have a bumper height in excess of that provided in this section.
- (2) Your Committees have added a new definition of "bumper" for purposes of the new section.

Your Committees on Transportation and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2275-84, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2275-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 431-84      Transportation and Consumer Protection and Commerce on  
H.B. No. 2249-84

The purpose of this bill is to add an exemption to the applicability of Chapter 462A, Hawaii Revised Statutes, relating to pilotage, for fishing vessels licensed or enrolled under the laws of the United States of America.

Your Committees find that the interest of fishing in the State will be promoted by exempting licensed or enrolled fishing vessels from the requirement of employing a pilot licensed under Chapter 462A, Hawaii Revised Statutes. Your Committees find that the costs to fishing vessels of taking a pilot on board are not warranted because fishing vessels are relatively maneuverable and may traverse pilotage waters safely even without a Hawaii licensed pilot.

Your Committees on Transportation and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2249-84 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 432-84      Transportation and Judiciary on H.B. No. 2337-84

The purpose of this bill is to require most vehicles on public highways to display two red tail lights instead of one. It would also add a new section to Chapter 291C, Hawaii Revised Statutes, to exempt motorcycles and motor scooters from this new requirement.

Your Committees received testimony from the Honolulu Police Department and the Office of the Prosecuting Attorney stating that the present law only requires one red tail light on a vehicle. Thus, persons operating vehicles which have a tail light out are either not being cited or, if they are charged with a violation, are being acquitted.



Your Committees find that it is in the interest of public safety to require two tail lights on vehicles which are manufactured to have two tail lights.

Your Committees received testimony from the State Department of Transportation that certain older model automobiles were manufactured to have only a single tail light. Therefore, your Committees have amended the bill to add a proviso exempting from the two tail light requirement those vehicles manufactured to display only a single tail light.

Your Committees are also concerned that neither Section 291-31, Hawaii Revised Statutes, nor the new Hawaii Revised Statutes section proposed in section 2 of the bill requires that a vehicle must be in operation for the tail light laws to apply. Hence, a person parked on a public highway could be cited for failing to display a red tail light. Therefore, your Committees have amended section 1, page 1, line 5, of the bill to add the word "operated", and section 2, page 2, line 11 of the bill, as it was received by your Committees, to add the same word.

Your Committees could not discern the reason for the phrase ", and so constructed and placed in those cases," and has therefore deleted this phrase from Section 291-31, Hawaii Revised Statutes (section 1, page 1, line 9 of the bill), and from section 2, page 2, line 14 of the bill.

Your Committees find that the contents of section 2 of the bill would be more appropriately placed within Chapter 291, Hawaii Revised Statutes, dealing with traffic violations, rather than within Chapter 291C, Hawaii Revised Statutes, the Statewide Traffic Code, which deals primarily with the operation of vehicles. Thus your Committees have amended section 2, page 2, lines 5 and 8 of the bill, as it was received by your Committees, to change "291C" to "291".

Your Committees, having amended the bill to apply the tail light provisions only to vehicles in operation, have further amended the bill to delete references to the county ordinances exempting certain parked vehicles from the tail light laws. These deletions are: 1) from section 1, page 1, line 14 to page 2, line 4 of the bill; and 2) from section 2, page 2, line 19 to page 3, line 2 of the bill.

Your Committees have also made some punctuation and language amendments for the sake of clarity at section 1, page 1, lines 9 and 11 and at section 2, page 2, lines 14 and 16 of the bill.

Your Committees on Transportation and Judiciary agree with the intent and purpose of H.B. No. 2337-84, as amended herein, and request that it pass Second Reading in the form attached hereto as H.B. No. 2337-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 433-84      Judiciary on H.B. No. 2451-84

The purpose of this bill is to prohibit persons convicted of crime, parolees, and persons awaiting trial for various criminal charges from entering or residing in the Waikiki Peninsula.

Your Committee has received testimony from the American Civil Liberties Union of Hawaii, the Department of the Prosecuting Attorney of the City and County of Honolulu, the State Public Defender, and the Waikiki Improvement Association.

After lengthy discussion on the constitutionality of this bill, your Committee found that the bill as introduced was overly broad, regarding the classes of people and crimes it applied to, and too narrow, regarding the geographical area it applied to.

Thus, your Committee has amended this bill to provide that a prohibition from entering specified geographical areas may be a condition of probation or parole.

The purpose of this bill, as amended, is to authorize the court, in the case of probation, and the Hawaii paroling authority, in the case of parole, to prescribe as a condition of probation or parole that the person being released be prohibited from entering specified geographical areas.

Your Committee is mindful of the large number of crimes against visitors which take place in the Waikiki area and other tourist destination areas throughout Hawaii. Your Committee believes that proper utilization of geographic limitation as a condition of probation or parole will enhance the reputation of Hawaii as a tourist destination area, and will help to make the entire State a place that residents can enjoy and be proud of.

Accordingly, your Committee has amended this bill to authorize the courts, as a condition of probation, to prohibit certain individuals from entering specified geographical areas. Your Committee has also amended the bill to provide that, as a condition of parole, the Hawaii paroling authority may impose reasonable conditions on a parolee, as set forth in section 706-624(2), including restrictions upon the parolees right to enter specified geographic areas.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2451-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2451-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 434-84      Judiciary on H.B. No. 78

The purpose of this bill is to require an owner who reports the theft of a motor vehicle or trailer to submit a sworn statement of the theft to the police department, on a form prescribed by the county director of finance. The police department would be required to notify the county director of finance and the owner of the recovery of any stolen motor vehicle or trailer.

The bill also creates a new offense of intent to defraud an insurer of a motor vehicle. The new offense is a class C felony.

The bill further provides that the court may order restitution upon conviction of the offense of intent to defraud an insurer by removal or concealment of a motor vehicle or theft of a motor vehicle. The defendant may petition the court for relief from any payment or installment. The defendant may be held in contempt of court for a default in any payment of restitution. If the defendant has made a good effort to make restitution, the court may modify the order.

The bill also provides that it shall be an offense of theft of a motor vehicle if a person steals, buys, receives, possesses, conceals, or obtains control of a motor vehicle or trailer without the authority of the owner, and the penalty shall be a class B felony, and which shall also include a mandatory revocation of a license to operate a motor vehicle for a period of one year for the first offense and for a period of five years following any subsequent offenses. Evidence that an identifying number has been altered shall be prima facie evidence that a defendant knew the motor vehicle had been stolen.

Your Committee has received testimony from the Police Department of the City and County of Honolulu, the Department of the Prosecuting Attorney of the City and County of Honolulu, and the State Public Defender.

Your Committee finds that the offense of motor vehicle theft is widespread in the community, often resulting in heavy financial losses and inconvenience to victims.

Your Committee has substantially amended the bill to improve clarity. For example, the previous Section 1 of the bill has been bifurcated. The new Section 1 only covers notification provisions. The new Section 2 embodies the provision which creates the new offense of intent to defraud an insurer of a motor vehicle.

Your Committee has deleted the former Sections 2 and 4 of the bill, as the present law on restitution is adequate. Your Committee has deleted Section 3 of the bill, as the present laws on theft and unauthorized control of a propelled vehicle already covers this subject and the addition of a new offense would create confusion. Sections 5, 6, and 7 of the bill have been renumbered as Sections 3, 4, and 5 in the current draft.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 78, as amended herein, and recommends that it pass Second Reading in the

form attached hereto as H.B. No. 78, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 435-84 Finance on H.B. No. 2527-84

The purpose of this bill is to reduce the amount of securities required to be deposited with the state director of finance for the protection of funds deposited by the director under HRS chapter 38.

Your Committee finds that because of three recent factors (the relatively rapid increase in public deposits, the decline in investment securities as a percentage of total assets, and the dramatic increase in interest rate volatility), Hawaii banks are now required to purchase new investment securities to collateralize new public funds deposits.

Prior to fall 1979, the new public deposits received by Hawaii banks represented an important source of funds for new loans. Due to the multiplier effect, these loans generated increases in local economic activity with concurrent increases in jobs, tax revenues, and general prosperity.

After the 1979 turning point, the situation was reversed: since the banks had effectively pledged most available investment securities, each new public deposit which was received was immediately reinvested in appropriate collateral and, furthermore, another sum of funds (equal to approximately 10 percent of the deposit) was also invested in collateral. Therefore, the growth in public deposits actually represented a reduction in, rather than a source of, lendable dollars.

Your Committee was informed that the state director of finance was not in favor of this bill because it would expose that portion of public deposits not collateralized to risk of loss. To overcome this objection, your Committee has amended this bill to allow the director to accept, as collateral to secure deposits of public funds, other assets of the depository which are eligible to secure advances from Federal Reserve Banks, in an amount at least equal to the amount of the deposit, with a limitation as to the percentage of the deposits which may be so secured.

Your Committee concurs with this amendment and believes that it would still provide much of the additional flexibility required by banks to comply with the collateralization requirements of the director, while permitting banks to meet the credit needs of the community. Additionally, it provides the director with the necessary protection against risk of loss by continuing the State's requirement for full collateralization.

Specifically, your Committee has amended the bill as follows:

- (1) Revised paragraph (9) of HRS §38-3.
- (2) Deleted paragraph (10) of HRS §38-3.
- (3) Deleted language requiring the semiannual publication by the depository of a statement of income.
- (4) Corrected typographical errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2527-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2527-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 436-84 Finance on H.B. No. 1718-84

The purpose of this bill is to permit flexibility in the time frame of the public sector collective bargaining process regarding mediation, fact-finding and arbitration.

Under present law a set time frame must be met when an impasse exists. Your Committee agrees that there should be some degree of flexibility to allow the parties to extend the time periods allowed for the impasse resolution procedure through mutual agreements of the parties and concurrence of the Hawaii Public Relations Board. On occasion, additional time could prove beneficial in further resolving major issues possibly leading to a settlement.

Your Committee received testimony from both the Office of Collective Bargaining and the Department of Personnel Services in support of this bill.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1718-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1718-84, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 437-84 Finance on H.B. No. 1879-84

The purpose of this bill is to enable the Hawaii Housing Authority to issue capital appreciation bonds under the State's Hula Mae program, in anticipation of that program being extended by Congress through the reenactment of the federal Mortgage Subsidy Bond Tax Act of 1980.

Testimony by the Authority indicated that capital appreciation bonds, or "zero coupon" bonds, operate under the same principle as United States Savings Bonds. Initial investments grow substantially over an extended period of time, with interest on the bonds being paid when the bonds mature at par value. According to the Authority, such a bond would provide greater flexibility to the State's housing financing structure, thereby enabling it to take advantage of the most favorable interest rate. The result would be a reduced mortgage rate for Hula Mae borrowers of approximately one-quarter per cent (1/4%).

Your Committee made technical, non-substantive amendments to the bill to correct drafting errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1879-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1879-84, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 438-84 Finance on H.B. No. 2327-84

The purpose of this bill is to expand the authority of the health fund board of trustees to contract for vision and adult dental plans.

According to testimony submitted by the Hawaii public employees health fund, their office receives numerous inquiries from employee-beneficiaries to add their benefits to existing health benefit plans. Due to lack of authority, the office is not able to consider, or even formally study, the feasibility of such benefit improvements.

Your Committee has amended page 2 of this bill to clarify its language by adding the word "and" after "vision treatment" on line 2, and adding "and vision" after the word "dental" on line 4. Several other nonsubstantive technical changes were also made.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2327-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2327-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 439-84 Finance on H.B. No. 2184-84

The purpose of this bill is to extend the enabling legislation authorizing the issuance of special purpose revenue bonds under Section 39A-52, Hawaii Revised Statutes, by extending the sunset provision from June 30, 1986 to June 30, 1991.

Your Committee finds that tax exempt bonds, with their low interest rates, have proved to be a popular method of financing health care facilities. Since legislation authorizing such bonds was first enacted in June, 1980, your Committee finds that the cost savings thereby realized have benefited providers, consumers, and third-party payors of health care, and therefore agrees that the sunset provision should be extended provide a five-year period during which floating rate bonds currently being issued may be converted to fixed-rate bonds to take advantage of low interest rates.

Your Committee made technical, nonsubstantive amendments to the bill to correct drafting errors.

Your Committee on Finance is in accord with the purpose and intent of H.B. No. 2184-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2184-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 440-84      Finance on H.B. No. 2169-84

The purpose of this bill is to authorize the Governor to request, pursuant to section 103(e) of the Internal Revenue Code, that the Hawaii Educational Loan Marketing Corporation (HELMAC) be organized and operated as a private non-profit corporation under the auspices of United Student Aid Funds, Inc., exclusively for the purpose of acquiring educational loan notes incurred under the federal Higher Education Act of 1965 in order to provide a Hawaii secondary market for investments in such loans.

Your Committee finds that the establishment of a local private non-profit corporation, organized and operated for the exclusive purpose of acquiring educational loan notes, would serve to benefit both students and the lending community in Hawaii.

Your Committee finds that unlike most consumer loans, guaranteed student loans are governed by a variety of deferment and forbearance provisions. Additionally, because the repayment period is extremely long, a lending institution may find its funds tied up in an illiquid portfolio. In order to continue making or to make more guaranteed student loans, lenders need to achieve liquidity by being able to sell their loan portfolios to a secondary loan market.

Your Committee believes that the creation and establishment of a corporation, as envisioned, would better serve the needs of Hawaii's lenders, schools and students since it would be staffed by local residents who are already familiar with and committed to continually understanding the needs of our lenders, schools and students. Moreover, your Committee also believes that the establishment of such a corporation would enable many of Hawaii's smaller financial institutions to participate in the secondary market, thereby expanding the availability of student loan institutional sources.

In response to testimony submitted by the Director of Finance, your Committee has substituted Section 2 of the bill with new language limiting the amount of tax-exempt student loan bonds which may be used to \$20 million, and specifying that such bonds may only be issued with the prior approval of the Governor and the Director of Finance. Your Committee also made technical, nonsubstantive amendments.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2169-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2169-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 441-84      Finance on H.B. No. 1811-84

The purpose of this bill is to provide the University of Hawaii with the flexibility to grant waivers of the non-resident tuition differential on the basis of a comprehensive educational rationale consistent with its mission, rather than solely on the basis of the country of origin of the student and the tuition practices there.

Under present law the University of Hawaii must provide a non-resident tuition differential for any student from any Pacific Island or Asian jurisdiction without a public institution of higher learning. In exchange the University of Hawaii is accorded a reciprocal arrangement with the public education institutions of the countries of these foreign students.

Testimony from the vice president of academic affairs at the University of Hawaii pointed out that this arrangement does not take into account limited opportunities to attend universities in some foreign countries and the non-existence of a non-resident differential in most of these countries. Furthermore, the current law forces the University of Hawaii to attract students in certain numbers without regard for their individual merits.

Your Committee is in agreement that the total number of waivers granted be limited and that eligibility requirements that include academic merit be established.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1811-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1811-84, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 442-84      Finance on H.B. No. 1765-84

The purpose of this bill is to clarify the kinds of licensees which must pay into the compliance resolution fund, to add three new types of filings and licensees which must pay into the fund and to insure that errant licensees or unlicensed entities pay into the fund any fines or penalties assessed against them.

Presently, all licensees of the Professional and Vocational Licensing Division must pay a \$10 annual assessment into the compliance resolution fund. The division has interpreted the word "licensee" to include permits, certificates, and registrations issued through the licensing process. Amendment of the statute would clarify the assessment process.

Chapter 514E, "time sharing", section 485-6(15), "private offerings of securities" and section 485-14 "securities salesmen and dealers" require an inordinate amount of departmental resources to monitor. If an errant entity must be prosecuted, a large amount of time and money must be spent in attorneys' time, court costs, and obtaining financial records. A typical prosecution conservatively costs the state over \$20,000. Assessing these filings a compliance resolution fund fee would insure that the department has adequate resources to monitor these activities.

The attorneys hired under the compliance resolution fund are paid out of fees collected solely from licensees. No other monies are utilized to pay for them. They prosecute errant licensees and civilly enjoin business entities from operating without first obtaining a license. Because the salaries of the attorneys are paid out of a special fund all fines and penalties should be earmarked for that fund. Ultimately, law abiding licensees and the state as a whole will benefit in insuring that the continued funding of these attorneys is maintained. Fines and penalties which may be collected are estimated to be less than \$20,000 a year.

Your Committee has made the following, technical, nonsubstantive amendments to this bill:

- (1) adding the appropriate brackets around paragraph "(m)" on page 1, line 3; and
- (2) removing the underscoring from the word "upon" on page 1, line 16.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1765-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1765-84, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 443-84 Finance on H.B. No. 1749-84

The purpose of this bill is to repeal Section 78-3, HRS, which mandates a retirement age, and to amend Section 88-73, HRS, which refers to exceptions for bona fide retirement plans of both public and private employees.

Your Committee is in complete agreement with all organizations and individuals supporting this measure and finds that forcing someone to retire at any fixed age irrespective of physical or mental health or competence on the job is unfair. Further, forcing retirement onto older workers may result in individual depression and economical hardships.

Your Committee has amended this bill by including nonsubstantive stylistic technical revisions for clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1749-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1749-84, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 444-84 Finance on H.B. No. 1549

The purpose of this bill is to promote Hawaii as an Olympic training center for athletes who have the potential for competing in the summer games of the world Olympic games. The director of planning and economic development is responsible for implementing the provisions of this bill.

This bill also establishes a sports medicine center within the school of medicine of the University of Hawaii. The sports medicine center will conduct research in the causes, prevention, cure, and treatment of injuries resulting from sports activities; recommend measures to mitigate or prevent injuries from sports; provide treatment to athletes training and competing in world Olympic games; and conduct educational classes for persons in related areas.

Testimony before your Committee indicates that the establishment of a properly organized, funded, and functional sports medicine center is essential to the designation of Hawaii as an Olympic training center. It was recommended that the new swimming pool complex be considered as the physical location for the sports medicine center since space there has been allocated for a sports medicine physiology laboratory.

Faculty members of the medical school are presently conducting education and research in the treatment of sport-related injuries. In addition, they have worked, in conjunction with the department of health, physical education and recreation at the University of Hawaii (Manoa) in developing a curriculum leading to certification of athletic trainers. Testimony indicates that the clinical departments at the medical school can participate fully without extra manpower.

Your Committee has deleted the funding for the sports medicine center. It is your Committee's understanding that these functions can be implemented without additional funding.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1549, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1549, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 445-84 Finance on H.B. No. 1940-84

The purpose of this bill is to establish two separate funds for research and training at the University of Hawaii. The original account established by HRS section 304-8.1(a) is amended by deleting the maximum allowable amount and allowing the deposit of 50 percent of all the indirect overhead of research and training grants to the account. The remaining 50 percent of the indirect overhead is deposited to the general fund. Further, the unencumbered funds of this



account as of June 30 each fiscal year shall be deposited to the general fund. This bill also creates a permanent new account of \$2,500,000 to be used to provide advance funding to meet reimbursable costs incurred in connection with federally financed research and training projects. This two-account approach will provide the necessary incentive and stability necessary to the University for increasing the receipt of federal grants and contracts.

The University estimates that last year \$7.1 million were generated by indirect costs of research and training grants. Because of the limitations of current statutes, the University indicates that incentives to attract new research grants have declined because initial "start-up" money requested for new grants greatly exceeds existing moneys in the revolving fund.

Your Committee agrees that adjustments are necessary to this fund which was originally established with a \$200,000 cap. Your Committee also recognizes that overhead costs are truly reimbursements to the general fund for investments made for the development of facilities and the operating costs of the University system.

Your Committee has amended this bill to lower the 50 percent of all indirect overhead to the original account to 30 percent and to reduce the cap on the new account to \$2,000,000.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1940-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1940-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 446-84      Finance on H.B. No. 1820-84

The purpose of this bill is to enable taxpayers who would otherwise qualify and who have an interest in unimproved residential property to establish and utilize individual housing accounts.

Under current law, taxpayers who have yet to purchase their first principal residence, but who have an interest in unimproved residential property either within or without the State, cannot establish individual housing accounts for the purpose of purchasing their first residence or for the purpose of constructing their first residence on unimproved residential property. While the intent of this law is to encourage those who do not already own a principal residence to set aside funds for such a purpose, prohibiting those who happen to own unimproved residential property or who may wish to construct their first principal residence on unimproved residential property they possess runs counter to legislative intent.

This bill amends HRS section 235-515 to: (1) include the construction of a dwelling unit on unimproved land as a qualifying use of IHA funds and (2) provide that an interest in unimproved residentially zoned land would not disqualify a person from opening or deducting contributions to an IHA.

Your Committee has amended this bill by adding the words "for the individual's first principal residence" to subsection 235-5.5(a) for clarification purposes.

Your Committee on Finance concurs with the intent and purpose of H.B. No. 1820-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1820-84, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 447-84      Finance on H.B. No. 1905-84

The purpose of this bill is to appropriate funds, to be matched on a dollar-for-dollar basis by the Hawaiian Sugar Planters' Association, for research necessary to keep the Hawaii sugar industry economically viable.

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

Your Committee finds that the matching funds appropriated by the Legislature in past years has directly benefitted the sugar industry through increased yields and reduced production costs.

Your Committee further finds that the future of the sugar industry in Hawaii continues to hinge on research findings which improve productivity and profitability.

Your Committee has amended this bill by reducing the appropriation from \$3 million to \$1 million, changing the effective date of July 1, 1984, and making technical, nonsubstantive changes to correct typographical errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1905-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1905-84, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 448-84      Finance on H.B. No. 1828-84

The purpose of this bill is: (1) to amend the definition of "special facility" in relation to harbor facilities, to specifically include facilities for the "processing and canning of fish and fish products"; (2) change the expiration date of harbor special facility bond issuance to June 30, 1987; and (3) to set the maximum limit in regard to issuance of special facility revenue bonds for harbor facilities.

Your Committee finds that, while the definition of "special facility" at present might include those for the "processing and canning of fish and fish products", the specific inclusion of the phrase would eliminate any question as to the intent of HRS section 266-51.

Your Committee concurs with the findings of the Committees on Transportation and on Water, Land Use, Development and Hawaiian Affairs that the extension of the expiration date for the issuance of the bonds is in the best interest of the State.

Your Committee has amended this bill by increasing the dollar limit for the issuance of special facility bonds for harbors to \$50,000,000. A single drafting correction has also been made.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1828-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1828-84, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 449-84      Finance on H.B. No. 2161-84

The purposes of this bill are as follows: (1) to permit the use of moneys in the "bikeway fund" for the promotion of bicycling transportation and recreation; (2) to change the definitions of "bicycle" and "vehicle" for the purposes of HRS chapter 291C; (3) to make amendments to chapter 291C, the Statewide Traffic Code, relating to bicycles; and (4) to permit bicycle racing on public highways, when the race is approved by local authorities.

Your Committee finds that moneys in the bikeway fund should not be used solely for bikeway capital improvement projects and maintenance and for debt servicing. Your Committee believes that bicycling education and promotion are appropriate areas for the expenditure of bikeway fund moneys.

Your Committee received testimony from the Hawaii Bicycling League, American Lung Association, the Honolulu Police Department, and the department of transportation favoring the basic thrust of the bill which is to treat bicycles as vehicles for purposes of the Statewide Traffic Code. Your Committee finds that it is appropriate that bicyclists be accorded generally the same rights and be subject to generally the same duties as the drivers of "vehicles", as they are now defined in the Statewide Traffic Code.

Your Committee concurs with the findings of the Committee on Transportation as expressed in Stand. Com. Rep. No. 208-84.

Your Committee has amended section 13 of this bill by providing that bicycle riding shall be prohibited on business district sidewalks. Further, technical and drafting errors have been corrected.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2161-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2161-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 450-84      Finance on H.B. No. 2151-84 (Majority)

The purpose of this bill is to provide moneys for the state highway fund.

Because of the decrease in gasoline used per vehicle due to better fuel efficiency and because of decreased usage of automobiles, revenues derived from the state fuel tax have diminished. At the same time, the costs of constructing and maintaining highways and related facilities and equipment have increased.

This bill, as received, (1) amends HRS section 237-31 to provide that from July 1, 1984, to June 30, 1985, one half of the general excise taxes derived from the sale of liquid fuel for use on the public highways be transferred to the state highway fund; (2) provides that the director of taxation, with the approval of the governor, is to establish by July 1, 1984, a formula that will determine the amount of general excise taxes so collected which is to be credited to the state highway fund; (3) amends HRS section 249-31 by increasing the motor vehicle registration fee from \$1 to \$16 per year; and (4) amends HRS section 249-33 by increasing the state motor vehicle weight tax from 0.45 to 0.60 cents per pound for vehicles weighing up to 6,000 pounds which increases the flat rate from \$27 to \$36 for vehicles weighing from 6,000 to 9,000 pounds; from \$31.50 to \$48 for vehicles weighing from 9,000 to 14,000 pounds and from \$36 to \$72 for vehicles weighing over 14,000 pounds.

Pending determination of a long-term solution to the problem of maintaining the solvency of the state highway fund, your Committee finds that extending the transfer of general excise tax revenues collected on the sale of fuel to the state highway through fiscal year 1985 is a viable temporary measure.

Therefore, your Committee amends section 237-31 to provide that from July 1, 1981, to June 30, 1985, all moneys shall be deposited in the state highway fund. Further, the second paragraph of section 237-31 has been amended by designating July 1, 1984, as the date the director of taxation is to establish a formula that will establish the amount of taxes derived from the sale of fuel which are to be deposited in the state highway fund.

Your Committee has added a new section to the bill appropriating \$100,000 to the legislative auditor to examine the State's overall transportation policy and recommend appropriate financial strategies.

Your Committee has also added a severability clause to insure the approval of the primary section of this bill, namely, that portion of the bill amending HRS section 237-31.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2151-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2151-84, H.D. 2.

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

SCRep. 451-84      Finance on H.B. No. 2113-84

The purpose of this bill is to appropriate funds for the Department of Planning and Economic Development to plan, organize, and convene a statewide conference on economic development in Hawaii.

According to testimony, there is a need to provide for a public forum for the discussion of Hawaii's future growth, trends, and directions for the economy of Hawaii. Your Committee is in agreement that the concept of a "Future Hawaii" conference on economic development is a step in the right direction and that funds should be appropriated in support of the bill.

However, your Committee notes that a related conference on statewide employment needs is proposed in H.B. No. 2248-84. Should that bill and this measure both become enacted, your Committee requests the organizers of both conferences to coordinate their activities to ensure the most effective and efficient use of appropriated funds, conference manpower, and participants' time.

Your Committee amended the bill to make the appropriation for fiscal year 1984-1985. The effective date of the bill has also been amended to July 1, 1984.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2113-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2113-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 452-84      Finance on H.B. No. 1431

The purpose of this bill is to authorize the counties to utilize tax increment financing for county redevelopment activities.

Your Committee finds that tax increment financing, which is being utilized effectively in many areas throughout the nation, is an innovative method of financing infrastructure improvements and redevelopment that is particularly attractive in this period of fiscal austerity. Tax increment financing allows increased property values in the future which result from redevelopment to pay for the costs of redevelopment and bond issuance in the present.

Your Committee has amended this bill back to its original form to effectuate its purpose.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1431, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1431, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 453-84      Finance on H.B. No. 2305-84

The purpose of this bill is to provide a sum-certain appropriation for interpreter services for hearing-impaired persons who participate in any meeting involving State or county agencies.

Your Committee finds that sign language interpreter services are an important means to enable hearing-impaired persons to participate fully in matters involving State or county agencies. This bill provides an appropriation to ensure that governmental access continues to be provided to these persons.

Your Committee wishes to reiterate its position that the sum-certain appropriation be used to provide interpreter services beyond the level already budgeted to conform to the requirements of Section 504 of the federal Vocational Rehabilitation Act of 1973, as amended, which, in part, prohibits discrimination against handicapped persons by any agency receiving federal funds. Moreover, it is the intent of your Committee that the appropriation provided by this bill be used to supplement, and not substitute for, the resources provided pursuant to Section 504, and that it be used for matters involving agencies that do not receive federal funds and are therefore not subject to the requirements of Section 504.

Your Committee has amended this bill by the inclusion of non-substantive technical amendments for clarity and consistency.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2305-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2305-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 454-84 Finance on H.B. No. 2320-84

The purpose of this bill is to amend the Hawaii crime commission by:

- (1) Changing the name to the Hawaii criminal justice commission;
- (2) Providing that commencing on July 1, 1985, the commission shall be established within the office of the lieutenant governor for administrative purposes only and shall be terminated on June 30, 1988;
- (3) Providing that the term of each member of the commission shall be for four years and deleting the provision that the chairman shall have the power to vote only in the event of a tie vote;
- (4) Deleting the provision that a commission nominee shall undergo security screening for criminal history record information which shall be provided to the governor and the senate;
- (5) Deleting the provisions concerning the committees of the commission and their functions; and
- (6) Providing that the functions of the commission shall be to research, evaluate, and make recommendations regarding the criminal justice system and to develop public education programs relating to the criminal justice system.

Your Committee finds that there is a need to continue a commission and agrees that the work of the commission should be focused on the evaluation of the criminal justice system and the development of public education programs. During its existence, the crime commission has provided reports on the criminal justice system to the legislature.

The bill provides that for a twelve-month period commencing July 1, 1984, and ending on June 30, 1985, the presently existing Hawaii crime commission shall remain in existence as established in the office of the lieutenant governor. This will allow the present commission to serve during the interim period so that the continuity of the commission is not lost in the reorganization.

Your Committee has amended this bill to provide a \$1 appropriation for the purposes of this bill.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2320-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2320-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 455-84 Finance on H.B. No. 2409-84

The purpose of this bill is to authorize the issuance of \$3,000,000 in special purpose revenue bonds for Pohai Nani Good Samaritan Kauhale.

Your Committee finds that in 1981, Pohai Nani obtained approval for \$9.0 million in special purpose revenue bonds. Due to the bond issuance, the facility avoided bankruptcy and achieved a period of stabilized costs. Pohai Nani was able to keep the resident's rate increase at only 6  $\frac{1}{4}$ % instead of the anticipated 20% annual increase.

Your Committee further finds that \$3.0 million in bond authorization is to refinance unpaid loans. One million is needed to refinance an existing second mortgage, one and one-half million to pay outstanding debts and costs incurred during the 1981 bond transaction, and one-half million for other related costs and capital improvements.

Your Committee has made a minor technical revision to this bill on page 3, line 9, by adding a comma.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2409-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2409-84, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 456-84 Finance on H.B. No. 2294-84

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist Kuakini Medical Center in financing the expansion of acute medical/surgical beds on the seventh floor of its Hale Pulama Mau long-term care facility and the renovation of the third floor of its Hale Kuakini main building.

Your Committee finds that the certificate of need application for the Hale Pulama Mau project was approved by the State Health Planning and Development Agency (SHPDA) in July 1983. Regarding the Hale Kuakini project, Kuakini Medical Center has a certificate of need application pending with the SHPDA, so the authorization to issue special purpose revenue bonds in this bill is contingent on SHPDA's approval of this project.

Your Committee has amended this bill by changing line 10, page 1 of the bill to read "in financing or refinancing, or both, of the following projects:".

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2294-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2294-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 457-84 Finance on H.B. No. 1773-84

The purpose of this bill is to extend until June 30, 1985 the provisions of Act 153, SLH 1983, which transferred a portion of the service fees collected by the Department of Commerce and Consumer Affairs from the General Fund to the Business Registration Division's special fund. The continuation of the funding would allow the Business Registration Division to retain the additional staff hired with the special fund. The termination date of fees transferred to the special fund via Act 153 will now coincide with the termination date of the special fund.

The Business Registration Division of the Department of Commerce and Consumer Affairs requested the additional funds for the following reasons:

1. The positions which were to be funded by these added sources have been filled for six months and training has just been completed in some cases. The Division would be at a loss to have the full benefit from these positions just for a few months and lose the time and energy of training these persons. Permitting the positions funded by the added sources will greatly aid the Division's operation and keep up with the ever increasing workload.
2. The Division's special fund has a termination date of June 30, 1985, and will permit all positions to end at the same time. The purpose of the limited life of the fund was to determine the additional staffing requirements for the Division and to see whether the newly established and increase fees could support these positions.
3. In the operating budget for fiscal years 1984 and 1985, two temporary and one permanent position were transferred to the division by reallocation of permanent positions from other divisions within the Department. These positions were expected to keep the division in a holding position while the special fund position were to be used to give the division additional help. However, the three general fund positions have been frozen due to the state's fiscal problems and have resulted in no real benefit from the special fund positions other than just keeping up with the workload.

Your Committee concurs with the recommendation of the Department of Commerce and Consumer Affairs to extend the provisions of Act 153, SLH 1983, until June 30, 1985.

Your Committee has made a technical, non-substantive change for purposes of style.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1773-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1773-84, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 458-84      Finance on H.B. No. 1912-84

The purpose of this bill is to amend HRS chapter 26 by adding a new chapter concerning the regulation of health clubs.

Your Committee has received testimony that during the past few years numerous complaints have been registered with the office of consumer protection against health clubs and their operators. The most common complaint alleges the failure of health clubs to honor membership agreements because the health clubs either failed to open for business or ceased doing business prior to the expiration of membership agreements. Some of these complaints allege that health clubs sold lifetime or multi-year memberships shortly before going out of business.

This bill protects consumers who enter into membership contracts with health clubs by: (1) imposing escrow or bond requirements upon any health club which solicits money from consumers before the health club becomes fully operative, (2) limiting the duration of health club contracts to thirty-six months and prohibiting lifetime memberships, (3) requiring written disclosure of the services and equipment to be made available to members, (4) providing for cancellation of the health club contract within three business days, and (5) providing for cancellation in the event of death or disability.

Your Committee has amended this bill by incorporating the amendments recommended by the office of consumer protection. Of these amendments, the only substantive amendments are as follows: (1) the definition of "Health club" in § -1 was amended to clearly delineate the type of operations regulated under this bill and to ensure that each location of the operation is deemed a separate health club for purposes of this chapter and (2) a new section was added which specifies basic items which must be included in a health club contract.

Your Committee has also amended this bill by: (1) adding the word "solely" to the definition of "Health club" in § -1; (2) adding the definition of "Social and recreational facilities" under § -1; (3) adding the qualification "or of offering social and recreational services" under exemption number 2 under § -2; and (4) adding two other exemptions under § -2 for (a) any club whose social and recreational facilities are at least 75 per cent of the total facilities and (b) any health club which has remained continuously in business in the State for a period exceeding 20 years.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1912-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1912-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 459-84      Finance on H.B. No. 1956-84

The purpose of this bill is to limit the public employers' contributions for health benefits of employee-beneficiaries retiring with at least five but less than ten years of credited service to one-half of the statutorily specified contribution.

According to testimony submitted by the Hawaii Public Employees Health Fund, at the present time approximately 1,000 state and county employees retire each year. Further, a random sampling of retirees' years of service indicates that 13% or approximately 130 employees retire with less than ten years of credited service. Therefore, it is estimated that public employers will save approximately \$142,600--State of Hawaii - \$98,520 and counties - \$44,080--if this measure is adopted.



Your Committee has amended this bill by including nonsubstantive, stylistic revisions for clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1956-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1956-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 460-84      Finance on H.B. No. 2564-84

The purpose of this bill is to eliminate retirement system abuses by those members who terminate public service for the sole purpose of withdrawing their contributions from the system.

According to testimony from the Employees' Retirement System, the present law permits a member to terminate public employment for a very short period of time even for a day, and be subsequently rehired. In the meantime during the abbreviated unemployment period, the member may request that the system return his or her retirement contributions. Although the member loses the credited service, if the member returns to, and continues public employment for at least five years, at retirement the member may purchase the credited service in a lump sum and select an option that would require the system to refund a portion or all of the member's contributions.

Your Committee is in agreement that these activities are not consistent with legislative intent and that these abuses could result in a higher cost to the employer.

Your Committee has amended this bill to correct technical drafting errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2564-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2564-84, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 461-84      Finance on H.B. No. 2523-84

The purpose of this bill is twofold: (1) To amend HRS section 340E-4 to require the director of health to take appropriate actions upon finding that a contaminant is in or is about to enter a public water supply and poses an imminent and substantial danger to public health and (2) to amend HRS section 340E-6 to require that public notices as required under that section include a description of any corrective actions being taken when appropriate.

Your Committee agrees that this measure will serve to clarify the roles of the director of health upon findings of imminent and substantial danger to public health and also serve to assure that the public is more fully apprised of conditions within their water supplies.

Your Committee has made technical and nonsubstantive amendments to this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2523-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2523-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 462-84      Finance on H.B. No. 2007-84

The purpose of this bill is to assess a fine on persons committing the offense of driving under the influence of intoxicating liquor which will defray the cost of providing a fourteen-hour minimum alcohol abuse rehabilitation program for first offenders.

Under present law, a person convicted of driving under the influence of intoxicating liquor, as a first offense, or an offense not preceded within a five-year

period, is sentenced to an alcohol abuse rehabilitation program. The cost incurred to operate this program is paid by the Judiciary. Your Committee finds that the offender should share in the cost to provide that person with education and counseling in alcohol abuse that, in the final analysis, will benefit the offender and the State.

Your Committee also concurs with the Committee on Judiciary that a review of the alcohol rehabilitation program be conducted during the next legislative session.

Your Committee has made technical, non-substantive amendments to the bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2007-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2007-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 463-84      Finance on H.B. No. 2082-84

The purpose of this bill is to reduce the current payroll costs of both the State and the county governments by providing a one-time, limited duration early retirement incentive to those employees covered under the State's retirement system who are currently eligible to retire. In addition, the provision of an early retirement incentive would allow upward employee filtration through public employment ranks, thereby providing more entry level job opportunities.

Under current law, a member of the Employees' Retirement System is eligible for retirement after 25 years of service, or upon reaching the age of 55 with five years of service. However, records from the system indicate that the average age of retirement is currently between 60 and 61 years of age. This bill provides an early retirement incentive for those members with at least 20 years of credited service by adding an additional 6% to the product of the employee's years of service multiplied by the appropriate statutorily specified percentage (i.e. 2% or 2.5%) such resultant to be multiplied by the average final compensation to obtain the retirement allowance.

Your Committee made technical, non-substantive amendments to the bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2082-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2082-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 464-84      Finance on H.B. No. 2261-84

The purpose of this bill is to clarify the statutory qualifications for resident tuition fees at the University of Hawaii.

Under existing Hawaii law, University of Hawaii students must fulfill residency requirements prior to their "registration" at the university in order to qualify for resident tuition status.

Testimony from the Vice President for Academic Affairs of the University of Hawaii indicates that students have the option to register any time within a two to three week period prior to, during, or after the first day of instruction. The testimony further indicates that because this sliding registration deadline could lend itself to inconsistent application or unfair manipulation, the university has traditionally determined residency on "the first day of instruction." However, the Attorney General's Office recently rendered its opinion that using the "first day of instruction" as the residence determination date was not legally consistent with the existing statutory language.

Therefore, in order to clarify this inconsistency between the sliding registration deadline and the traditional policy of "first day of instruction" deadline used by the university, your Committee believes it necessary to amend the existing statute to conform with the traditional university policy in making residency determinations. Your committee is in agreement with the Vice President of Academic Affairs

who testified that "bringing the statute into conformance with traditional university practice will prove to be fair, equitable, and administratively workable."

Your Committee has made non-substantive, stylistic amendments to this bill for purposes of structural format and readability.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2261-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2261-84, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 465-84      Finance on H.B. No. 2054-84

The purpose of this bill is to make it mandatory for pawnbrokers to provide pledgors with a written contract enumerating the material terms and conditions of the pawn agreement, and to provide receipts for payments received from pledgors.

Your Committee has amended this bill to correct technical drafting errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2054-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2054-84, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 466-84      Finance on H.B. No. 2559-84

This bill would expand the definition of an eligible rental housing project under Section 356-302, Hawaii Revised Statutes, to include all rental housing projects which the Hawaii Housing Authority determines will require rental assistance to make them financially feasible. It would further change the corresponding rental assistance fund to a revolving fund in order to prevent the lapsing of current monies in that fund.

Your Committee finds that under the present language, the definition of "eligible project" in Section 356-302, HRS, does not include projects funded by the Farmers Home Administration or Community Development Block Grant programs. The proposed new language, which establishes financial feasibility, rather than funding or subsidy source, as the criteria for determining eligibility, will ensure that the widest range of projects--provided they are targeted for low and moderate income rental households--can be considered for Rental Assistance Program funds.

Your Committee has made two technical, nonsubstantive amendments to this bill to correct typographical omissions.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2559-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2559-84, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 467-84      Finance on H.B. No. 1634-84

The purpose of this bill is to add a new section to HRS chapter 87-4 which would enable husband and wife employee-beneficiaries to enroll in two "self only" medical plans or one "family" medical plan and one "self only" plan.

Under present law, husband and wife employee-beneficiaries may enroll in with two self only medical plans or one family medical plan. Existing law also specifies that the total public employer contribution per month for husband and wife employee-beneficiaries may not exceed the cost of two self only medical plans or the costs of one family medical plan.

Your Committee received testimony from the Hawaii public employees health fund indicating that there would not be any significant cost increases to a public employer if husband and wife employee-beneficiaries were to enroll under any of the four alternatives set forth in this bill.

Your Committee finds that this bill will provide husband and wife employee-beneficiaries with greater flexibility in the selection of their health plan or plans to fit their respective needs.

Your Committee has amended this bill to effectuate its purpose and clarify its language by adding the phrase "for each employee-beneficiary" after the words "self only plan" on page 3, line 7. Several nonsubstantive technical changes have also been made.

Your Committee on Finance is in accord with the intent and purpose of H.B. No 1634-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1634-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 468-84      Finance on H.B. No. 1933-84

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

Testimony in support of this bill was received from the state health planning and development agency, the Hawaii Medical Association, the Hawaii Medical Service Association, the Hospital Association of Hawaii, and the Hawaiian Society of Naturopathic Physicians. However, many of the testifiers expressed concern that certain provisions of this bill are unclear or impractical.

Your Committee on Finance concurs with the findings of your Committee on Health in Stand. Com. Rep. No. 109-84. However, your Committee finds that some of the testifiers' concerns have merit.

Accordingly, in order to clarify and effectuate the purposes of this bill, your Committee has made the following amendments:

1. On page 10, line 12, the word "decertify" has been replaced by the phrase "...revoke the certificate of need of..."
2. On page 12, lines 16-17, "majority" has been defined as "...not more than eleven..."
3. On page 18, line 6, after the word "service," lines 6-10 have been deleted and the following paragraph appropriately renumbered. Your Committee finds that limiting the determination of "public need" to the population of a single county would severely hamper facilities that serve the entire State or the Pacific Basin. Furthermore, your Committee finds that "...promotion of the inappropriate use of the facility or service..." is an "inappropriate" criteria for determining whether a certificate of need should be issued. Hence, the deletion of lines 6-10.
4. On page 24, line 14, the requirements for a tenth-year cost projection has been deleted. Your Committee finds that this requirement is unrealistic.
5. On page 26, lines 13-14, the review panel was inadvertently bracketed out from this paragraph. Your Committee has amended lines 13-14 appropriately to retain the review panel.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1933-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1933-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 469-84      Finance on H.B. No. 2528-84

This bill authorizes the Hawaii housing authority to make allocations of taxexempt mortgage revenue bond authorization to one or more issuers, and that such bond allocations may be requested from or reassigned to the Hawaii housing authority (HHA) by any county by resolution of its legislative body. These mortgage bonds may be issued pursuant to the Federal Mortgage Subsidy Bond Tax Act of 1980.

Testimony received from the Hawaii housing authority indicated that such an allocation of revenue bond authorization by the legislature is necessary, in the event Congress extends the Federal Mortgage Subsidy Bond Tax Act of 1980, implemented in Hawaii as the Hula Mae program. Your Committee finds that such an allocation is desirable because it would coordinate housing efforts in the State of Hawaii and allow more flexibility in the administration of bond allocations throughout the State.

In 1982, the legislature, through Act 279, apportioned the State's bond allocation among the Hawaii housing authority and counties. This bill would change that allocation approach and, instead, allow HHA to obtain the full allocation, to be apportioned to the counties upon application to HHA by the counties.

Your Committee concurs with the findings of the Committee on Housing as expressed in Stand. Com. Rep. No. 252-84.

Your Committee has amended this bill by deleting the word "specific" in section 2 to avoid circumstances that may be otherwise difficult to define. Technical nonsubstantive amendments have also been included.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2528-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2528-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 470-84      Finance on H.B. No. 2307-84

The purpose of this bill is to create a new non-contributory retirement plan for eligible members of the Employees' Retirement System (ERS).

Currently, public employees have deducted from their pay 6% for their regular State retirement contribution, plus 1.8% for their post-retirement contribution, plus 7% for Social Security. In total, almost 15% of their gross pay before taxes is deducted for their retirement. This bill attempts to establish an alternative system to give career public employees a more tax-efficient system and increase their take-home pay, yet still provide for a good retirement plan.

These goals are accomplished by the proposed establishment of a noncontributory retirement plan for ERS members who enter or reenter service after the effective date of the bill. Instead of the present retirement eligibility age of 55 with 5 years of service and the benefit formula of 2% per year of service, the proposed plan's retirement eligibility age is set at 62 with 10 years of service and a benefit formula of 1½% per year of service. Other benefit changes are also made. Present employees may elect to continue their present retirement plan or join the new plan.

Your committee has received treatment from the Hawaii Government Employees Association (HGEA) and the Hawaii State Teachers Association (HSTA) in support of this bill.

Your Committee has amended this bill by:

- (1) making certain technical and nonsubstantive revisions on pages 2 and 3;
- (2) deleting on page 5, line 17, the words "on or" and the month and date "July 1" and substituting in place of "July 1" the month and date "June 30";
- (3) deleting on page 5, line 19, the words "on or" and the month and date "July 1" and substituting in place of "July 1" the month and date "June 30";
- (4) by changing the section number on page 6 from "250" to "251" and by renumbering and reformating all succeeding sections, and all provisions of the bill affected by this change;

(5) by deleting extraneous language, and by making other technical and nonsubstantive revisions on pages 6, 7, 8, 9, 10, 11, 13, 15, 16, 17, 18, and 19 of the bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2307-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2307-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 471-84 Finance on H.B. No. 1941-84

The purpose of this bill is to link the adjustment of graduate assistant stipends with the average percentage of pay adjustments granted to members of collective bargaining unit 7 of the University of Hawaii Professional Assembly.

Your Committee finds that graduate assistants, who provide important support for research and instruction conducted at the University of Hawaii, have received stipend adjustments substantially less than those received by University faculty. In view of the services provided by graduate assistants, your Committee believes that linking their stipend adjustments with adjustments granted to faculty will help to avoid the inequities of the past, thereby and helping to maintain the quality of research and instructional programs at the University.

Your Committee has amended this bill by deleting reference to "the stipend" on page 1 and inserting the phrase "any stipend allowed" in lieu thereof. In addition, a token \$1 amount has been inserted in the previously blank appropriation section.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1941-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1941-84, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 472-84 Finance on H.B. No. 2187-84

The purpose of the bill is to revise HRS chapter 281, entitled Intoxicating Liquor, by amending sections 281-57, 281-58, and 281-59 relating to hearing notices and procedures, protests against the granting of liquor licenses, and hearing procedures in connection with the granting of liquor licenses, respectively.

Your Committee concurs with the findings of the Committee on Consumer Protection and Commerce as expressed in House Stand. Com. Rep. No. 179-84.

Your Committee has amended this bill by allowing mailing of notice of hearing to not less than two-thirds of the owners of record of shares in a cooperative apartment or to those individuals on the list of owner as provided by the managing agent or governing body of the shareholders association. The final sentence of HRS section 281-57 has also been amended to include types of real estate other than cooperative. Other drafting and stylistic changes have been made for clarity purposes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2187-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2187-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 473-84 Finance on H.B. No. 2198-84

This bill would add a new section to Part I, Chapter 356, Hawaii Revised Statutes, to create a housing finance revolving fund to support the administration and operation of the Hawaii Housing Authority's various housing finance programs.

Testimony received from the Hawaii Housing Authority indicated that such a fund would enable the Authority to deposit certain revenues into one revolving fund to

be principally used for the operational expenses of administering various housing finance programs, and for financing long-term and special projects, including the provision of below-market permanent loans. One specific objective of such a fund would be to relieve the authority's Dwelling Unit Revolving Fund (DURF) of current long-term commitments in favor of the short term loans DURF was originally intended to provide. Testimony by the authority stressed the importance of such relief in light of the fact that additional general obligation bonds can no longer be provided to supplement DURF.

Your Committee has made technical, non-substantive amendments to this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2198-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2198-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 474-84      Finance on H.B. No. 2463-84

The purpose of this bill is to establish a School Attendance Review Board pilot project in the Department of Education.

Your Committee finds that the Courts are burdened with truancy cases which may be best resolved with appropriate counseling rather than through the judicial process. We further find that when such cases end up in the Court, they overburden the Court's docket and unnecessarily add to the cost of operating the judicial system. Your Committee therefore finds that more efficient alternatives to resolving the school attendance problems must be sought.

Your Committee finds that the establishment of School Attendance Review Boards to handle truancy cases on an intermediate level, between the schools and the Court, may be one solution to this problem. This bill, therefore, proposes to establish a two-year pilot project School Attendance Review Board in one school district of the Department of Education. The School Attendance Review Board shall be responsible for reviewing, conducting hearings, and taking action on cases of unexcused absences of students, as referred to the Board by the individual schools in the designated district. Membership of this Board shall consist of one member from the Department of Education, two members of the general public who reside in the designated district, and one representative each from the Department of Health and the Department of Social Services and Housing.

This bill further provides for monitoring of this pilot project by the Office of the Legislative Auditor.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2463-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2463-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 475-84      Finance on H.B. No. 2512-84

The purpose of this bill is to increase public employers' monthly contributions to existing medical plans. This bill increases the employer's contribution for: (1) a self only plan enrollment from \$15.98 to \$26.04 and (2) a family plan enrollment from \$49.14 to \$80.04.

Your Committee has amended section 2 of this bill to appropriate \$5,338,842 for the increased cost to the health fund for the State's share of the increased monthly contributions.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2512-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2512-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 476-84      Finance on H.B. No. 1157



The purpose of this bill is to encourage greater participation by private developers in the development of affordable housing under HRS section 359G-10.5 by (1) decreasing the percentage of units in any project which must be reserved for the target group from 60 per cent to 20 per cent and (2) allowing the Hawaii housing authority (HHA) to waive buyback provisions for as many units as it wishes.

Under current law, private developer participation in the development of affordable housing has been quite limited, in spite of the fact that such developments could qualify for various zoning, density, tax, and code incentives. The requirement that 60 per cent of the units in a project be sold at price ranges affordable to low and moderate income families has tended to offset any benefits which might be conferred under HRS section 359G-10.5 because of the large number of units (60 per cent) that must be subsidized by the sale of the remaining 40 per cent of the units.

Your Committee has received testimony from the City and County of Honolulu indicating that, while a reduction in the 60 per cent figure might stimulate housing production, a figure as low as 20 per cent might be construed by developers to be a target, rather than a guideline. This bill, as received, while decreasing the percentage of units in any project which must be reserved for low income individuals, would also broaden the range of affordable units required to include housing for families who qualify as eligible borrowers under the Hula Mae program.

Your Committee has amended this bill by eliminating from the target group those families who qualify under the Hula Mae program. This amendment would be consistent with the requirement of comparable federal programs that all units set aside be occupied by low and moderate income households. Drafting and non-substantive amendments have also been incorporated into this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1157, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1157, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 477-84 Finance on H.B. No. 2257-84

The purpose of this bill, as received by your Committee, is to permit the Department of Health to provide child abuse and neglect secondary prevention programs.

Your Committees are disturbed by the over 3,000 cases of child abuse and neglect which are annually reported in this State, a rate which has seen a frightening rise over the past years. Such incidents not only result in immediate injury and emotional trauma, they can disturb the life of the victim throughout adulthood and continue its pernicious effects even through subsequent generations.

Fortunately, research and program innovations have led to the development of methods for identifying high-risk families and providing intervention services to break the cycle of child abuse and neglect, methods which are already being utilized in a number of Department of Health programs.

Your Committee supports this bill as a means to strengthen the State's efforts to provide comprehensive child abuse and neglect prevention services. To further clarify the types of secondary prevention programs envisioned, your Committee has amended section 321-\_\_ of the bill by inserting the phrase "and treatment" to line 2 on page 4.

Your Committee Finance is in accord with the intent and purpose of H.B. No. 2257-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2257-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 478-84 Finance on H.B. No. 2248-84

The purpose of this bill is to fund a series of conferencing activities to address the issue of statewide employment planning needs and to identify the scope,

content, and directions to be addressed in a comprehensive employment plan for Hawaii.

Your Committee concurs that to achieve the goal of comprehensive employment planning, it is first necessary to obtain a consensus on the scope and content of a statewide employment plan, the interrelationship of its parts, and the overall themes that guide its development. To obtain such a consensus, a comprehensive conference should be held to direct the planning and implementation of economic development and employment opportunities in Hawaii.

Your Committee notes that a related conference on economic development is proposed in H.B. No. 2113-84. Should that bill and this measure both become enacted, your Committee requests the organizers of both conferences to coordinate their activities to ensure the most effective and efficient use of appropriated funds, conference manpower, and participants' time.

Your Committee amended this bill by reducing the appropriation to \$4,405. Your Committee intends that the remainder of funds for the total \$8,810 needed for the conference be obtained through contributions from the private sector which, along with State government, will be assisted and benefitted by the results of the proposed conference.

Your Committee on Finance is in accord with the intent and purpose of H.B. 2248-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2248-84, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 479-84      Finance on H.B. No. 2230-84

The purpose of this bill is to provide the necessary financing for Kamakani Ikaika, Inc., to fully develop a five megawatt wind farm at South Point on the island of Hawaii. Special purpose revenue bonds will provide the necessary capital funding to expedite the development of the wind farm which will, in turn, help promote Hawaii's energy self-sufficiency and reduce Hawaii's import of fossil fuels.

Your Committee received testimony from the director of the department of planning and economic development which stated that special purpose revenue bonds would help accelerate the development of alternate energy by supplying necessary capital funding for developing wind energy at South Point, Hawaii. The director further stated that, in spite of the great potential for alternate energy development in the State, its growth has been slow. Accordingly, special purpose revenue bonds would help accelerate that growth.

Your Committee has made a nonsubstantive technical amendment to page 2 of the bill to correct a typographical error.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2230-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2230-84, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 480-84      Finance on H.B. No. 2255-84 (Majority)

The purpose of this bill is to establish a Hawaii hospital commission which is authorized to regulate revenues and rates of hospitals and monitor the quality of care within acute care hospitals.

Your Committee received much testimony, both pro and con, on this bill and concurs with the findings of your Committee on Health in Stand. Com. Rep. No. 111-84.

However, your committee has amended this bill to establish a starting date for the Hawaii hospital commission of January 1, 1986, and to reduce the sum appropriated for fiscal year 1984-1985 to \$100,000. This sum will be expended by the department of commerce and consumer affairs for the purposes of planning and developing recommendations for the Hawaii hospital commission.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2255-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2255-84, H.D. 2.

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

SCRep. 481-84 Finance on H.B. No. 2219-84

The purpose of this bill is to establish at the University of Hawaii a PacificAsian scholarship program that will provide an opportunity for highly qualified students from Hawaii and the Pacific-Asian region to attend the University of Hawaii at Manoa or the four-year colleges at Hilo in order to take advantage of the special opportunities afforded by these campuses to pursue baccalaureate and graduate study related to the Pacific and Asian region.

This bill also removes repetitious language from HRS section 304-15 and clarifies that HRS section 304-17 applies only to the Hawaii state scholarship program.

Testimony before your Committee indicates that the establishment of such a scholarship program will support the University's recognized mission to provide relevant education and training to those who will assume positions of leadership and responsibility in the Pacific region.

The program will provide an additional incentive for the most highly qualified Asian and Pacific students to attend the University. In addition, by being available to residents, it will encourage some of our best qualified local students to enter studies at the University that are pertinent to Hawaii's role in the Pacific and Asian region.

While the University has the means to assist well-qualified resident students who have financial need, it does not have a program that assists in attracting highly qualified residents and non-residents primarily on the basis of academic merit and their intent to pursue studies relevant to the Pacific and Asian region.

Your Committee has amended the bill by adding the line "students at the Manoa campus and the Hilo four-year" after line 13 on page 2. This line was inadvertently dropped from the original bill. In addition, your Committee has made other technical and nonsubstantive amendments.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2219-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2219-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 482-84 Finance on H.B. No. 1873-84 (Majority)

The purpose of this bill is to extend the provisions relating to the general fund expenditure ceiling for four more years to June 30, 1988.

The current provisions relating to the state general fund expenditure ceiling are set to be repealed as of June 30, 1984.

Act 277, Session Laws of Hawaii 1980, implemented the provisions of the constitutional amendments ratified in 1978 which required that the legislature establish an expenditure ceiling to limit the rate of growth of general fund appropriations to the estimated rate of growth of the State's economy. A sunset clause was included to allow for periodic review of the specific provisions contained in the act to ensure that they comply with the original intent and that they are useful and workable.

Your Committee finds that, the most part, the provisions of Act 277 are reasonable and workable. However, your Committee feels that the following recommendations are in order:

1. That the Council on Revenues prepare estimates of the total state personal income for any year for which such income has not been determined and published. This is simply a reiteration of paragraph (2), Section 2, Act 277; however, it should be inserted into Section 3 of the same act to direct the Council on Revenues to provide estimates beyond the calendar year in progress, if necessary. The reason for this change is that the preparation of the biennial budget requires calculating the expenditure ceiling for two consecutive years. For this, estimates of total personal income for the calendar year in progress and one year beyond are necessary. Presently, the Council on Revenues, as directed by Section 3 of Act 277, only prepares an estimate for the year in progress.

2. That, whenever the state total personal income series is revised by the United States Department of Commerce, Bureau of Economic Analysis (BEA), the calculation of state growth and expenditure ceilings be made on the basis of the latest available data, including all official revisions.

HRS sections 37-113 and 37-91 are amended accordingly.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1873-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1873-84, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 483-84      Finance on H.B. No. 1870-84

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

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

Your Committee has amended this bill to provide for a general income tax credit of \$1.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1870-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1870-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 484-84      Finance on H.B. No. 2529-84

The purpose of this bill is to clarify procedures and definitions relating to the grant, subsidy, and purchase of service program by amending HRS chapter 42.

The bill amends:

(1) The definition of "grant" to be an award provided generally on a one-time basis to a recipient to stimulate and support specific activities.

(2) The definition of "purchases of service" to be the provision of services by an agency, delivered by a provider to members of the general public through an appropriation of public funds. It excludes from the definition court-appointed attorneys for indigents, individuals in private business or professions, and services subject to competitive bidding requirements of HRS chapter 103.

(3) The definition of "subsidy" to be an appropriation of public funds to an expressly named recipient or designated as a subsidy.

(4) The procedures for review of grants, subsidies, and purchases of service by requiring agencies anticipating uses of purchases of service to solicit such proposals from providers. Also allows agencies to request budget amounts for activities in which qualified providers have not been identified provided the requests are supported with specific budget information.

(5) The requirements for submitting budget requests to the legislature by stating that purchase of service funding requests must be accompanied by a listing of specific providers except as otherwise provided for in the law.

(6) The format in which recommendations for funding are to be submitted to the legislature by requiring a profile of the agency to be funded, its relationship to public purpose, measures of effectiveness, and an analysis and justification of the recommendation.

(7) The provision on allotment of appropriations to private agencies in case of a revenue shortfall by allowing the director of finance the discretion to set the levels of restrictions to appropriations.

(8) The contract provision by requiring standard contracts and by ensuring that all contracts state that the provider or recipient of funds is an independent contractor and shall indemnify and hold harmless the State from all claims, damages, or costs arising out of or in connection with acts or omissions of the provider or recipient.

(9) The chapter by adding a new section to allow the departments and agencies of the State the discretion to contract with unnamed providers if named providers become ineligible or unwilling to provide services.

Your Committee has reviewed this bill in light of the recommendations of the legislative auditor's 1984 report on the status of the chapter 42 implementation. Further, your Committee has also studied the proposed amendments set forth in this bill within the context of the budget review of grants, subsidies, and purchases of service conducted this year and included in the supplemental budget act.

Based on its review, your Committee has amended H.B. No. 2529-84 as follows:

(1) Definitions. Your Committee agrees with the definition of "grant" proposed in H.B. No. 2529-84. This definition provides for a recipient to be funded for a specific activity or project "generally on a one-time basis" to stimulate and support activities of the recipient. Your Committee is aware of the concern of the department of budget and finance regarding the interpretation of the phrase "generally on a one-time basis." It is your Committee's intention that the definition of grant be distinguished from that of "purchases of service" by the fact that grants are awarded on a one-time basis for a specific activity. At the same time, your Committee recognizes that there may be exceptions in which a grant may be provided more than once to the same recipient if the legislature deems such activity requires funding based on merit or need. Therefore, your Committee has included the word "generally" to allow for some flexibility in the funding of grants.

Your Committee has amended the definition of "purchases of service" to read: "an appropriation of public funds for the provision of services by an organization to specified members of the general public on behalf of a state agency to fulfill a public purpose. Payments for such services shall be substantially equal in value to the service provided." Your Committee considers a "purchase of service" to be an integral part of a department's program and should be included as part of the operating budget request. Moreover, your Committee distinguishes a "purchase of service" from a "grant" by the fact that a "purchase of service" is considered an ongoing service purchased by a department to carry out its goals and objectives.

Your Committee has amended the definition of "subsidy" to be an appropriation of public funds to a named recipient to enable the recipient to provide a specific service at a cost lower than would otherwise be charged by the recipient.

(2) Procedures. Your Committee has amended the law to require each agency anticipating the need to purchase services from private organizations to solicit proposals from potential providers through a request for proposal process. It has also provided agencies with the flexibility of submitting budget requests for

activities where qualified providers have not been identified and the purchase of such activities are necessary for the agency to carry out its program goals.

In submitting its requests for funding of purchases of service, your Committee has provided for a supplemental budget display which should accompany the executive budget submittal. The display is to include a listing of each agency-activity to be funded by the source of funding and, where specific providers have not been identified, a list of activities to be funded along with possible providers.

In addition, your Committee has amended the law to require that every recommendation for a grant, subsidy, or purchase of service submitted to the legislature for appropriation by the executive shall include the applicant's request and a profile stating the public purpose to be served; the objective intended to be achieved; the activity/services to be performed; the target group affected; the means of financing; measures of effectiveness used to evaluate the grant, subsidy, or purchase of service; an analysis for the recommendation; and intended uses of funds by "cost categories."

Mindful of the financial exigencies facing the State, your Committee has provided the director of finance with discretionary powers to restrict allotments of appropriations to recipients and providers in the event of anticipated shortfalls.

Further, your Committee has also provided agencies with the flexibility to reassign appropriations for grants, subsidies, and purchases of service if named providers or recipients become ineligible to receive such funding.

Your Committee is aware that from time to time, agencies applying for grants may be more appropriately funded under the "purchase of service" program. Therefore, your Committee has added a new section to the law which allows for the legislature to fund requests for grants under the purchase of service program where such funding is deemed to be necessary.

Finally, your Committee agrees with general changes to the law proposed in H.B. No. 2529-84 which would:

- (1) Limit the applicability of chapter 42 to incorporated profit and nonprofit organizations;
- (2) Allow for private agencies to negotiate uses of public funds for wage and benefit increases in contracts executed with the director of the expending agency;
- (3) Require profit corporations to have policies on nepotism and management of conflict of interest. Presently, nonprofit corporations are subject to this provision;
- (4) Allow flexibility of interpretation of HRS chapter 42 so as not to jeopardize federal funds; and
- (5) Require standardized contracts; clarify recipients and providers as independent contractors and require them to indemnify and hold harmless the State, its employees, agents, and departments from any damages or costs arising out of any act or omission of the provider or recipient.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2529-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2529-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 485-84      Finance on H.B. No. 2497-84

The purpose of this bill is to amend HRS sections 468K-3 and 468K-5 to allow an aggrieved person to seek recovery from the travel agency recovery fund when a registered travel agency violates HRS chapter 468K, or the rules adopted there under, or engages in unfair or deceptive acts or practices.

Presently, an aggrieved person may seek recovery from the fund only when a registered travel agency violates HRS chapter 468K; however, since the chapter is primarily a registration statute, violations of the chapter most frequently involve

the failure to register. In practice, therefore, the recovery fund is rarely available to consumers who have incurred damages due to the misconduct of the registered travel agency.

The office of consumer protection and the Hawaii Business League testified in support of this bill.

H.B. No. 2497-84, H.D. 1, is intended to allow consumers to seek recovery from the fund for unfair or deceptive acts or practices, or violations of rules which may be adopted pursuant to HRS chapter 468K, as well as violations of the chapter.

In order to effectuate its purpose, this bill has been amended by your Committee as follows:

(1) on page 1, line 8, the word "or" has been added to the new material after the phrase "...or rules,..." and

(2) on page 3, line 9, the word "or" has been added after the phrase "...or its adopted rules,..."

Your Committee has also made several nonsubstantive technical and stylistic amendments to this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2497-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2497-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 486-84 Finance on H.B. No. 2612-84 (Majority)

The purpose of this bill is to delegate to the office of environmental quality control (OEQC), for the interim period of one year, the additional and specific responsibility of establishing and coordinating an integrated statewide pesticide policy. In addition, a technical advisory committee shall be appointed by the governor to assist and advise OEQC in carrying out and effectuating these responsibilities, and the department of agriculture shall become responsible for notifying the OEQC whenever a pesticide registration exemption in Hawaii is applied for from the federal Environmental Protection Agency.

Your Committee finds that state responsibilities with respect to the regulation, monitoring and enforcement of pesticides, and the maintenance of environmental quality are dispersed among several state and county agencies and, as such, timely and coordinated action with respect to pesticide contamination problems has often been hindered. Your Committee is of the opinion that a single agency should assume responsibility for coordinating all state agencies with a responsible role in either pesticide management or environmental quality.

Your Committee further concurs with the Committee on Energy, Ecology and Environmental Protection, as expressed in Stand. Com. Rep. No. 187-84, that efforts and activities pertaining to pesticide related research, water monitoring, and pesticide related data gathering and information reporting are already being successfully directed by existing agencies and that, as such, OEQC's role in these endeavors should not include direction, but rather be limited to interagency coordination. Your Committee, therefore, has amended subparagraphs 4 and 7 of section 3 of the proposed new chapter, "Duties in general", to delete the first two words "Direct and".

Your Committee further finds, and is in agreement with the testimony received from the chairman of the board of agriculture, that in order to perform the functions detailed in the bill, your Committee has amended this bill by requiring the department of agriculture to notify the OEQC, rather than the legislature, whenever a pesticide registration exemption in Hawaii is applied for or requested from the Environmental Protection Agency or any successor agency.

Your Committee has also made two technical amendments which are as follows: (1) subparagraph(8) in § -3 has been expanded to include the words "and the environment" and (2) the existing planner III subject to conversion in subparagraph(b)(2) of § -4 has been substituted with an environmental analyst III.



Your Committee has also made drafting and stylistic amendments for purposes of clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2612-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2612-84, H.D. 2.

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

SCRep. 487-84 Finance on H.B. No. 1319 (Majority)

The purpose of this bill is to revitalize the unique and valuable resource of traditional Hawaiian culture which has been fragmented during the last two centuries, due in part to the disruption of the traditional Hawaiian community structure and its traditional land and sea-based subsistence activities.

This bill would help to reestablish traditional Hawaiian communities and traditional customs which are rapidly being lost, as elder Hawaiians, who have first-hand knowledge of these traditions, age and pass away.

This bill would also require the Department of Land and Natural Resources and Office of Hawaiian Affairs to work together in designating cultural live-in parks as well as in developing the park plans. The Office of Hawaiian Affairs will be responsible for the subsequent development and management of live-in cultural parks.

Your Committee has amended this bill to correct technical drafting errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1319, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1319, H.D. 2.

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

SCRep. 488-84 Finance on H.B. No. 2143-84 (Majority)

The purposes of this bill are: (1) to permit, for a one-year period following its enactment, commercial vessel owners holding valid mooring or commercial permits to transfer ownership of the vessel to a corporation without losing their rights under the permits to moor or operate the vessel; (2) to remove the authority the state department of transportation (DOT) has to renew or issue such permits to vessel lessees, except for demise charterers or lessees with exclusive possessory rights to the vessel; (3) to statutorily require the owner of a vessel permitted to moor in a state small boat harbor to notify the DOT of any transfer of interest or possession in the vessel and to exempt corporate stock transfers from this requirement; and (4) to amend HRS section 266-25 relating to penalties for violation of certain DOT regulations and the lawful commands of certain harbor personnel.

Under present DOT rules, any transfer of an interest in a vessel from a natural person holding the permit to moor the vessel at a state small boat harbor (the "permittee") to a corporation automatically terminates any right to moor or operate the vessel under the permit. Also, most significant transfers of stock in a corporate permittee are deemed changes in ownership which terminate the permittee's rights.

Your Committee received testimony from numerous owners and operators of commercial vessels moored in state small boat harbors stating that the waiting list for commercial mooring at state small boat harbors is long. Also, upon losing a mooring permit, a commercial vessel might have to wait several years to obtain another permit at the same harbor. They also testified that the inability of a noncorporate permittee to use the corporate form due to the automatic loss of the permit severely hampers the ability to obtain capital and expand the permittee's business. Finally, because no significant stock interest in a corporation can be transferred without causing loss of the vessel's permit, if the holder of the commercial vessel's stock dies, retires, or simply wishes to sell the stock, the employees of the corporation are out of work.

Therefore, your Committee has amended the bill to allow vessel permittees to transfer their vessel ownership to a corporation without losing their permit in perpetuity.

Your Committee is aware of the impact of allowing transfers of ownership without any loss of permit and in support of the department of transportation's "firstcome, first-served" principle of assigning berths.

Your Committee has included an amendment which would require any person possessing a commercial permit to meet minimum financial standards as determined by the department of transportation, as a condition of retaining and renewing commercial permits.

Finally, your Committee considers boating to be a privilege, not a right. Therefore, to maintain the safety of our waters, your Committee has added a proviso to strengthen the penalty for violation of rules by allowing the court to deprive an offender of the privilege of operating or mooring any vessel in state waters for a period of not more than two years. Further, if the violation creates a hazard to life or property, a penalty of imprisonment for up to one year may be imposed.

Your Committee also feels that a change in the stock ownership of a corporate permittee should not be considered a change in the ownership of the vessel because the owner, the corporation, remains the same before and after the stock transfer.

Finally, your Committee also made technical, nonsubstantive amendments to the bill to conform it to recommended bill drafting style.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2143-84, H.D. 1,, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2143-84, H.D. 2.

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

SCRep. 489-84      Finance on H.B. No. 2144-84

The purpose of this bill is to amend HRS section 266-21 to include "commercial vessel activities" as one of the purposes for which state small boat harbors are constructed, maintained, and operated.

There are not sufficient harbor facilities on the neighbor islands to permit all commercial vessels to moor in a strictly commercial boat harbor. Hence, commercial vessels operating out of the neighbor islands must often share harbor facilities with recreational and fishing vessels.

Act 107, Session Laws of 1983, gave statutory authority for commercial vessels to moor in certain Oahu small boat harbors and in small boat harbors on the neighbor islands. Your Committee finds that this bill will add further legitimacy to the presence of commercial vessels in those small boat harbors that are not on Oahu and those on Oahu that are not within three statute miles of a commercial harbor.

Your Committee amended this bill by incorporating the recommendations of the department of transportation. These amendments will broaden the definition of "commercial vessel", and satisfy the concerns of the department of transportation, and those addressed by the Waikiki Improvement Association, regarding restricting commercial vessel activities within the Ala Wai and Keehi boat harbors. Your Committee also made technical, nonsubstantive amendments to the bill to conform to recommend bill drafting style.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2144-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2144-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 490-84      Finance on H.B. No. 2002-84

The purpose of this bill is to exempt a bailiff for the Chief Justice of the Supreme Court from the civil service requirements of Chapter 76 of the Hawaii Revised Statutes. The bill also provides that the bailiff shall have the powers and duties of a court officer and bailiff under Section 606-14 of the Hawaii Revised Statutes.

Presently, your Committee finds that the bailiff is under the direct supervision of the Chief Justice of the Supreme Court and performs the functions of a bailiff in the court room, provides personal and security services to the Chief Justice, attends all official functions with the Chief Justice, and performs research and clerical duties. These responsibilities make it appropriate for the bailiff to have the same powers and duties as bailiffs in the circuit court.

Your Committee also finds that civil service exempt status is appropriate for the bailiff's position because of the long and often irregular hours of the bailiff's position and the sensitivity of the personal services performed for the Chief Justice.

Your Committee has made technical, non-substantive amendments to the bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2002-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2002-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 491-84      Finance on H.B. No. 2028-84

As received, the purposes of this bill were: (1) to require insurance companies to reimburse licensed psychologists for their services if licensed physicians would be reimbursed for such services and (2) to make coverage of such psychological services a mandatory part of all health insurance plans.

Testimony in support of this bill was received from the department of health, the Hawaii Psychological Association, and the Hawaii School of Professional Psychology.

Testifying in opposition to this bill, the Hawaii Medical Service Association strongly objected to making coverage of psychological services a mandatory part of all health insurance plans. However, the Association testified that it would not object to this bill if section 2, which adds a new section to HRS chapter 433, was deleted.

Your Committee has therefore amended this bill by deleting section 2; no new section will be added to HRS chapter 433. Subsequent sections of this bill have been renumbered accordingly.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2028-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2028-84, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 492-84      Finance on H.B. No. 2102-84

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

This bill includes judgments against the State and settlement claims and miscellaneous claims. The miscellaneous claims include interest refunds to Aloha Airlines, Inc., and to Hawaiian Airlines, Inc.,.

Your Committee has amended the bill by deleting a claim of the City and County of Honolulu and to adjust the claim amount for Hawaiian Airlines from \$2,285,085.31 to \$1,987,522.55.

As a result, this bill makes an appropriation in the total amount of \$6,019,560.93 for the payment of claims.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2102-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2102-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 493-84 Finance on H.B. No. 1745-84

The purpose of this bill is to coordinate existing school to work transition centers and to establish them as state programs under the department of labor.

Your Committee reviewed this bill which would incorporate two existing programs--quick kokua and career resource centers--into a comprehensive transition center program for delivery of career counseling to the youth of Hawaii, by establishing a new chapter in the Hawaii Revised Statutes. The chapter would be administered by the department of labor.

Your Committee recognizes the importance of providing accurate career counseling information to Hawaii's youth since many of the traditional jobs have become obsolete and new industries are beginning to demand a workforce trained in areas requiring new skills.

The new chapter would support the delivery of career information to existing programs and allow the department of labor to expand the program to other high schools in the State.

In amending the bill, your Committee has maintained the basic provisions and intent. However, it is deleting the transfer of certain department of health personnel presently involved in the quick kokua program to the department of labor. Your Committee feels that certain functions of the quick kokua program not related to career counseling can be more appropriately administered by departments presently responsible for such programs.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1745-84, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1745-84, H.D. 1.

Signed by all members of the Committee except Representative Isbell.

SCRep. 494-84 Finance on H.B. No. 183

This bill would amend Section 235-5.5, Hawaii Revised Statutes, to change the income tax liability of an individual purchasing his or her first residential property in Hawaii with funds from an individual housing account.

Current law requires that such an individual, upon the sale of residential property so purchased, include in his or her gross income for the taxable year of that sale, the full amount of the distribution from his or her individual housing account. Moreover, the law imposes a ten per cent additional tax liability on the full amount of the distribution, also to be paid in the taxable year of sale.

Your Committee finds that in order to encourage individuals to establish and utilize individual housing accounts to purchase their first principal residence, it is preferable to place a tax liability on individual housing account distributions at the year following the year of sale of a residence so purchased. Moreover, your Committee finds it desirable to retain the apportionment of such liability over a three year period in order to ameliorate the burden somewhat, and to retain the additional ten per cent tax liability to discourage speculation, although this additional liability will also be apportioned over the same three year period previously described.

Your Committee has amended the bill by making certain technical, nonsubstantive revisions to lines 9, 13, and 16 of page 1 of the bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 183, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 183, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 495-84 Finance on H.B. No. 1640-84

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

This bill, in its amended form, provides an additional \$4 million in operating funds. This bill also provides an additional \$43.5 million for capital improvement projects.

#### FINANCIAL AND BUDGETARY OUTLOOK

Despite the recent nationwide recession, Hawaii has managed to escape the worst effects of this general downturn in the economy. In his State-of-the-State address to the Legislature in January, the Governor reported that Hawaii is in sound financial condition.

The State administration began its current fiscal year with a fund surplus of approximately \$130 million and anticipates a surplus at the end of fiscal year 1984-85. Additionally, essential government services and programs have been maintained at existing levels.

Your Committee believes that the State's sound financial condition is due to the fiscal responsibility and prudence of both the state administration and the legislature. However, your Committee is aware that our fragile island economy remains vulnerable to any shifts in the national or world economy. Consequently, to safeguard against serious financial deficits during these uncertain economic times, continued fiscal restraint and responsibility are imperative.

Although there are signs that our economy will experience a modest upturn, few predict that our economy will improve significantly in the immediate future.

Our construction and major agricultural industries remain sluggish and economically troubled, and tourism, a mainstay of our economy, appears to have reached a plateau. In its January report, the Council on Revenues revised their general fund tax revenue projections by estimating a seven per cent increase this current fiscal year and a ten per cent increase next year--a significant drop from the fifteen per cent annual increases that were experienced in 1979 and 1980. The Council predicts no significant changes in growth rates for fiscal years 1985 through 1990.

Although the state administration anticipates a surplus of approximately \$60 million at the end of this fiscal year, this surplus is expected to dwindle to about \$18 million by the end of the next fiscal year. By 1986, our once-hefty state surplus is expected to diminish to \$1.3 million.

Given this uncertain and somewhat somber financial backdrop, your Committee has painstakingly prepared an austere, but sound budget, marked throughout with discretion and fiscal restraint. Your Committee's general approach has been to review the recommendations of the subject matter committees, to assess the accuracy of the cost estimates for the various programs, to consider alternative means of funding certain programs, to hold appropriations in some cases to a lower level than that requested by the executive, and to take a long view by assessing how the recommended level of expenditures in the biennial period will affect expenditures in the future.

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

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

## ECONOMIC DEVELOPMENT

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

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

Agriculture. Agriculture continues to be a major area of concern. With the decline in sugar and pineapple production, your Committee has turned its attention to supporting viable agricultural enterprises. One of these enterprises which has shown promise and which is ready for implementation is the concept of the agricultural park. The planning phase of two major agricultural parks in Kahuku and Waianae has been completed and construction is expected to begin in 1984-85. Your Committee has provided an authorization of \$5.37 million in general obligation bonds for the construction of these parks.

High Technology Development Corporation. Your Committee recognizes the promise of high technology as a possible alternative in its continuing commitment to economic diversification. During the Regular Session of 1983, the Legislature passed Act 152 which established the High Technology Development Corporation (HTDC) for the purpose of developing industrial parks, locating high technology enterprises and assisting in the construction of facilities for such purposes through the issuance of special purpose revenue bonds.

To further demonstrate its support of high technology development, your Committee has provided funds to continue the program's activities.

## EMPLOYMENT

Workers' Compensation Caseload. Your Committee has included in this bill funds to allow the director of labor to hire temporary hearing officers to investigate claims, hear cases, and render decisions on claims whenever the need arises. Your Committee has been informed by the department of the backlog of cases existing in this area. Such a backlog of unresolved cases creates a hardship on the individual involved as well as adding to the State's cost in administering the program.

Hawaii State Occupational Information Coordinating Committee. Your Committee demonstrated its continuing support of youth seeking job opportunities through the funding of the Hawaii State Occupational Information Coordinating Committee. Last year the Legislature established a career information system for the purpose of providing support in employment, training, education, and career planning for youth facing career and occupational decisions. Your Committee believes that the work of the committee will do much to impact the matching of youth career desires with available and anticipated labor demand.

Employment Opportunities. Recognizing the slow recovery of the construction industry, your Committee has provided \$10 million in capital improvement projects and \$5 million in general funds by separate appropriation for repair, renovation, and maintenance of school facilities. Your Committee believes these funds will serve as a catalyst to stimulate activity in the construction industry thereby providing more jobs for our people.

## TRANSPORTATION

Highways and Transportation Policy. Over the past decade, your Committee has been presented with financial plans pointing to a need to adjust existing revenue sources of the highway special fund to head-off future deficits. To meet these demands, fuel taxes were increased, first on a temporary basis, then on a



permanent basis. Additionally, general funds have been transferred to the highway special fund to meet expenditure requirements.

This session, your Committee received a proposal from the executive for continued augmentation of the highway fund from the general fund, an increase in the automobile registration fee from \$1 to \$18, and a one-time general fund appropriation of \$5 million.

Your Committee believes that the effective administration of our transportation system, especially our highway program, requires a sound financial base to permit long-term planning for construction, rebuilding, and maintenance to meet the State's needs. Accordingly, your Committee recommends that only the general fund augmentation for the highway special fund be approved and only until June 30, 1985. At the same time, your Committee is recommending, through separate legislation, that the Legislative Auditor examine the State's overall transportation policy and recommend appropriate financial strategies.

Inter-State Route H-3. Your Committee has provided funding, at the level requested by the executive, for construction of H-3 from the H-1 Junction to the Kaneohe Marine Corps Air Station. Your Committee believes that the project should now be allowed to proceed. Should a decision to cease the project be issued by the Federal Court in 1985, ruling against the State, the department of transportation is directed to present other alternatives that would attain the same objectives that H-3 is intended to accomplish.

Support for Other Facilities. Your Committee has also provided funding for several projects deemed to be of a high priority. Among these are: expansion of Kahului Airport; improvements to Aloha Tower Complex; replacement of the fire boat at Honolulu Harbor; and design of the Waiaka Stream Bridge in Waimea, Hawaii.

#### ENVIRONMENTAL PROTECTION

In recognition of the State's value as a potential source of geothermal power, Act 296 SLH 1983, directed the department of land and natural resources to designate subzones of geothermal resource development areas in the State. However, funds were not provided and preliminary work is currently being coordinated by existing departmental staff. Your Committee believes that this work is critical to the State's effort to further develop its energy self-sufficiency. Consequently, your Committee has appropriated funds to contract the services of a geologist in order to accomplish the necessary subzoning work.

Studies are also being conducted concerning the reuse of water for agricultural purposes, the development of rainwater catchment programs, solar distillation to vaporize pure water from low quality water and aeration treatment of contaminated water. As a result of the Mililani water contamination crisis, public concern has increased prompting stricter guidelines to measure the levels of contaminants in drinking water. Your Committee has also provided funds to aid in the development of transmission lines for a new well which would alleviate the Mililani water contamination situation. Further, your Committee supports a more stringent monitoring of all levels of harmful substances in the environment.

#### HEALTH

In its review, your Committee faced several issues that required budgetary decisions. These issues included the following: management of excess hospital receipts; consolidation of hospital services in the County of Hawaii; the need for additional support for programs dealing with the mentally retarded, drug and substance abuse, and child and sex abuse; and the urgency of providing funds for equipment purchases for the new acute care facility in Hilo.

Management of Excess County/State Hospital Receipts. Your Committee was disturbed to learn that \$7.2 million owing to the general fund for excess receipts generated prior to July 1982 remain unpaid, and another \$5.5 million owing for excess receipts generated last fiscal year also remain unpaid.

In its inquiry into the current special fund balances, your Committee discovered substantial balances built up from prior years in the County/State Hospital Administration program. In addition, your Committee also found balances



generated in the last fiscal year in the accounts of the various hospitals. Your Committee believes that a substantial amount of the current balances are in excess of the program's requirements, including contingencies, and are not needed. Therefore, your Committee has required, through special provisions in this bill, that such special fund balances lapse to the general fund.

Further, your Committee recommends that the director of health institute procedures whereby all special funds of the county/state hospital system will be periodically reviewed to determine what amounts should be transferred to the general fund. Additionally, your Committee directs the department to take necessary steps to ensure that expenditures of the county/state hospital system are subject to the regular budgeting process.

Consolidation of Hospital Services in the County of Hawaii. Your Committee has reviewed the comprehensive analysis on the consolidation of hospital services in the County of Hawaii submitted by a special task force of the department of health. The recommendations of the task force included (1) the conversion of Kau, Kohala, and Honokaa hospitals to intermediate care facilities (ICF), and (2) the consolidation of acute in-patient services to Hilo and Kona hospitals.

While your Committee is in favor of strategies to maximize utilization of the hospitals in Hawaii County, it is acutely aware of the need to maintain public confidence in the availability and responsiveness of health care services. Therefore, your Committee has requested the department of health to develop an implementation plan for presentation to the 1985 Legislature which will ensure maintenance of service levels in terms of accessibility and responsiveness during and after the conversion of the Hawaii County hospital system.

Community Based Services for Mental Retardation and Mental Health. Your Committee's recognition of the need for community based services in mental retardation and mental health was expressed through the funding of services in the purchase of service program. This year your Committee expanded the purchase of service program for the mentally retarded in recognition of the continuing need for transitional living and day activity services for individuals being released from institutions.

Further, your Committee has provided approximately \$2.3 million in general fund appropriations for purchase of community based mental health, drug and substance abuse, child and sex abuse treatment services.

Equipment Purchases for Hilo Hospital. Your Committee recognized the urgent need to purchase equipment and furnishings for the new acute care facility in Hilo in the current fiscal year and has addressed the matter in a special appropriations bill for fiscal year 1983-84. Your Committee has authorized the sum of \$2.7 million for Hilo Hospital.

## SOCIAL SERVICES

The social and economic well-being of the aged, disabled, and the disadvantaged individuals and families are an important part of the State's program. It is your Committee's view that necessary assistance must be assured and it believes that continuous effort must be directed to enable those citizens to gain economic and social independence.

Medical Assistance. Because of the spiralling cost of Medicare and Medicaid over the past few years, the federal government has decided to contain as well as drastically reduce the cost of health programs. It has developed a new method of payment known as TEFRA (Tax Equity and Fiscal Responsibility Act of 1982) which essentially placed a limit on medical services reimbursement levels. Under Medicaid, all institutional type providers would be significantly affected by the reduction of medical services payments.

In an attempt to avert such crisis, the department of social services and housing has developed a new method of payment to institutional health providers which would maintain current levels of payment while holding down program costs. Consequently, no additional appropriation is necessary for reimbursements to health care service providers.

Nursing Home Without Walls. A new approach to nursing care for the chronically ill and aged was established by the Legislature during the 1983 Session. This

program offers home nursing care as an alternative to institutionalized care and has thus far proven hopeful as a pilot project. To assure the continued exploration of this effort, your Committee has provided funding for the second year with the requirement that the department evaluate the program and submit a report before the convening of the 1985 State Legislature.

Financial Assistance. The anticipated cost of the money payment programs--Aid to Families with Dependent Children, Aid to Aged, Blind and Disabled, Child Welfare Foster Care and General Assistance--for fiscal year 1984-85 is expected to be less than previously anticipated. This is due to the application of stricter eligibility requirements which has resulted in a lower projection of caseload. Consequently your Committee adjusted the appropriation provided in the biennium budget to reflect the caseload decrease.

Cost Recovery-Third Party Liability. Welfare recipients who are injured in automobile accidents are covered initially under the medical assistance program. When the liability of the injury falls on insurance carriers (third party liability), the recovery of the medical costs has not been altogether successful. As a result, the State has been left to bear in the cost of medical care incurred by welfare recipients injured in automobile accidents. To insure recovery of such costs, six temporary positions and funds have been made available for use by the department to recover the reimbursement of the medical costs from insurance carriers.

#### LOWER EDUCATION

Your Committee remains firmly committed to the goal of providing every student in Hawaii's public education system with those fundamental academic and social skills necessary to meet the demands of our increasingly complex society. In carrying out this commitment, your Committee has sought to strike a balance between basic education which serves as the cornerstone of our educational system, and special program augmentation tailored to meet the needs of some of our students.

Basic Education. In its review, your Committee provided \$158 million for the basic education program which affects all the students in our public education system. Furthermore, your Committee has taken steps to ensure adequate funding of these programs by requiring the department of education to consider restricting funds in other programs, before considering restrictions in basic education, if such funding restrictions are imposed during the 1984-85 fiscal year.

Compensatory Education. Support for those students experiencing problems within the school system has been provided through funding of the comprehensive school alienation program. Your Committee is aware of the proliferation of programs and activities in this area and is requesting the department of education to take steps in developing a coordinated, consolidated, viable, and efficient program. Moreover, your Committee is requesting the department to develop its funding for the program on the basis of a standard cost per pupil ratio for each type of activity and in response to priority needs based on target population profiles. This would ensure that funds and services are being provided to those groups and areas where the needs are the greatest.

School Program Augmentation. Your Committee has also augmented the basic education program by providing funds for district education specialists and district resource teachers with the request that the department of education reallocate these positions on an equitable basis to provide each elementary school with the services of art, music, and physical education specialists. This redeployment reflects your Committee's ongoing commitment to provide funding which supports direct services to Hawaii's public school children.

Repair and Maintenance of School Facilities. Mindful of the need to accommodate population increases in certain residential areas and to ensure the health and safety of our children in the schools, your Committee has provided \$5 million by separate appropriation and another \$10 million in bond authorizations for the purpose of school repair, renovation, and maintenance.

Summer Program for Enhancement of Basic Education (SPEBE). Realizing that professional experience enhances academic learning, your Committee has provided an opportunity for Hawaii's public school students to participate in a summer enrichment program in which students work in applied areas of mathematics,

science, or language arts. This program will be instituted in the summer of 1985 with the support of business, higher education, and other public institutions.

Fiscal Reporting of 1985-87 Biennium Budget. Finally, in carrying out its commitment to fiscal responsibility, your Committee is requesting the department of education to submit its 1985-87 biennium budget in a format which reveals the amount of general funds being requested for each of its PPB Level V programs. This reporting format will allow your Committee to scrutinize the department's budget in a systematic and consistent manner. Moreover, your Committee will be able to develop cost per student ratios for the various elements within the department's general programs thereby identifying cost effectiveness levels.

#### HIGHER EDUCATION

Funding to maintain quality and opportunity of higher education programs has always been a major concern of your Committee. However, in light of the austere financial condition of the State, budgeting for the university must be viewed with a rigor that requires critical reduction of expenditures. Accordingly, your Committee made adjustments to the fiscal year 1984-85 appropriation for the purpose of limiting the continuous rise in higher education program costs, without jeopardizing the availability of higher education opportunities for the citizens of our State. Your Committee was also made aware of the need to fund student enrichment as well as urgent projects for high-technology, energy resource development, and water contamination research.

Program Reviews. Your Committee was faced with the difficulty of adequately evaluating the program expenditure and budget of the university as available information did not relate program results with funding. In times of fiscal austerity, program plans and funding based on priorities established from evaluation of existing programs are critical processes, since budgetary decisions to reduce or eliminate programs must be made. The university has not prepared its budget over the years to address program budgeting with program reviews and that in the future, the university should prepare the budget requests based on the results of such reviews.

Student Enhancement Computer Program. The College of Engineering as been in dire need to provide quality education for competent engineers sought by "high tech" industry. The lack of adequate computer equipment was highlighted as a significant shortcoming of the college by the Accreditation Board for Engineering and Technology. To enhance the computer utilization education of engineering students, your Committee provided the college funds to purchase the necessary hardware and hire qualified personnel to assist the students with the exposure and increased capability for computer applications.

Research Projects. In addition, your Committee placed special emphasis on research projects to be undertaken by the university for the benefit of the people of the State. Since the university serves as a research arm of the high technology development program advanced by the Governor last year, sufficient funding is included in the budget to carry out creative research proposals conducted by the Pacific International Center of High Technology Research.

For the Hawaii National Energy Institute, which has been conducting important research on new and alternative energy resources for Hawaii for the past ten years, your Committee has increased funding over the previous year to accelerate studies in this area. The aim is to diminish our dependence on imported fossil fuels and meet the State's increasing energy demands.

Capital Improvement Projects. In keeping pace with the changing instructional needs and requirements for improved facilities at all campuses of the university, your Committee, upon review of all existing capital investment projects and new projects and new projects submitted by the university, authorized sufficient funding for designing and constructing needed improvements of old structures as well the development of new facilities. Foremost in the consideration were projects which directly enhanced the educational benefits for students. The major projects in this area include the renovation of old structures (Bilger Hall, Edmondson Hall, and Klum Gym) and the development of new medical school facility at the Kuakini Medical Center and other hospitals. Other projects at the Manoa Campus relate to student utilization of the bookstore where a new ground floor entrance must be constructed to provide for easy accessibility by the handicapped. Funds have also been authorized for improvements to the campus center.

For the other campuses, particularly Honolulu Community College and Kauai Community College, provisions were made for the construction of new vocational education facilities. For Maui Community College, funds were appropriated for the much needed improvements of the grounds, including parking and lighting of roadways. The continued development of the marine biology program on Coconut Island requires new electrical system and accordingly adequate funding has been made available.

Lastly, as part of the university's agreement with the Mauna Kea observatory organization, the access road improvements and new electrical transmission to the summit have been funded.

#### CULTURE AND RECREATION

Your Committee, aware of the necessity to make cultural programs more widely available, has provided \$757,276 in general funds to the performing and visual arts events program (AGS 881) for purchases of service with various private organizations.

Your Committee also recognizes the importance of recreational activities in everyday life and has provided funds to improve and renovate various boat launching facilities including the construction of new facilities in Kapaa and Maunaloa. Your Committee has also provided funds to improve facilities at Malekahana Beach Park and Ukumehame-Kaanapali Park, and expansion of Makena-La Perouse State Park.

#### PUBLIC SAFETY

Halawa Medium Security Facility. The problems of overcrowding in correctional facilities have led your Committee to carefully scrutinize expenditure in this area. In the General Appropriations Act of 1983, the sum of \$51.9 million for the fiscal biennium 1983-85 was provided to help fund a 500-bed Halawa Medium Security Facility which is intended to relieve overcrowding at Oahu Community Correctional Center. This year, the administration requested an additional \$16.5 million for construction of support facilities and an additional module unit.

Such major cost expenditures in an area which affects public safety during a period of fiscal austerity has required your Committee to seek creative strategies. After its review, your Committee is convinced that a prudent approach in this area requires an incremental development of the new facility supplemented with some increased support for rehabilitative programs. Therefore, your Committee has maintained the appropriation of \$51.9 million for the construction for a 250-bed medium security facility at Halawa and a full complement of facilities for rehabilitative programs. At the same time, your Committee has also provided funds for rehabilitative programs for Oahu Community Correctional Center and the women's correctional facility.

Your Committee considers it a priority that the department of social services and housing begin to seek effective alternatives to the problems of overcrowding including appropriate classification and deployment of inmates, renovation and reconstruction of present facilities, and development of rehabilitative programs which support reintegration of those incarcerated back into society as law abiding citizens. Accordingly, your Committee provided \$1.25 million for the planning, designing, and construction to supplement the existing water storage facilities for the purpose of increased utilization of Kulani Correctional Facility.

Rehabilitation and Facility Security. Your Committee remains committed to ensuring public safety, as well as providing for the rehabilitation of incarcerated individuals. To this end your Committee has provided 18 new adult corrections officers for the women's facility, and 24 new adult corrections officers for Oahu Community Correctional Center. In addition, sufficient funding has been provided for pre-release and furlough program for women to alleviate some of the overcrowding and vocational education services to Halawa High Security Facility, the women's facility, Hawaii Youth Correctional Facility, and Kulani Correctional Facility.

#### INDIVIDUAL RIGHTS

Your Committee moved to strengthen the rights of individuals through the office of consumer protection, public defender, aid to victims of crimes, and the Commission on the Status of Women.

Office of Consumer Protection. The programs of the office of consumer protection have not been equal to the responsibilities charged to it by statutes. At its inception, the Legislature had envisioned the development of an active program providing support to consumers victimized by business institutions. In recognition of the recent occurrences in which businesses have solicited funds from consumers then been unable to deliver on the promised services, your Committee is requesting the office for consumer protection to provide a definitive program design of how this office is to (1) provide leadership in acting on behalf of the interests of consumers, and (2) relate to other agencies charged by statutes and engaged in programs which bear on the objectives of this office. Your Committee is also requesting the office to identify the benefits which are likely to be forthcoming from its programs.

These are the kinds of information which your Committee expects the office to provide in the next program and financial plan to be presented to the 1985 Legislative Session. In the meantime, your Committee recommends continued funding at the level previously authorized, and with the hope that the additional information to be provided in the next Legislative Session will form the basis for providing additional funding to the office.

Public Defender. The role of the office of public defender in protecting the individual rights of citizens should be buttressed by adequate legal personnel, to assure the effective and speedy administration of justice. Your Committee agrees that additional appropriations should be provided for temporary personnel to meet increased felony trial workloads.

Aid to Victims and Witnesses of Crimes. Your Committee finds that the victims coordinator programs of the various county prosecuting attorneys provide a valuable service to reduce trauma and frustration felt by crime victims and witnesses. Accordingly, funding is provided through the office of attorney general with the stipulation that the counties shall match 20 per cent of the amount provided by the State and submit financial reports in support of program activities.

Commission on Status of Women. Your Committee recommends funding of the commission for another year, contrary to the decision made last session to terminate the commission on June 30 of this year. The funding is being made on the premise that the commission will provide the 1985 Legislature a more definitive explanation of how the commission's existence is necessary to further the interest of women, of how the commission relates to other agencies engaged in programs which seem to be similar to the activities of the commission, and the benefits to be derived by the programs of the commission.

#### GOVERNMENT-WIDE SUPPORT

Grants-In-Aid to Counties. Your Committee has recommended continued funding at the current level. The grants-in-aid to counties program currently costs the State approximately \$19 million annually with about \$8 million granted to the City and County of Honolulu, \$3 million to Maui, \$4 million to Hawaii, and \$3 million to Kauai.

In recommending continued funding, your Committee reminds the counties that the original rationale for the grants-in-aid program was based in the fact that the policy-making for all taxes levied in Hawaii was formerly vested in the State, but this situation no longer exists. The real property tax is now entirely vested in the counties and as such the counties have the power to not only set the tax rates, but also to determine how property is to be assessed and classified as well as how the tax is to be levied and collected.

Your Committee expects the counties to fully utilize the real property tax system before submitting proposals for a revenue sharing plan. Your Committee also expects the counties to take aggressive steps to collect delinquent property taxes which have nearly doubled since the counties have assumed responsibility for assessment and collection.

Taxation. The effective and equitable administration of the tax laws is a prime requirement for public confidence in the governmental process. Your Committee is



aware of the administration problems in the department of taxation and is encouraged by the efforts being made by the department to correct these problems. Your Committee has provided funds to continue the upgrading and modernization of the department.

Legal Service. Your Committee is concerned with maintaining high standards of legal services available to the State. The increase in the number and complexity of litigation involving the State necessitates providing the office of the attorney general with supplemental appropriations. These funds are intended for hiring additional attorneys and to pay for increased litigation costs.

Disability Compensation. Your Committee has included appropriations to improve the State Workers Compensation program. A centralized unit in the department of personnel services has been authorized to help monitor the program and to reduce or stabilize costs.

Collective Bargaining Costs. Your Committee's review of the financial condition of the State shows that all costs associated with the recently concluded contract negotiations with the various public employee unions can be accommodated within the latest revenue estimates of the Council of Revenues, and will not cause the total general fund appropriations to exceed the statutory expenditure ceiling. Accordingly, appropriations to implement the bargaining agreements are provided in this bill as well as in separate legislation.

#### PURCHASES OF SERVICE FROM PRIVATE AGENCIES

Your Committee's review of the purchases of service from private agency programs was conducted within the context of the total grant, subsidy, and purchases of service program with an emphasis on program activity and services rather than on individual organizations. The recommended levels of funding were based on reviewing evaluations accompanying each application, assessing the relationship of activity or service to program goals, and the availability of other sources of funding. This approach allowed your Committee to be sensitive to the needs of private agencies while maintaining its commitment to fiscal accountability. As a result, your Committee has provided \$8,257,576 for the purchase of service program in the following programs:

AGS 881	Performing & Visual Arts Events	757,276
EDN 108	Compensatory Education	323,344
EDN 207	Student Activities	43,682
GOV 100	Office of the Governor	63,702
GOV 102	Gov - Oth Policy Dev & Coordination	100,507
GOV 602	Plan, Prgm Dev, Coord Svcs Elderly	292,904
GOV 803	Plan, Prgm Dev, Coord Svc Immigrants	159,950
GOV 860	Hawaii Office of Econ Opportunity	1,082,584
HTH 151	Chronic Diseases	142,904
HTH 170	Emergency Medical Services	149,120
HTH 185	Family Planning	436,214
HTH 401	Community Based Svcs for MH	2,331,553
HTH 500	Ident, Eval & Treatmt for MR	360,923
HTH 501	Community Based Svcs for MR	1,262,747
HTH 801	Health Care Services	94,306
HTH 907	General Administration	103,730
HTH 908	Health Education	54,600
SOC 111	Svcs to Individuals & Families	61,697
SOC 407	Oahu Community Correctional Cntr	128,139
SOC 802	Vocational Rehabilitation	332,694

Each program or service recommended for funding is being classified as a purchase of service rather than a grant or subsidy to facilitate programmatic and fiscal monitoring of expenditures. Further, it is your Committee's intent that the purchase of service program be considered an integral part of the total State operating budget and that executive planning, budgeting, implementation, and evaluation be applied to private agencies as would be applied to any other executive department or agency. To ensure the continuation of this process begun by your Committee, amendments to Chapter 42, Hawaii Revised Statutes, are being provided in separate legislation.

This budget bill expresses your Committee's commitment to fiscal integrity while continuing to respond to the challenges of a changing society. Your Committee is

satisfied that this supplemental budget offers a cautious and responsible approach to funding.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1640-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1640-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 496-84 Finance on H.B. No. 2092-84

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

The Judiciary supplemental budget focuses on alleviating the increased number of cases coming into the courts. While the Appellate Courts have achieved currency in its caseload, the Circuit Court's criminal and civil divisions are experiencing a significant case backlog.

Your Committee supports the Judiciary's objective to speed case processing and reduce backlogs and is encouraged by the Judiciary's progress in alleviating this problem. Your Committee has provided resources to allow for a new Master Calendaring system in the Circuit Courts. In addition, authorization has been provided for temporary positions for five temporary courtrooms. Both of these provisions will have a major impact in clearing the backlog of cases at the courts.

Further, your Committee is establishing the Office of the Public Guardian to act as the legal guardian for individuals who cannot be legally responsible. In testimony presented before your Committee, such a function was favored to be needed.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2092-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2092-84, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 497-84 Finance on H.B. No. 1874-84

The purpose of this bill is to authorize the issuance of general obligation bonds to finance projects authorized in H.B. No. 1640-84, the Supplemental Appropriations Act of 1984, H.B. No. 2092-84, the Judiciary Appropriations Act of 1984, and S.B. No. 1846-84, Capital Improvement Projects.

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 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 in Section 1 of the bill sequentially is as follows:

Paragraph 1 sets forth the basic constitutional provision governing state debt.

Paragraph 2 shows the actual debt limit applicable for fiscal year 1983-84 and estimates of the debt limit for fiscal year 1984-85 to fiscal year 1986-87.



Paragraph 3 shows the debt service requirements from fiscal year 1984-85 to fiscal year 1990-91 for outstanding general obligation bonds which must be counted against the debt limit.

Paragraph 4 states the amount of authorized but unissued general obligation bonds as of December 31, 1983.

Paragraph 5 shows the schedule for proposed general obligation bond issuance and states the assumptions concerning bond maturities.

Paragraph 6 states that the total amount of general obligation bonds which the state proposes to issue is an amount sufficient to meet the requirements of all authorized unissued bonds and the bonds authorized by this bill.

Paragraph 7 notes that certain reimbursable general obligation bonds can be excluded and, while the amount of such excluded bonds cannot be precisely determined for each issuance, the legislature makes the conservative estimate that 10 per cent of each issuance is excludable.

Paragraph 8 presents a display which compares the debt limit applicable at the time of each proposed bond issue with the greatest debt service amount resulting from each issue.

Paragraph 9 establishes the overall and concluding finding that the total amount of principal and interest estimated for the general obligation bonds authorized by this bill, 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.

In making the declaration to support the authorization of bonds in this bill, your Committee has followed the cautionary guidelines expressed by the State's bond counsel who has advised:

"A court will not necessarily sustain findings of a legislative body which are merely a recitation of the requirements of a constitution or a statute. Consequently, we believe that the legislature must establish a reasonable basis for the finding that the estimated debt service . . . will not cause the debt limit to be exceeded at the time of issuance. We believe prudence requires the basis to be conservative in order to eliminate any allegation that the legislature first made the finding and worked back to assumptions which were consistent with such finding."

Your Committee understands that the declaration of findings in this bill fully follows the bond attorney's cautionary guidelines.

The bill still contains several blank spaces which will not be completed until data from the final forms of the aforementioned appropriation acts are known.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1874-84 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 498-84      Finance on H.B. No. 851

The purpose of this bill is to allow the Commission on the Status of Women to appoint an executive secretary without regards to HRS chapters 76 and 77.

Your Committee notes that such commissions as the Commission on the Handicapped and Executive Office on Aging have executive directors or secretaries exempt from HRS chapters 76 and 77.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 851 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

## SCRep. 499-84 Finance on H.B. No. 2229-84

The purpose of this bill is to appropriate funds for the development and implementation of a consumer education program on milk.

Your Committee on Finance concurs with the findings of your Committee on Agriculture in Stand. Com. Rep. No. 167-84.

Your Committee also finds that, up until now, the milk industry in this State has taken full responsibility for its product promotion and advertising, absorbing all costs without state assistance, through an industry advertising fund which is continually replenished by a portion of the profits received from product sales. Due to a decline in sales, however, the fund has become insufficient to provide for a comprehensive promotional effort to combat the public's lack of confidence in locally produced milk.

Your Committee understands that the remaining portion of the funds needed for this consumer education program on milk will be raised by the milk industry.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2229-84, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

## SCRep. 500-84 Finance on H.B. No. 1904-84

The purpose of this bill is to appropriate funds for the Agricultural Products Program provided for under HRS chapter 153.

Your Committee finds that it is in the public interest to expand diversified agricultural production and thereby broaden the economic base of the State.

Your Committee further finds that the Agricultural Product Program has great potential as a catalyst to encourage private investment in the development of new agricultural products and new methods of producing existing agricultural products.

Your Committee supports the appropriation of \$250,000 for the program.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1904-84, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

## SCRep. 501-84 Finance on H.B. No. 1949-84

The purpose of this bill is to make an appropriation in the sum of \$250,000 for fiscal year 1984-1985 to fund the Witness Security and Protection Program, which provides security and protection to government witnesses.

Your Committee finds that providing protection assures the safety and comfort of victims and witnesses, thereby increasing the chance of witnesses testifying and facilitating the successful conviction of violent crime offenders.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1949-84, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

## SCRep. 502-84 Finance on H.B. No. 1946-84

The purpose of this bill is to appropriate \$500,000 for personal care services to eligible medical assistance recipients.

The Department of Social Services and Housing estimated that approximately 900 individuals may immediately request or require personal care services. The Department has estimated that this new service may cost between \$5 million to \$6 million per year if an average four-hours-per-day of service is provided to each recipient.

Section 346-64, Hawaii Revised Statutes, enacted in 1982, specifies certain limitations on the amounts of personal care services an eligible recipient may receive per month. Furthermore, the Department may offer personal care services within the funds available and has the option of placing a cap on the services offered.

Your Committee agrees that with the rising cost in institutional care, alternatives to institutionalization to assist the disabled and elderly to remain in their own homes are of considerable importance.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1946-84, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 503-84      Finance on H.B. No. 2006-84

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

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

Your Committee has received testimony from the State Judiciary and finds that an increase of the fine to an amount of \$5 would generate substantial funding to cover services to the additional drivers being referred by the courts.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2006-84 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 504-84      Finance on H.B. No. 2182-84

The purpose of this bill is to appropriate \$29,000 for the planning of the community mental health system.

Your Committee finds that in 1983 the House of Representatives passed H.R. 473 calling for: (1) a needs assessment of community residential treatment facilities as an alternative and follow-up to the prohibitively expensive hospitalization of the mentally ill and (2) a facilities plan and budget to implement community-based treatment for the mentally ill.

Pursuant to this resolution, an \$11 million, five-year plan entitled the "Community Residential Facilities Plan" was submitted by the Office of Community Support of the Mental Health Division, Department of Health. Your Committee has heard testimony offering unanimous support and commendation for the plan from such groups as the Hawaii State Mental Health Advisory Council, the Hawaii Nurses Association, and the Mental Health Association in Hawaii. It is considered a cost-effective alternative addressing the requirements of 50 per cent of the state population at need.

Your Committee finds that an appropriation of \$29,000 as provided in this bill will enable the Office of Community support to begin work with community mental health centers towards implementing the Community Residential Facilities Plan.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2182-84 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 505-84      Finance on H.B. No. 2256-84

The purpose of this bill is to authorize the issuance of special purpose revenue bonds to assist Queen's Medical Center and Wahiawa General Hospital in financing or refinancing the acquisition of needed equipment.

Your Committee finds that prior legislative authorization of special purpose revenue bonds for health care facilities has resulted in considerable interest savings over the respective lives of each issue, which have benefitted those institutions, consumers, and the community at large. For example, your Committee heard testimony from Queen's Medical Center that the issuance of \$80 million in fixed-rate, tax-exempt revenue bonds in 1982 and \$20 million in floating-rate, tax-exempt revenue bonds in 1983 resulted in estimated interest savings of \$90,162,872 and \$6,836,745 over the respective lives of each issue.

To obtain further benefits from the substantial interest savings expected to accrue from the issuance of tax-exempt special purpose revenue bonds, this bill authorizes \$5 million for Queen's which would be used for the routine replacement and addition of movable equipment for fiscal year 1985, and \$5 million for Wahiawa General Hospital for the routine replacement of equipment in fiscal year 1985 and possibly subsequent fiscal years.

Your Committee finds that this method of financing is a viable alternative to less cost-effective methods, such as the use of operational revenues, expensive lease programs, and/or conventional debt financing, and will further the public interest in promoting lower cost health care.

Your Committee heard testimony and intends that the cost of equipment to be acquired through the resources provided by this bill individually will be less than the threshold for a required Certificate of Need review.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2256-84, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 506-84 Finance on H.B. No. 1728-84

The purpose of this bill is to redefine "gasohol" in more explicit terms, thereby making the definition compatible with federal interpretation and avoiding probable tax litigation. This bill establishes the minimum standard in mixing gasoline and alcohol for those taxpayers engaged in selling the liquid fuel mixture by specifying that the ten per cent ethanol is ten volume per cent and that the ethanol includes a denaturant.

Your Committee received testimony to support the redefinition of gasohol from the department of agriculture and the department of taxation. Your Committee finds that clarification of the existing definition would be advantageous for the administration of federal standards and to users of the fuel for taxkeeping purposes.

Your Committee on Finance is in accord with the intent and purpose of H.B. 1728-84 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 507-84 Finance on H.B. No. 1789-84

The purpose of this bill is to empower the attorneys within the department of commerce and consumer affairs to exercise authority granted to the attorney general and other county attorneys under HRS section 92-51 and to clarify the boards' and commissions' authority to impose fines in appropriate disciplinary cases.

Presently, HRS section 92-51 empowers the attorney general and the responsible attorneys of the various counties to withhold records from public inspection when such records pertain to the preparation of the prosecution or defense of any action or proceeding, prior to its commencement, to which the State may be a party, or when such records do not relate to a matter in violation of law and are deemed necessary for the protection of a character or reputation of any person.

Since the prosecutorial function in disciplinary cases was transferred from the attorney general to regulated industries complaints office legal staff, the latter has within its custody, and/or control, records which may be withheld from public inspection under HRS section 92-51. By authorizing regulated industries

complaints office legal staff to exercise authority granted under HRS section 92-51, records which were intended to be protected under HRS section 92-51 can continue to be protected by regulated industry complaints office legal staff and without the necessity of intervention by the attorney general.

Secondly, the enabling statutes for various boards and commissions placed within the department for administrative purposes provide for the imposition of fines as appropriate remedies in certain disciplinary cases. Conspicuously absent from the enumeration provided in HRS section 92-17 is the authority to impose fines. The proposed amendment would more accurately and completely reflect the various options that are available to the boards and commissions in disciplinary cases.

Your Committee believes this bill will authorize the regulated industries complaints office attorneys to exercise authority granted under HRS section 92-17 to prevent the disclosure of documents and records in appropriate cases and authorize boards and commissions to impose monetary fines as appropriate relief in certain disciplinary cases.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1789-84 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 508-84      Finance on H.B. No. 1856-84 (Majority)

The purpose of this bill is to require driver's license renewal applicants sixty-five years of age and older to be tested as to their knowledge of the rules of the road not more than once every four years.

Under present law, most driver's licenses expire on the driver's fourth birthday following issuance of the license. However, the licenses of persons sixty-five years of age and older expire on the driver's second birthday following issuance. Your Committee received testimony from the state department of transportation that the reason for this is that the average senior citizen experiences a higher rate of accidents per mile driven than does the average Hawaii driver.

The present license renewal provisions mandate a determination of a driver's fitness to continue to operate a motor vehicle (primarily an examination of visual acuity), an examination of the driver's knowledge of the rules of the road, and a renewal fee.

Your Committee finds that the primary purpose for requiring two-year rather than four-year driver's license renewal for drivers sixty-five years of age and older is that senior citizens are more susceptible than others to rapid physical degeneration. In particular, the high incidence of glaucoma and other visual disorders in senior citizens justifies the two-year renewal requirement.

However, your Committee was presented no evidence that senior citizens fail to remember the rules of the road to a greater extent than the general driving population. Nor was any evidence adduced that senior citizen drivers are a greater accident risk than other drivers because they fail to observe rules of the road rather than because of physical failures, such as slowed reaction time and failing eyesight. Therefore, your Committee believes that it is unfair to continue to require drivers sixty-five years of age and older to be examined regarding the rules of the road any more frequently than other drivers.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1856-84, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 509-84      Finance on H.B. No. 1906-84

The purpose of this bill is to provide \$393,000 to support statewide agricultural activities including the State Farm Fair, commodity group research, pesticide education programs for farmers, and research on plant parasitic nematode control.

Your Committee has received testimony in support of this bill from the Chairman of the Governor's Agriculture Coordinating Committee; the Hawaii Farm Bureau Federation; the Dean of the College of Tropical Agriculture and Human Resources, University of Hawaii; and the Pineapple Growers Association of Hawaii.

Your Committee on Finance concurs with the findings of your Committee on Agriculture in Stand. Com. Rep. No. 51-84.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1906-84, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 510-84 Finance on H.B. No. 2021-84

The purpose of this bill is to amend Act 300, Session Laws of Hawaii 1983, by deleting:

(1) The last paragraph of Section 3 thereof. This deletion is proposed to avoid the impression that Aloha Studios is a government agency. The paragraph to be deleted says that Aloha Studios shall be part of the department of budget and finance for administrative purposes.

(2) Section 4 of the Act in its entirety. This section originally appropriated \$10,000 to provide support services to Aloha Studios. The appropriation was vetoed by the governor, making the section unnecessary.

Your Committee finds that the proposed amendments to Act 300 are desirable. They would prevent confusion as to the status of Aloha Studios and would delete an unnecessary section in the Act.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2021-84 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 511-84 Finance on H.B. No. 2039-84

The purpose of this bill is to increase the existing loan ceiling of \$100,000 to \$250,000 which the department of planning and economic development may not exceed in making loans to any applicant with small business concerns.

Your Committee has received testimony from the department of planning and economic development that the current loan program needs greater flexibility to participate in major projects involving substantial employment and diversification activities. Approximately ten per cent of the loan applicants are already in excess of the \$100,000 ceiling. This bill would increase the existing loan ceiling per applicant from \$100,000 to \$250,000 and keep the interest rate at seven and onehalf per cent.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2039-84, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 512-84 Finance on H.B. No. 1466

The purpose of this bill is to amend HRS section 388-4 which pertains to the payment of wages to relatives of deceased employees. The law presently sets \$1,000 as the maximum amount payable to the surviving spouse or adult child. This bill would raise to \$2,000 the limit of wages due which the employer is allowed to pay to the surviving spouse or adult child.

Your Committee has received testimony that a deceased employee's survivors often face immediate economic hardship because of low financial reserves and the cost of bereavement expenses. In light of the inflation which has occurred since the \$1,000 limit was set in 1967, your Committee finds it desirable to raise the amount payable to a surviving spouse or adult child to \$2,000.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1466 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 513-84 Finance on H.B. No. 359

The purpose of this bill is to repeal the sunset provision of Section 304-14.6, Hawaii Revised Statutes, for granting tuition waivers to qualified Hawaii National Guard and Army Reserve members.

Your Committee has received testimony that, besides being an incentive for recruiting and retaining quality guardsmen and reservists, the tuition waiver serves as a valuable instrument in educating a group of serious and highly motivated men and women who may otherwise have had to struggle to obtain a college education. Your Committee finds that statistically the program has met its objectives by boosting enlistment and re-enlistment participation, increasing morale, and simultaneously producing more competent individuals. By continuing the Tuition Waiver Program beyond June 30, 1984, the Hawaii National Guard and Army Reserve will be able to continue to offer this attractive benefit to recruit and retain quality personnel.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 359 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 514-84 Finance on H.B. No. 1213

The purpose of this bill is to propose the repeal of Article VII, section 6, of the Hawaii State Constitution to eliminate the requirement that excess revenues be returned to taxpayers if the general fund balance at the close of each two successive fiscal years exceeds five per cent of general fund revenues for each of the two fiscal years.

Your Committee finds that, although there have been budget surpluses, there are also times when the State may face a general fund deficit. The State should be able to carry over surpluses to meet continuing needs during those periods where state revenue declines.

Under the constitutional provision approved by the electorate in 1978, whenever the state general fund balance at the close of each two successive fiscal years exceeds five per cent of general fund revenues for each of the two fiscal years, the legislature in the next regular session must provide for a tax refund or tax credit to the taxpayers. This "disposition of excess revenues" provision was enacted in conjunction with a provision limiting the amount of money which could be spent by state government, as it was believed that, as a result of the spending limitation, excess revenues would be generated, and such excess should be rightfully returned to the taxpayers of the State.

It should also be noted that, while the Constitution mandates a return of excess revenues, it does not specify how much of a surplus is to be returned. Therefore, the 1983 legislature provided a refund of \$1 per exemption and still met the mandate.

The repeal of the excess revenues provision would allow the State to keep extra dollars on hand without the need to return such amount to taxpayers.

In view of the ironic situation of having to return excess dollars in a year when a deficit has been projected, your Committee finds that subjecting this amendment to the electorate for reconsideration appears proper. If this repeal is approved, your Committee wishes to remind the legislature that refunding of surplus revenues would still remain as a legislative prerogative.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1213 and recommends that it pass Third Reading.

Signed by all members of the Committee.



## SCRep. 515-84 Finance on H.B. No. 1727-84

The purpose of this bill is to allow the department of agriculture to collect fees for the inspection, sampling, and testing for adulteration of all animal feed other than that for domestic pets.

In 1983 the legislature passed Act 214 which amended HRS chapter 144 to allow the department of agriculture to inspect, sample, and test for adulteration or misbranding all animal feed other than that for domestic pets. Prior to the passage of that Act, the department of agriculture had been authorized to inspect, sample, and test only commercial feed. Act 214 did not, however, provide for fees to cover the cost of the additionally authorized feed inspections and analyses.

Your Committee finds that the inspection fees currently provided for in chapter 144 do not equitably distribute the costs of feed inspection.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1727-84, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

## SCRep. 516-84 Finance on H.B. No. 1738-84

The purpose of this bill is twofold: to continue until June 30, 1989, the requirement that women applying for a marriage license receive serologic testing for rubella (german measles) and to require that the department of health notify women who are susceptible to rubella.

Under present law, the department's mandatory premarital rubella screening program lapses on June 30, 1984. Your Committee heard testimony from the department that 16 per cent of women tested now for rubella are still susceptible. Unfortunately, this is still well above the recommended level of less than 10 per cent susceptibility. Your Committee finds that the continuation of the rubella testing requirement for an additional five years is necessary.

Finally, this bill will statutorily recognize the department's current practice of notifying rubella-susceptible women.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1738-84, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

## SCRep. 517-84 Finance on H.B. No. 1759-84

The purpose of this bill is to clarify the intent of HRS section 206E-12 by requiring that the provisions apply to "public facilities." As defined by HRS section 206E-2, the term "public facilities" includes streets, utility lines, sites for community facilities (such as schools, parks, and garages), and drainage, water, and street lighting facilities; this definition does not include housing.

Section 206E-12 presently requires a developer to dedicate land or facilities--or cash payments in lieu thereof--as a condition of developing real property pursuant to the community development plan. This bill requires that the dedicated land or facilities be used for public facilities. It provides further that, if there is an existing public facilities dedication law which imposes a greater dedication requirement, the developer must comply with that law.

Your Committee has received testimony in support of this bill from the Chairman of the Hawaii Community Development Authority. The Authority believes that the present Kaka'ako Plan adequately addresses the provision of affordable housing through its reserved housing requirement for planned developments and that, specifically in regards to housing, this bill assures that dedication requirements of the Authority shall prevail over any such county dedication requirement.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1759-84 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 518-84 Finance on H.B. No. 1750-84

The purpose of this bill is to extend authorization of use of Reed Act credits from 25 to 35 years from the date such moneys were first credited to the State. Reed Act money was distributed to the state unemployment funds in 1956, 1957, and 1958 under section 903(c)(2) of the Social Security Act for payment of benefits to individuals or for administrative purposes.

Your Committee is in agreement with the Department of Labor and Industrial Relations that extension of the time limit for the use of Reed Act moneys will allow the State to take advantage of recent federal legislation which provided for the restoration of such moneys to the State for future use.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1750-84 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 519-84 Finance on H.B. No. 1801-84

The purpose of this bill is to allow for the charging of fees for child support enforcement services to non-welfare clients.

This bill amends HRS section 580-15, which authorizes the Corporation Counsel to represent the Family Court in contempt proceedings for spouse and/or child support, by allowing a fee to be charged to those who may be financially able to pay for such services.

Your Committee agrees that this will reduce administrative cost of the Child Support Program.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1801-84 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 520-84 Finance on H.B. No. 1875-84

The purpose of this bill is to appropriate \$384,849.95 to pay victims and providers of services who were awarded compensation pursuant to the Criminal Injuries Compensation Act.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1875-84 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 521-84 Finance on H.B. No. 1760-84

The purpose of this bill is to authorize the Hawaii community development authority to issue \$30,000,000 of assessment area bonds for district-wide infrastructure improvement projects in the Kaka'ako District.

HRS section 206E-6 directs the authority to undertake district-wide improvements of public facilities and to issue improvement assessment bonds to pay for part of the cost of such improvements. Specific amounts must be approved by the Legislature. Your Committee concurs with the findings of the Committees on Water, Land Use, Development and Hawaiian Affairs and on State General Planning and agrees that the authority be allowed to issue \$30,000,000 of assessment bonds.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1760-84 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 522-84 Finance on H.B. No. 2170-84

The purpose of this bill is to appropriate funds to provide for a biological control project to regulate the webworm population on the island of Maui.

Your Committee has received testimony in support of this bill from the Chairman of the Board of Agriculture, the president of the Maui Cattlemen's Association, as well as from representatives of three ranches on the island of Maui.

Your Committee finds that periodic webworm buildups occur in pasture lands on windward Maui during periods of prolonged wind and rain which hamper the attack on webworm larvae by parasitic insects. The webworms' voracious appetite for pasture grasses can lead to the destruction of acres of pasture in a matter of days. The loss of these grasses results not only in the need to truck cattle to uninfested areas for grazing purposes, but also contributes to soil erosion and the loss of the land's regenerative capabilities.

Your Committee finds that the most effective parasites of the webworm are already in Hawaii. Your Committee further finds that the most feasible approach to preventing or minimizing serious webworm buildup would be to develop a parasite augmentation program entailing year-round mass propagation and timely release of established webworm parasites.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2170-84 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 523-84      Finance on H.B. No. 2168-84

The purpose of this bill is to appropriate funds for the continuation of Maui Community College's agricultural program on Molokai in fiscal year 1984-1985.

Your Committee finds that Maui Community College's practical, hands-on agricultural instructional program on Molokai develops in students technical and management skills necessary to successfully operate a farm. This program has been valuable in training prospective farmers and upgrading the skills of existing farmers.

Your Committee further finds that the agricultural program on Molokai is instrumental in promoting diversified agricultural development on Molokai.

Your Committee also finds that the Board of Regents of the University of Hawaii included funding for the Molokai agricultural program in their budget proposal for fiscal year 1984-1985, however, funding was not included in the 1984-1985 Executive Supplemental Budget. This program will end June 30, 1984, unless an additional appropriation is made during this legislative session.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2168-84, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 524-84      Finance on H.B. No. 2383-84

The purpose of this bill is to authorize the sale and distribution of House and Senate Journals by the Lieutenant Governor to the general public at a fixed charge, and to public officials free of charge.

Your Committee is in agreement that the public interests would be served by the offering of the journals for a fixed charge to private individuals and organizations.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2383-84, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 525-84      Finance on H.B. No. 1362

The purpose of this bill is to propose amendments to Article III, sections 2 and 3, and Article IV, section 4, of the Hawaii State Constitution to make variable the number of Senators and Representatives to be elected from respective senatorial and representative districts.

The bill was recommitted for purposes of further review of language and substance. The bill proposes a change to the State Constitution which will allow the Reapportionment Commission to change the composition of the Senate and House of Representatives.

Under the proposed changes, the Senate shall be composed of twenty-five members, or a number of members as may be established by the Reapportionment Commission, such number not to exceed twenty-seven.

Under the proposed changes, the House of Representatives shall be composed of fifty-one members, or a number of members as may be established by the Reapportionment Commission, such number not to exceed fifty-five.

The bill also proposes to allocate the total number of members of each House of the State Legislature being reapportioned among the four basic island units on the basis of the number of voters registered in the last preceding general election. This is a change from the equal proportions method of computation.

Your Committee finds that in the Hawaii context and recent reapportionment experience, a reapportionment process which must deal with a fixed number of legislators and yet achieve a reapportionment plan which comports with the strict federal constitutional standards under the "one man, one vote" principle too often results in district lines crossing established communities, natural geographic features and even traditional basic island units.

On the other hand, use of a variable number mechanism in the 1982 reapportionment would have given the Reapportionment Commission the flexibility to meet federal constitutional requirements of equal population distribution, as well as the Hawaii constitutional requirements for apportionment among and within basic island units.

Your Committee has reviewed the bill and finds its present form satisfactory.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1362, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

SCRep. 526-84      Finance on H.B. No. 1550

The purpose of this bill is to transfer the functions and staff of the Hawaii Institute for Management and Analysis in Government (HIMAG) from the department of budget and finance to the department of personnel services.

According to testimony, the intent of this bill is consistent with the present assignment of the statewide training function to the department of personnel services found in HRS sections 26-5 and 76-38.

Your Committee is in agreement to better utilize state resources by improving coordination of programs and eliminating duplication of effort.

Your Committee has adopted the recommendation of the state director of personnel services by amending this bill to include the transfer of personnel--not just the functions and equipment as the bill currently provides. Further, your Committee has amended this bill to clarify that the director of personnel services will coordinate the identification of managerial and analytical training needs among all departments of the State. Certain drafting and stylistic changes have also been incorporated in this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1550, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1550, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 527-84 Finance on H.B. No. 1913-84 (Majority)

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

The insurance division testified in support of the bill. It was expressed that the decal system embodied in H.B. No. 1913-84 would permit greater enforceability of the sanctions available under Chapter 294, Hawaii Revised Statutes.

The Honolulu Police Department also testified in support of the bill.

The Hawaii Insurers Council testified in opposition to the passage of this bill. Although in agreement with the intent of the bill, the Council opposed the method in which the bill proposed to reduce the number of uninsured motorist. The Council also expressed great concern that, if the decals were placed on license plates, the decals or entire license plates would be stolen.

Your Committee finds that it is necessary to deal with the problems caused by uninsured motorists, who comprise approximately 19.4 per cent of drivers in Hawaii. This minority of drivers, who refuse to obtain the motor vehicle insurance coverage required under the law, exercise the privilege of driving without assuming the concomitant responsibility to obtain and maintain valid no-fault insurance.

These uninsured motorists pose a threat to the rest of society.

Your Committee is aware that this decal system is not foolproof. There may be instances in which a person could possess a decal without being covered by an effective no-fault policy. However, the prospect of increased compliance with the no-fault insurance law, which this bill is aimed at accomplishing, justifies implementation of a decal system.

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

- (1) To require that the decals be affixed to the center top interior of the front windshield rather than the rear license plate;
- (2) To allow licensed automobile dealers to develop a method by which the decals need not be affixed on cars they are selling; the decals could instead be affixed to, say, a clear plexi-glass plate which could be displayed on the front dashboard of a car being taken on the road for a test drive;
- (3) To replace, rather than supplement, the insurance card system with the insurance decal system; and
- (4) On lines 3-4, page 9, of H.B. No. 1913-84, H.D. 1, to reduce the amount of the premium required to process an application for a no-fault policy from six months' to two months' premium for six months' coverage.

Your Committee has also made several nonsubstantive technical and stylistic amendments to this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1913-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1913-84, H.D. 2.

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

SCRep. 528-84 Finance on H.B. No. 1921-84

The purpose of this bill is to amend the school priority fund Act to allow the use of the instructional resource augmentation (IRA) positions in the intermediate school levels (grades seven, eight, and nine) of the public school system.

Your Committee concurs with the findings of House Standing Committee Report No. 122-84 that the intermediate level of public education has suffered from an inequitable distribution of resources and that such resources are seriously needed at that level to address the problems of: (1) a slower rate of progress in basic skills achievement among intermediate students; (2) the increasing violence and

vandalism in the intermediate grades; and (3) the increasing alienation from school among intermediate students.

This bill allows for the use of up to ten per cent of the instructional resource augmentation positions in schools with grades seven, eight, or nine for specific use in those grade levels. The distribution of these positions will be made by the district superintendents on a competitive project proposal basis.

Your Committee has amended this bill to ensure that these positions may be used in all schools with grades seven, eight, or nine, rather than in schools specifically designated as "intermediate" schools.

Your Committee has also made technical, non-substantive amendments to this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1921-84, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1921-84, H.D. 2.

Signed by all members of the Committee except Representative Isbell.

SCRep. 529-84      Energy, Ecology and Environmental Protection on H.R. No. 109

The purpose of this resolution is to request the Legislative Reference Bureau to conduct a study on the feasibility of establishing a single state environmental protection agency at the department level. In addition, the resolution requests that the study include consideration of topics which include: (1) Other states which have a separate environmental protection agency; (2) the 1977 State Reorganization plan recommendation which stated that the Department of Land and Natural Resources evolve into a Department of Environmental Affairs; (3) the roles of Hawaii's Departments of Agriculture and health with respect to consolidating monitoring and risk assessment functions; (4) the functions of the Office of Environmental Quality Control; (5) the best alternative possible in regard to the formation of a state EPA and where it should be housed jurisdictionally; (6) a comprehensive plan for contaminants in the environment and the establishment of a manifest system.

Your Committee heard testimony from the Office of Environmental Quality Control, several representatives from the University of Hawaii including the College of Tropical Agriculture, the Pesticide Hazard Assessment Program, and Environmental Center, and the Sierra Club. All supported the intent and purpose of the resolution, agreed that certain portions needed to be amended for clarity's sake.

Your Committee, therefore, has amended the resolution in the following principal respects:

- (1) The title of the resolution has been amended to read "Requesting a Study of Establishing a State Environmental Protection Agency, Department, or Comparable Body to Coordinate and Address Matters of Environmental Quality", in order to clarify LRB's role in the study.
- (2) The "BE IT RESOLVED" clause has been amended to reflect the amended purpose of the resolution.
- (3) The second "BE IT RESOLVED" clause is amended to include an evaluation of the feasibility of consolidating enforcement, regulatory, advisory, research, monitoring and health assessment functions into one department.
- (4) The third "BE IT FURTHER RESOLVED" clause relating to the best formation of an environmental protection agency has been clarified and expanded to read as follows:

"BE IT FURTHER RESOLVED that the Bureau review and evaluate the alternative forms of such a body including a department, or agency attached to a department, including the possible enhancement of the responsibilities and capabilities of the Office of Environmental Quality Control, or an agency such as the Hawaii Housing Authority, and discuss an estimate of the cost involved in forming such a body; and"

- (5) The fourth "BE IT FURTHER RESOLVED" clause is being replaced by the following:



"BE IT FURTHER RESOLVED that this study of organizational optional options be carried out within the context of a comprehensive plan for contaminants in the environment; and"

(6) The existing fourth "BE IT FURTHER RESOLVED" clause is now the fifth "BE IT FURTHER RESOLVED" clause.

(7) The existing fifth "BE IT FURTHER RESOLVED" clause is now the seventh clause, with an additional amendment which states that "the report be submitted 20 days prior to the convening of the Regular Session of 1985; and"

(8) The sixth "BE IT FURTHER RESOLVED CLAUSE" on transmittal of certified copies is now the final clause.

(9) The existing sixth clause, therefore, should be replaced by the following:

"BE IT FURTHER RESOLVED that the Bureau consider whether this body should develop and be responsible for education and informational dissemination; and"

Your Committee on Energy, Ecology and Environmental Protection concurs with the intent and purpose of H.R. No. 109, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 109, H.D. 1.

Signed by all members of the Committee.

SCRep. 530-84      Housing on H.R. No. 51

This resolution requests that the Legislative Reference Bureau ("LRB") study the issue of land availability for housing development in the State of Hawaii and report its findings to the Legislature thirty days prior to the convening of the Regular Session of 1985.

Your Committee recognizes that a major priority of the State of Hawaii is to provide sufficient access to affordable housing for all its residents. The high cost of housing in Hawaii, which is a bar to such access, is attributable to a number of different factors, of which one of the major factors is the high cost of land. The degree to which land availability is contributing to this high cost has become a major question since some reports indicate a limited amount of land available for housing development while others claim that there is more than adequate land available. For example, the State Housing Plan Technical Reference Document reveals a disparity between different estimates of vacant land on Oahu in comparing a 1979 estimate of "privately owned vacant urban land" of 6,859 acres to a 1981 estimate of "private lands which are potentially suitable for housing" of 3,078 acres.

Your Committee finds that these disparities illustrate the importance of the criteria used to determine land availability and that the Legislative Reference Bureau should be given appropriate and sufficient guidance in this area in order to have the proposed study achieve the most meaningful results. Factors which should be considered include the amount of land designated for housing development by both the State, in its urban land use district boundaries, and the counties, in their general plans, development plans, and zoning ordinances; the amount of land designated for housing development that is likely to be developed, for example, given infrastructure costs; the amount of currently developed land designated for housing redevelopment that will likely be redeveloped, for example, given current construction setback and parking requirements vis-a-vis the requirements pertaining to existing structures; the amount of land required for housing development to accommodate the projected housing needs of Hawaii's people; the amount of land with access to existing or proposed public facilities and infrastructure systems; and the amount and location of land necessary to meet the State's agricultural goals and needs.

Your Committee further finds that where there may be existing data and information appropriate to a study on the availability, suitability and quantity of land suitable for housing in Hawaii, and where there are current studies being conducted by either the public or the private sectors in this area, the Legislative Reference Bureau should be directed to consider and utilize as much of said information as may be appropriate to the purposes of this study. Moreover, the aforementioned public and private sectors and any appropriate individuals should



be requested to participate and assist in this undertaking to the fullest extent possible, and the LRB should be directed to solicit their input and coordinate efforts with these parties to the fullest extent possible.

In keeping with these findings, your Committee has amended the resolution by adding sufficient clauses to the "BE IT RESOLVED" section of the resolution to address the aforementioned findings.

Your Committee on Housing concurs with the intent and purpose of H.R. No. 51, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 51, H.D. 1.

Signed by all members of the Committee.

SCRep. 531-84      Housing on H.R. No. 53

The purpose of this resolution is to urge the United States Department of Defense to more responsibly accommodate the housing needs of military personnel and their dependents through the construction of new housing units near military bases. The resolution further requests the Inspector General of the Defense Department to conduct their audit of the Hawaii "rent plus" program as expeditiously as possible and to transmit copies of the audit and recommendations for remedial action to the Legislature.

Your Committee has heard testimony from numerous citizens and organizations expressing unanimous support for the resolution. Testimony revealed grave concern about the impact of the "rent plus" allowance program on local housing and rental conditions.

Your Committee finds that the Department of Defense has a responsibility to provide adequate housing for its military personnel and their dependents, and further that it was the intent of the military "rent plus" program, at its inception in June 1982, to replace the former maximum-ceiling allowance program with a more equitable and realistic range of housing allowances in keeping with current housing costs, and to give military personnel an equal opportunity to secure off-base civilian housing units in geographic areas where the standard housing allowance was insufficient. However, testimony strongly indicates that the "rent plus" housing allowance program has had a negative impact upon the local housing market. The lack of reliable data regarding the effect of "rent plus" highlights the need for the Department of Defense to complete a comprehensive and detailed study to determine if (1) the program is being administered efficiently; (2) allowances are reasonable; and (3) payments are being monitored to prevent abuse.

Your Committee on Housing concurs with the intent and purpose of H.R. No. 53 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 532-84      Housing on H.R. No. 50

The purpose of this resolution is to encourage the President and Congress of the United States to support the continued use of tax-exempt revenue bonds as the primary source of funds for Hawaii's Hula Mae mortgage loan program and similarly successful programs in other states and cities, either through extension of the tax-exempt mortgage bond program or repeal of the sunset clause of the Mortgage Subsidy Bond Tax Act of 1980. The Mortgage Subsidy Bond Tax Act of 1980 prohibits state and local governments from issuing these revenue bonds after December 31, 1983.

Your Committee has heard testimony from the Hawaii Housing Authority and the City & County of Honolulu's Department of Housing and Community Development, in full support of this resolution. Additional testimonies from the United Brotherhood of Carpenters and Joiners and the Council of Presidents were also in support of the resolution.

Your Committee has amended the resolution by stating that income limitations under the tax-exempt housing bond programs should be determined by the states, and not nationally set, due to the great variance of economic and other factors

existent in the states, and states' specialized efforts to best address the needs of the income groups being served by such programs.

Your Committee finds that the Hula Mae mortgage loan program has been very effective in addressing the needs of low- and moderate-income families, enabling them to become first-time homeowners by providing mortgages at below-market interest rates, thus aiding in making home ownership affordable for families who might not otherwise have qualified for conventional financing. To illustrate, the following chart for the years 1981-83, evinces the number of families served, by income category, in these low- and moderate-income groups:

LOAN SERIES	LESS THAN 100% MEDIAN*	100-125% MEDIAN*	126-150% MEDIAN*	TOTAL LOANS BY SERIES
1981	50	75	34	159
1982	62	47	24	133
1983A	197	183	102	482
1983B	15	23	6	44
TOTALS	324	328	166	818

\*MEDIAN INCOMES ARE BASED ON THE 1980 U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES (DHHS) MEDIAN INCOME FOR A FAMILY OF FOUR IN HAWAII (\$24,582) WHICH IS THEN ADJUSTED FOR HOUSEHOLD SIZE.

NOTE: THE 1980 DHHS MEDIAN INCOME FOR A FAMILY OF FOUR IS THE BASIS FOR COMPUTING THE PROGRAM INCOME LIMITS. FOR A FAMILY OF FOUR, THE FOLLOWING ADJUSTMENTS TO THE MEDIAN INCOME WERE MADE: 1981-125%, 1982 & 1983-150%. THUS, THE MAXIMUM ALLOWABLE INCOME LIMITS FOR A FAMILY OF FOUR WERE AS FOLLOWS: 1981-\$30,728, 1982 & 1983-\$36,873.

As illustrated above, Hawaii's Hula Mae program has emphasized serving the lower income end of the qualifying income groups. Your Committee commends the Hawaii Housing Authority for taking the initiative in devising an innovative program to meet the needs of these lower income applicants. However, without federal reenactment of authorization to issue tax-exempt housing bonds, Hawaii's successful Hula Mae program, as well as similar county programs, will be seriously jeopardized, if not terminated.

Your Committee on Housing concurs with the intent and purpose of H.R. No. 50, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 50, H.D. 1.

Signed by all members of the Committee.

SCRep. 533-84      Water, Land Use, Development and Hawaiian Affairs on  
H.C.R. No. 50

The purpose of this concurrent resolution is to request the Legislative Auditor to determine if utilization of the public authority device can improve the process by which the Department of Hawaiian Home Lands serves its native Hawaiian beneficiaries.

Your Committee finds that one of the recommendations in an August 1983 report by the Federal-State Task Force on the Hawaiian Homes Commission Act, 1920, as amended, was that the creation of a public authority for the Department of Hawaiian Home Lands might resolve certain problems in generating revenues, investing income, and hiring adequate personnel. The State of Hawaii, in fact, has already established public authorities, such as the Hawaii Housing Authority, the Hawaii Community Development Authority, and the Aloha Tower Development Corporation. Your Committee is of the opinion that a study by the Legislative Auditor of the public authority device for the Department is highly desirable.

Technical and non-substantive amendments have been made.

Your Committee on Water, Land Use, Development and Hawaiian Affairs concurs with the intent and purpose of H.C.R. No. 50, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 50, H.D. 1.

Signed by all members of the Committee.

SCRep. 534-84      Water, Land Use, Development and Hawaiian Affairs on H.R.  
No. 173

The purpose of this resolution is to request the Governor of Hawaii to encourage actively the homeporting of a larger segment of the U.S. Fleet at Pearl Harbor as a means in increasing the economic base of the State of Hawaii and in providing the potential for private-sector growth in the ship repair and associated services industries.

The Eleventh Legislature of the State of Hawaii mandated and funded a study by the Department of Planning and Economic Development on how the State might encourage private-sector shipyard business development. According to testimony by the Department, the homeporting of a larger segment of the U.S. Fleet at Pearl Harbor would dramatically increase the number of new jobs and create up to \$40 million in additional annual output.

Your Committee is in agreement with the intent and purpose of this resolution. However, your Committee is of the opinion that certain amendments would strengthen the resolution:

(1) To add a new WHEREAS clause, between the fifth and sixth WHEREAS clauses: "WHEREAS, the United States Navy offers the first line of defense for our country; and". Such amendment would state an obvious assumption of the vital role which the U.S. Navy plays in the State.

(2) To amend the "BE IT RESOLVED" clause, by stating:

"that the State of Hawaii strongly support the homeporting of a larger segment of the U.S. Fleet at Pearl Harbor; and";

and by transferring the content of the "BE IT RESOLVED" clause to a new and first "BE IT FURTHER RESOLVED" clause. The new "BE IT RESOLVED" clause is a necessary inclusion in order to justify the purpose of the resolution.

(3) To amend the first "BE IT FURTHER RESOLVED" clause, by assigning the Department of Planning and Economic Development, rather than the Governor, to formulate and effect a plan of action to carry out this resolution. The Department is already in the process of formulating such plan of action, and there does not appear a need to restrict the Department to conducting a study and reporting its findings and recommendations. The resolution should direct the Department to implement its plan of action.

(4) To delete the second "BE IT FURTHER RESOLVED" clause, because the previous "BE IT FURTHER RESOLVED" clause, in amended form, would direct the Department of Planning and Economic Development, rather than the Governor, to formulate a plan of action and would further direct the Department to appraise the Legislature of obstacles which may deter the U.S. Navy from full utilization of available facilities in Hawaii.

Technical and other non-substantive amendments have been made.

Your Committee on Water, Land Use, Development and Hawaiian Affairs concurs with the intent and purpose of H.R. No. 173, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 173, H.D. 1.

Signed by all members of the Committee.

SCRep. 535-84      Water, Land Use, Development and Hawaiian Affairs on H.C.R.  
No. 71

The purpose of this concurrent resolution is to request the Governor of Hawaii to encourage actively the homeporting of a larger segment of the U.S. Fleet at Pearl Harbor as a means in increasing the economic base of the State of Hawaii and in providing the potential for private-sector growth in the ship repair and associated services industries.

The Eleventh Legislature of the State of Hawaii mandated and funded a study by the Department of Planning and Economic Development on how the State might encourage private-sector shipyard business development. According to testimony by the Department, the homeporting of a larger segment of the U.S. Fleet at Pearl Harbor would dramatically increase the number of new jobs and create up to \$40 million in additional annual output.

Your Committee is in agreement with the intent and purpose of this concurrent resolution. However, your Committee is of the opinion that certain amendments would strengthen the concurrent resolution:

(1) To add a new WHEREAS clause, between the fifth and sixth WHEREAS clauses: "WHEREAS, the United States Navy offers the first line of defense for our country; and". Such amendment would state an obvious assumption of the vital role which the U.S. Navy plays in the State.

(2) To amend the "BE IT RESOLVED" clause, by stating:

"that the State of Hawaii strongly support the homeporting of a larger segment of the U.S. Fleet at Pearl Harbor; and";

and by transferring the content of the "BE IT RESOLVED" clause to a new and first "BE IT FURTHER RESOLVED" clause. The new "BE IT RESOLVED" clause is a necessary inclusion in order to justify the purpose of the concurrent resolution.

(3) To amend the first "BE IT FURTHER RESOLVED" clause, by assigning the Department of Planning and Economic Development, rather than the Governor, to formulate and effect a plan of action to carry out this concurrent resolution. The Department is already in the process of formulating such plan of action, and there does not appear a need to restrict the Department to conducting a study and reporting its findings and recommendations. The concurrent resolution should direct the Department to implement its plan of action.

(4) To delete the second "BE IT FURTHER RESOLVED" clause, because the previous "BE IT FURTHER RESOLVED" clause, in amended form, would direct the Department of Planning and Economic Development, rather than the Governor, to formulate a plan of action and would further direct the Department to appraise the Legislature of obstacles which may deter the U.S. Navy from full utilization of available facilities in Hawaii.

Technical and other non-substantive amendments have been made.

Your Committee on Water, Land Use, Development and Hawaiian Affairs concurs with the intent and purpose of H.C.R. No. 71, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 71, H.D. 1.

Signed by all members of the Committee except Representative Okamura.

SCRep. 536-84      Water, Land Use, Development and Hawaiian Affairs on H.R.  
No. 74

The purpose of this resolution is to request the Department of Planning and Economic Development to investigate, study, and explore the feasibility of sponsoring a venture capital conference in the State to feature new enterprises based in Hawaii and enterprises in the Pacific Basin region that might affect favorably the economic development in Hawaii. Moreover, the Department is requested to review whether sponsorship of the conference should be solely by the State or in cooperation with other organizations in Hawaii.

According to testimony by the Department of Planning and Economic Development, the lack of venture capital in Hawaii and the Pacific Basin region has been a major obstacle to the development of new industries. Opportunities for employment and income growth have thus gone unrealized when capital markets fail to channel funds to enterprises that could use them most productively. Also, the Department is currently investigating the idea of a venture capital conference. Your Committee is of the opinion that the convening of a venture capital conference is an extremely timely and desirable activity.

Technical and non-substantive amendments have been made.

Your Committee on Water, Land Use, Development and Hawaiian Affairs concurs with the intent and purpose of H.R. No. 74, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 74, H.D. 1.

Signed by all members of the Committee.

SCRep. 537-84      Water, Land Use, Development and Hawaiian Affairs on H.C.R.  
No. 18

The purpose of this concurrent resolution is to request the Department of Planning and Economic Development to investigate, study, and explore the feasibility of sponsoring a venture capital conference in the State to feature new enterprises based in Hawaii and enterprises in the Pacific Basin region that might affect favorably the economic development in Hawaii. Moreover, the Department is requested to review whether sponsorship of the conference should be solely by the State or in cooperation with other organizations in Hawaii.

According to testimony by the Department of Planning and Economic Development, the lack of venture capital in Hawaii and the Pacific Basin region has been a major obstacle to the development of new industries. Opportunities for employment and income growth have thus gone unrealized when capital markets fail to channel funds to enterprises that could use them most productively. Also, the Department is currently investigating the idea of a venture capital conference. Your Committee is of the opinion that the convening of a venture capital conference is an extremely timely and desirable activity.

Technical and non-substantive amendments have been made.

Your Committee on Water, Land Use, Development and Hawaiian Affairs concurs with the intent and purpose of H.C.R. No. 18, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 18, H.D. 1.

Signed by all members of the Committee.

SCRep. 538-84      Tourism on H.R. No. 130

The purpose of this resolution is to request the Hawaii Visitors Bureau, with assistance from Hawaii County, to establish a Paniola Country Theme Park in Waimea, Hawaii.

Your Committee finds that Parker Ranch is world renowned as the largest privately owned ranch in the United States. Further, the Hawaiian Cowboy, the Paniola, has become a unique part of our native heritage and culture. The development of a Paniola Country Theme Park would therefore preserve the Paniola heritage and be a great economic boost to the tourism industry of the Big Island and Hawaii.

Your Committee has received testimony in support of this measure from the President of the Hawaii Visitors Bureau.

Your Committee on Tourism concurs with the intent and purpose of H.R. No. 130 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 539-84      Tourism and Education on H.R. No. 113

The purpose of this resolution is to request the Hawaii Visitors Bureau, with assistance from the Office of Tourism of the Department of Planning and Economic Development, and the Department of Education, to develop a program to enable the McDonalds Hula Bowl Marching Band to perform year round in activities to promote Hawaii.

Your Committees find that the McDonalds Hula Bowl Marching Band is composed of the highest caliber of high school musicians. However, after its performance in the Hula Bowl half-time program, the Band is disbanded. This resource of talented and enthusiastic musicians could be tapped for activities such as the Aloha Week and Kamehameha Day Parades to help promote Hawaii.

Your Committees have received testimony in support of this measure from the President of the Hawaii Visitors Bureau.

Your Committees on Tourism and Education concur with the intent and purpose of H.R. No. 113 and recommend that it be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 540-84      Water, Land Use, Development and Hawaiian Affairs on H.C.R.  
No. 49

The purpose of this concurrent resolution is to urge the U.S. government to negotiate as promptly as possible the return of 1,356 acres of Hawaiian home lands at Lualualei on Oahu to the jurisdiction of the Hawaiian Homes Commission.

Your Committee finds that, in 1930 and 1933, two Governor's Executive Orders set aside 1,356 acres of Hawaiian home lands at Lualualei to the Department of the Navy for national defense purposes. However, such "set-aside" action has been ruled by recent federal and state courts to be illegal and void. The Department of Hawaiian Home Lands has therefore requested that the U.S. Department of the Navy either provide just compensation for its use of the said acreage during the past 50 years or return these lands. Your Committee is in agreement that the intent and purpose of the concurrent resolution is appropriate.

Technical and non-substantive amendments have been made.

Your Committee on Water, Land Use, Development and Hawaiian Affairs concurs with the intent and purpose of H.C.R. No. 49, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 49, H.D. 1.

Signed by all members of the Committee.

SCRep. 541-84      Water, Land Use, Development and Hawaiian Affairs on H.R.  
No. 73

The purpose of this resolution is to request the House Committee on Water, Land Use, Development and Hawaiian Affairs to study alternate means of recycling greywater, or non-toilet waste-water, in an effort to increase the efficient use of Hawaii's limited water resources.

Your Committee finds that water resource management is of major concern in the State and that Hawaii's limited water resources and the problems associated with its use, including the recent chemical contamination of Central Oahu's ground water resources, make it imperative that various alternate sources of water supplies be pursued in a timely manner by all parties involved in the water industry. Your Committee is in agreement that the intent and purpose of the resolution is of management and planning, rather than regulation and control.

Technical and non-substantive amendments have been made.

Your Committee on Water, Land Use, Development and Hawaiian Affairs concurs with the intent and purpose of H.R. No. 73, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 73, H.D. 1.

Signed by all members of the Committee.

SCRep. 542-84      Water, Land Use, Development and Hawaiian Affairs on H.C.R.  
No. 51

The purpose of this concurrent resolution is to comply with Section 203(j)(4)(A) of the Federal Property and Administrative Services Act of 1949, as amended by Public Law 94-519, and with the General Services Administration requirement for

the submission of a legislatively developed plan of operation for the federal surplus property program by June 30, 1984.

Your Committee finds that the Surplus Property Branch of the Department of Accounting and General Services has been responsible for administering the Federal Surplus Personal Property Program in accordance with a plan of operation approved by the General Services Administration since October 17, 1977. During fiscal years 1977-1978 to 1982-1983, the State of Hawaii has received surplus personal property with a government-acquisition value in excess of \$10,000,000. Your Committee is in agreement that the 1977 plan of operation has been effective and that, in compliance with federal statutes, it should be adopted by the Legislature in order to provide uninterrupted flow of benefits to the State.

Technical and non-substantive amendments have been made.

Your Committee on Water, Land Use, Development and Hawaiian Affairs concurs with the intent and purpose of H.C.R. No. 51, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 51, H.D. 1.

Signed by all members of the Committee.

SCRep. 543-84      Water, Land Use, Development and Hawaiian Affairs on H.R.  
No. 158

The purpose of this resolution is to commend Alexander and Baldwin, Inc., for granting the use of the Kahului fairgrounds for the annual Maui County Fair since 1918, and to request Alexander and Baldwin to continue leasing the fairgrounds to the Maui County Fair and Racing Association so that the annual event may continue.

According to testimony by Alexander and Baldwin, Inc., it has leased the property to the association for this year and is amenable to an extended lease for an additional two-year period, thereby allowing the Maui County Fair to be held in October for the next three years. Such extension would better enable the Maui County Fair and Racing Association to find a permanent location for the annual event elsewhere, without discontinuing the event.

Technical and non-substantive amendments have been made.

Your Committee on Water, Land Use, Development and Hawaiian Affairs concurs with the intent and purpose of H.R. No. 158, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 158, H.D. 1.

Signed by all members of the Committee.

SCRep. 544-84      Tourism and Higher Education on H.R. No. 123

The purpose of this resolution is to encourage the resort, hotel, and tourist related industries, the Hawaii Visitors Bureau, and state and county agencies to work together with the numerous cultural organizations to promote tourism and multicultural events.

Your Committees find that to remain a major competitive tourist destination Hawaii must continue to maintain and expand the unique multicultural events; to promote new ideas to attract tourists; and to increase its marketing and advertising efforts in cooperation with those involved in the tourist industry. In order to insure State and community support, this must be a joint effort of the government agencies, tourist related businesses, and cultural organizations.

Your Committees have received testimony in support of the intent of this measure from the State Foundation on Culture and the Arts, the Executive Director of the Arts Council of Hawaii, the Executive Director of the Hawaii Hotel Association, the President of the Hawaii Visitors Bureau, and the Director of the Department of Planning and Economic Development.

Your Committees on Tourism and Higher Education and the Arts concur with the intent and purpose of H.R. No. 123 and recommend its adoption.

Signed by all members of the Committees.



## SCRep. 545-84 Consumer Protection and Commerce on S.B. No. 285

The purpose of this bill is to extend the statute of limitations currently provided to claimants under the Hawaii no-fault law. This bill amends section 294-36(a), Hawaii Revised Statutes, to permit suit to be brought on a no-fault contract within two years after the entry of a final judgment in a tort action arising out of a motor vehicle accident, where a cause of action for insurer bad faith arises out of the tort action. This bill also amends section 294-36(b), Hawaii Revised Statutes, to permit an action in tort to be brought within two years after the date of the last payment of social security, worker's compensation or public assistance benefits from the motor vehicle accident.

The Insurance Division of the Department of Commerce and Consumer Affairs testified in support of this bill and recommended favorable consideration by your Committee. The Insurance Division noted, however, that the Legislature had last session removed the primacy of social security benefits from section 294-5(b), Hawaii Revised Statutes, and accordingly suggested that social security benefits be eliminated from the amendment to section 294-36(b) (3), Hawaii Revised Statutes. This would serve to prevent social security benefit recipients from having a statute of limitations which may be extended beyond the time permitted to other persons similarly situated.

The Hawaii Academy of Plaintiff's Attorneys also testified in support of the bill. The representative of the Academy stated that this amendment would seek to end current discriminatory statutory language by providing the same deadline for all individuals irrespective of the type of benefit they may be receiving.

Your Committee, upon further consideration, has amended the bill by eliminating "social security" from the amendment to section 294-36(b) (3), Hawaii Revised Statutes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 285, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 285, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

## SCRep. 546-84 Consumer Protection and Commerce on S.B. No. 785

The purpose of this bill is to make a number of technical corrections in the Retail Installment Sales Act, Chapter 476, Hawaii Revised Statutes, in order to conform the law, conceptually as well as technically, to other federal and state credit legislation.

In recent years, the following revisions have occurred in both the state and federal regulation of consumer credit:

1. In 1979, Hawaii amended both Chapter 408, Hawaii Revised States, and the General Usury law, Chapter 478, Hawaii Revised Statutes.
2. In 1981, Hawaii enacted its Plain Language Law, Chapter 487A, Hawaii Revised Statutes, which was subsequently revised in 1982.
3. In 1969, the Federal Truth-in-Lending Act took effect, and was subsequently revised by the Truth-in-Lending Simplification and Reform Act in 1982.

Because Chapter 476, Hawaii Revised Statutes, was adopted in 1961, and the many specific amendments made over the years dealt only with particular subjects, there is much non-conformity and inconsistency with related federal and state provisions. Accordingly, this undermines the parity between sellers and industrial loan companies and contradicts the intent of Chapter 476, Hawaii Revised Statutes.

Specific changes are described as follows:

1. **General.** The phrases "retail installment sale" and "retail installment contract" are changed in the title and throughout the chapter to "credit sale" and "credit sale contract", respectively. Although the expressions "retail installment sale" and "retail installment contract" are understood reasonably well by lawyers and legislators, they have little meaning to members of the public. Typically, the

public's only contact with those expressions arises when they see the name "retail installment contract" on the top of the document that they sign, when they buy a car or an appliance.

Also, the Federal Truth-in-Lending law's real focus of this type of legislation is on the credit aspect of the transaction, without regard to the number of payments involved. The coverage of Chapter 476, Hawaii Revised Statutes, is thereby being changed to conform to that concept. Since the word "credit" is generally understood, your Committee believes that changing the title from "retail installment sales" to "credit sales" will make the focus and coverage of this chapter more accurate and more understandable.

Finally, your Committee recognizes that a change in terminology such as this may be burdensome on sellers and other financial institutions that have stocks of forms that may be wasted. For that reason your Committee has revised section 4 of this bill so as to permit sellers to use up pre-existing stocks of forms during the first year after the effective date. It is intended that these sellers will not incur liability for exercising their right to use up these outdated forms.

2. Section 476-1. The definitions have been numbered and placed in alphabetical order for easier reference and citation. Changes in specific definitions are described as follows:

(1) "Annual percentage rate." This new definition has been adopted by your Committee from the Federal Truth-in-Lending law in order to conform state and federal disclosure requirements;

(2) "Cash price." This definition has been changed to conform it to the same concept in the Federal Truth-in-Lending law. Your Committee added the reference to general excise and other taxes in order to make clear that they are included in the concept of cash price.

(3) "Closed-end credit." This new definition has been taken by your Committee from the Federal Truth-in-Lending law to facilitate important distinctions between one-time transactions, such as car purchases, which are closed-end credit, and continuing, replenishable credit transactions, such as department store credit cards, which are open-end credit. The distinctions relate particularly to the revised disclosure requirements.

(4) "Credit buyer." Your Committee corrected this definition to reflect coverages of buyers of services as well as buyers of goods.

(5) "Credit sale." This definition has been changed to conform it to the same concept in the Federal Truth-in-Lending law, with the following exception. Sales for business, commercial or agricultural purposes, or to organizations, or for consumer purposes in which the amount financed exceeds \$25,000 are not excluded from the coverage of this Chapter if the seller elects to have the contract covered. This election is presumed from the sellers use of the title "Credit Sale Contract" and placing of the notice over the signature. Your Committee has changed this definition to provide that coverage of such non-consumer transactions will occur at the election of seller, rather than automatically upon one basis of the rate of finance charge. Although the Federal Truth-in-Lending law indicates wide acceptance of the idea that the transactions just described should be free from disclosure requirements, your Committee feels that if in such transactions the sellers wish the benefit of the higher rate finance charges permitted by this chapter, which they have now, they should continue to have it, but only if they conform to certain of the regulations imposed by this chapter on credit practices.

(6) "Credit sale contract." This definition has been changed primarily to conform the coverage of this chapter to that of the Federal Truth-in-Lending law. The regulated credit is that which is subject to a finance charge or, pursuant to a written agreement, is payable in more than four installments (not including a down payment). Excluded from coverage will be contracts involving advances by a third party in payment of the buyer's purchase price obligation to the seller. The third party in most such transactions is a bank, savings and loan association, or industrial loan company that is regulated by Chapter 408, Hawaii Revised Statutes, so that the consumer is adequately protected. Exclusion of this aspect of the definition removes unsolved questions concerning the coverage by Chapter 476, Hawaii Revised Statutes, of transactions in which an existing retail installment contract is refinanced by a new creditor.

Also excluded from coverage will be transactions involving no finance charge in which the purchase price is payable in four installments or less. This change will help eliminate the question concerning the coverage by Chapter 476, Hawaii Revised Statutes, of the typical construction contract.

The portion of the definition referring to contracts for bailment or leasing of goods is revised slightly to conform it to the same concept in the Federal Truth-in-Lending law.

(7) "Credit seller." This definition has been changed to conform it to the same concept in the Federal Truth-in-Lending law.

(8) "Finance charge." This definition has been changed to conform it to the same concept in the Federal Truth-in-Lending law.

(9) "Federal Truth-in-Lending Law." Your Committee has added this definition for ease of reference to the federal law where necessary in the statute.

(10) "Goods." This definition has been changed to conform it to the Uniform Commercial Code. There is no analogous definition in the Federal Truth-in-Lending law. The important references to merchandise certificates or coupons issued by a credit seller are retained. The definition will still apply to things attached to real property in the nature of fixtures, as defined in section 9-313 of the Uniform Commercial Code, but it will not apply to improvements incorporated into real estate in the manner of lumber, bricks, tile, cement, glass, metal work and the like unless the structure to which they are attached itself remains personal property. "Services" have been excluded from the definition of "goods" for the sake of clarity. Throughout the chapter wherever the reference to "goods" would also apply to "services", appropriate language has been added.

(11) "Open-end credit." This new definition has been introduced by your Committee from the Federal Truth-in-Lending law in conjunction with the definition of "closed-end credit", discussed above.

(12) "Person." This definition has been expanded so as to conform it to the same concept in the Federal Truth-in-Lending law.

(13) "Prepaid finance charge." Your Committee has added this definition from the Federal Truth-in-Lending law in order to facilitate conformity with it. The "amount financed", federally required disclosures, is the principal balance less any prepaid finance charge. The coordinate requirement in this bill is §476-4(b)(1), Hawaii Revised Statutes. The definition of "prepaid finance charge" is also needed to make clear the \$25,000 limitation in the definition of "credit sale".

(14) "Principal balance." This is a new definition incorporated from the Federal Truth-in-Lending law. It is, however, substantially identical to the concept previously included as item 6 in section 476-3, Hawaii Revised Statutes.

(15) "Services." This definition, which now stands alone, has been expanded to bring in concepts from the Uniform Consumer Credit Code, which has been passed in other states, in order to facilitate the use of this chapter by certain industries which in the past have for technical legal reasons been thought to be extending privileges or financial arrangements, rather than services. Your Committee deleted the reference to insurance because that industry has shown no interest in making transactions under this statute. The important reference to fees, costs, fines, bail and other court charges has been retained.

(16) "Total of payments." The previously defined term "time balance" has been changed to "total of payments" in order to conform it to the same concept in the Federal Truth-in-Lending law.

(17) "Total sale price." This definition has been changed to conform it to the same concept in the Federal Truth-in-Lending law.

Your Committee also made minor changes in several definitions for purposes of clarity. Your Committee has deleted the definition of "official fee", because it is no longer included in the disclosure requirements. In addition your Committee has transferred the substance of the definition of "Referral Sale" to new section 476-20, Hawaii Revised Statutes, which refers specifically to such transactions.

3. Section 476-2. Your Committee has revised this section (at present section 476-1.5) in order to make clear its application to refinancing transactions and consumer credit advertising, all of which are subject to the Federal Truth-in-Lending law disclosure requirements.

4. Section 476-3. Generally the changes in this section are intended to allow greater flexibility while at the same time imparting clearer and more useful information to the buyer and retaining other buyer protections. The changes at the beginning of this section provide for credit sales that involve a second document to be separately signed and to be filed or recorded with a governmental agency. At the present time, it is not clear that a retail installment sales transaction may be structured in that way. Your Committee has made mandatory the provision with respect to the signing of the second part of a two part contract.

Your Committee has relaxed the signature requirements with respect to open-end credit in order to allow the buyer to sign only the application for the contract, provided that after receipt of a copy of the contract from the seller the buyer makes purchases under the open-end plan. In virtually all instances such purchases will be evidenced by signed vouchers, so that the existence of commitments signed by the buyer will always be present.

The requirements with respect to the name signed have also been relaxed by your Committee. Either the buyer or the seller can sign by use of any name, including a trade name or assumed name, or by use of any word or mark in place of a signed name. This provision is taken from a substantially identical provision in the Uniform Commercial Code, §490.3-401(2), Hawaii Revised Statutes. The flexibility it introduces should make credit transactions easier for customers who do not write in alphabetical letters, among others.

Following the pattern adopted by the Federal Reserve Board with respect to Regulation Z, the notice requirement in this section has been changed to allow the seller to include in the contract a notice substantially similar to that required. This change, while protecting the rights of the buyer, will avoid imposition of penalties for substantially de minimus spelling or punctuation errors or for changing the pronouns in the notice to conform it to the rest of the contract.

The substance of the notice requirement has also been changed in a number of respects. First it has been changed to conform to proposed changes in section 476-8, Hawaii Revised Statutes, which will be discussed below. An admonition to the buyer to keep a copy of the contract has been added. The prepayment refund information in the notice has been deleted because it is now irrelevant in the majority of transactions. Most retail installment contracts now impose a finance charge on a simple interest basis, in which case, the buyer has no right to a refund upon prepayment. Likewise, since many retail installment contracts cover only the sale of services, the property redemption information is often irrelevant. For that reason it has been deleted. In place of those two provisions in the notice, the buyer is told generally that the contract is covered by Hawaii Credit Sale Law and that the buyer has rights under that law. The buyer is also informed of possible rights under other state and federal laws.

Your Committee has made more flexible the name and address disclosure requirement, so that it will be satisfied by the use of trade names and mailing addresses.

The requirement with respect to information on the sales slip or other evidence of purchase has been changed to conform it to the same concept in the Federal Truth-in-Lending law. The requirement that the contract, the sales slip or other evidence of purchase contain a detailed description of the goods has been relaxed, largely because of extensive non-compliance. Particularly, with respect to open-end credit arrangements, it is impossible to put the details of future purchases in the contract itself, and it is impractical to put them in the evidence of the purchase. Typically, a department store will simply indicate the name of the department from which the purchase was made. An enterprise that sells a large number of low price items may simply indicate "mdse". With respect to one-time, closed-end transactions, the seller that is retaining a security interest in the goods will have to give a detailed description of them in order to meet the requirements of the Uniform Commercial Code section 9-203(1). With respect to credit sales of services or goods that are not sufficiently valuable to justify the seller's retention of a security interest, it would seem adequate for the purposes of the transaction between the buyer and the seller simply to describe the services or goods by type.

5. Section 476-4. Your Committee has substantially revised this section in order to assure that state law requires disclosure to consumers of the fundamental terms of their contracts. The section's coverage has been extended so that it applies to all consumer transactions covered by the chapter. The requirement that the Department of Commerce and Consumer Affairs monitor future changes in the Federal Truth-in-Lending law has been eliminated. The disclosure requirements have been closely conformed to the most important requirements of the federal truth-in-lending law. As provided in the laws of several other states, compliance with the Federal Truth-in-Lending law constitutes compliance with this section. In addition, disclosure requirements have been simplified. Different requirements have been established for open-end and closed-end credit. Less important disclosure requirements, such as the amount of official fees for filing documents in the Bureau of Conveyances or with the motor vehicle licensing authorities have been deleted. Your Committee's changes will provide a statutory basis for the Consumer Protector, the Attorney General and the prosecuting attorney to bring actions under section 476-31, Hawaii Revised Statutes, to restrain sellers from failing to give consumers the essential disclosures that are also required by the Federal Truth-in-Lending law.

6. Section 475-5. Your Committee notes that Chapter 476 contains no prohibition of variable rate transactions. Your Committee's change in this section (at present section 476-3.1) is intended to avoid the problems arising from variable rate transactions in which it is impossible to forecast whether future rates of finance charge will be more or less favorable to the buyer.

7. Section 476-6. This new section has been added to conform Chapter 476 with Chapter 408, and to section 408-15(g) in particular, concerning industrial loan companies.

8. Section 476-7. This section (at present section 476-4) has been changed to eliminate the type size requirement with respect to buyer's acknowledgment of delivery of a copy of the contract. The Federal Reserve Board has eliminated type size requirements from Regulation Z, and in view of the large quantity of ten-point bold type that buyers are at present faced with in retail installment sale contracts, it seems to your Committee appropriate to do so. The requirement with respect to the location of the acknowledgment has been made slightly more flexible. This change is intended to eliminate problems arising from the lack of clarity of the existing location requirement arising from the failure of the section to specify the meaning of the word "legend". Your Committee has reordered the section in order to make it clear that only the second paragraph is inapplicable to the special order contract, not the whole section.

9. Section 476-8. This section (at present section 476-6) has been changed to clarify and simplify the requirement with respect to certain motor vehicle contracts that a notice be included warning the buyer that the contract does not include liability insurance and does not meet the requirements for proof of financial responsibility. The type size and color requirements have been eliminated for the same reason mentioned above with respect to the change in section 476-7, Hawaii Revised Statutes. Your Committee has made the location requirement more flexible. The notice itself has been simplified slightly. The requirement that the seller furnish a statement of insurance coverage and that the buyer acknowledge the same in writing has been eliminated because it has been superceded by the Federal Truth-in-Lending law requirements as to disclosure of insurance coverage and cost and that the buyer affirmatively request the same with signature or initials. The provision with respect to refund of unearned insurance premium has been made more flexible in order to permit the holder of a credit sale contract to pay the refund directly back to the buyer as an alternative to applying it to the last installment, as is now required in all cases. Your Committee has limited the provision concerning the seller's right to disapprove of the buyer's insurance carrier to those where the seller has reasonable cause to do that.

10. Section 476-9. This section (at present section 476-7) has been changed in order to conform it to the same concepts in Chapter 408, particularly section 408-15(b)(5), 408-15(h)(4) and 408-15(j)(3). Your Committee substituted the designation "late charge" for "delinquency charge" in the interest of further uniformity and clarity.

11. Section 476-10. This section (at present section 476-8) has been changed to conform it to the same concept in Uniform Commercial Code sections 3-115 and 3-407. In fact retail installment contracts are rarely completed in such a way that there are no blank spaces left in them. To do so, a seller must insert at least the



letters "NA" meaning "not applicable", in every space in the contract that is not filled in with a number, with words or with an "x" or check to indicate a choice. In most instances those blank spaces are irrelevant to the transaction between the seller and the buyer. Even if they are not filled in, the contract is not incomplete in any necessary respect. The elimination of the present blank spaces requirement does not dilute protection of the buyer particularly if a copy of the contract is retained, and will avoid an entrapment situation to which an inadvertent seller may be exposed.

12. Sections 476-11 through 476-14, 476-18, 476-22 and 476-23. These sections have been subject only to minor changes intended to keep language and references consistent throughout the Chapter.

13. Deleted Section 476-15. This section is eliminated because all provisions relating to enforcement of security interests have been deleted from Chapter 476 because it is otherwise covered by Article 9 of the Uniform Commercial Code. The particular subject matter of this section is covered by sections 9-503 and 9-507(1) of the Uniform Commercial Code.

14. Section 476-16. This section has been changed so as to include existing section 476-23, Hawaii Revised Statutes, so that similar matters are treated together.

15. Section 476-17. This section has been limited to consumer transactions. Business, commercial and agricultural transactions are of such large variety and are often for such large amounts that it may not be practical to limit the subsequent liens or security interests that may arise to secure the buyer's obligations under the contract.

16. Section 476-19. The references to subsection (d) have been deleted from this section, because it is no longer accurate. Subsection (d) has also been changed to conform it to the Holder In Due Course Rule promulgated by the Federal Trade Commission. Your Committee transferred the first paragraph of this section concerning referral sales to section 476-20, Hawaii Revised Statutes.

17. Section 476-20. Your Committee has added a new section concerning referral sales. The definitional concepts have been transferred to it from existing section 476-1. In order to clarify the definition of "referral sale", your Committee has limited it to those in which the prospective inducements promised to the seller exceeds 40 per cent of the total sales price. Your Committee notes that even under the existing statute the definition is limited to transactions in which the buyer will receive the promised rebate or other consideration only if there is an actual subsequent sale. The definition does not include transactions in which the buyer will receive the promised consideration for giving the seller a lead, whether or not a subsequent sale is made. The prohibition of referral sales has been transferred to this section from existing section 476-18, Hawaii Revised Statutes. The purpose of the new section is to clarify and expand the remedies of buyers in such cases. The buyer's right to cancel a referral sale has been clarified and made consistent with debtor's rescission rights under the Federal Truth-in-Lending laws. The buyer has been given a longer period of time, fifteen business days, within which to make the decision to cancel. Because some buyers may not want to cancel their contract, buyers are also provided with an alternative remedy that is the same as that for other violations of the Chapter.

18. Section 476-21. As does the Federal Truth-in-Lending Act, this section specifies precisely the sections of which a seller's violation will cause penalties. This cures serious ambiguity in the existing chapter. Your Committee has expanded the number of penalty sections. Your Committee notes, however that sections 476-4 and 476-24 have not been included among penalty-inducing sections in order to avoid imposition of both Federal Truth-in-Lending law and state law penalties for the same violation. The finance charge forfeiture provision of the second paragraph and the cure provision of the third paragraph of existing section 476-22, Hawaii Revised Statutes, are consolidated with this section (at present section 476-19) so that similar matters are treated together. The cure provision is expanded in order to conform it to the same concept in the Federal Truth-in-Lending law. A bona fide error defense is inserted for the same reason. Your Committee has revised the attorney's fee provision so that fees may only be awarded to the prevailing buyer, not to sellers. This is done in order to provide remedies that are consistent with Federal Truth-in-Lending law and other consumer protection laws.

19. Section 476-22. The changes in this section (at present section 476-20) are intended to provide the buyer with a release of all security for the contract, not just the security interests in the goods sold under the contract, when the contract is paid in full.

20. Section 476-23. The changes in this section (at present section 476-21) are intended to clarify it.

21. Deleted Section 476-22. This section is eliminated altogether. The second and third paragraphs of it have already been consolidated in with section 476-21, Hawaii Revised Statutes. The criminal penalties provision in the first paragraph of this section is eliminated because it has rarely, if ever, been enforced. Consumer credit protection laws are effectively enforced by "private attorneys general", as indicated by experience with the Federal Truth-in-Lending law which has been the subject of literally thousands of actions seeking civil penalties. The prosecutor should not be burdened with such matters.

22. Deleted Section 476-23. This section has been consolidated with section 476-16.

23. Section 476-24. This section (at present section 476-29) has been changed to allow more flexibility in the way that buyers and sellers structure their transactions. They will be able to add old purchases to a new contract, as well as to add new purchases to an old contract. Your Committee has restored the first sentence of this section to its form as originally filed in order to correct what appears to be a drafting error. Your Committee has also reinstated a requirement for disclosure to consumers of the essential terms of their refinancing transactions. This change parallels that in section 476-4, Hawaii Revised Statutes. The regulatory proviso has been deleted, and a provision that compliance with the Federal Truth-in-Lending law provides compliance with the disclosure requirements of this section has been added. The provision with respect to application of payments has been broadened in order to encompass the seller's right to charge delinquency charges, court costs and attorney's fees, which are permitted elsewhere in the chapter.

24. Section 476-25. The changes in this section (at present section 476-30) are solely for clarification.

25. Section 476-26. The second paragraph of this section (at present section 476-31) was eliminated because it is no longer relevant. It seems virtually certain that there are no retail installment contracts still in effect that were signed before June 5, 1967, over fifteen years ago.

26. Section 476-27. The changes in this section (at present section 476-32) are for clarification.

27. Section 476-28. This section (at present section 476-33) is changed in order to make it consistent with sections 408-15(b) and 408-15(j) with respect to the amount or rate of finance charge that can be assessed. At the present time, this section places a maximum amount on the finance charge that can be collected on a retail installment contract by equating it to a described loan made under the provision of Chapter 408 in which interest is deducted in advance. This maximum limit applies without regard to the method, whether add-on, discount, or simple interest, used to assess the finance charge on the retail installment contract. In addition, because the hypothetical Chapter 408 loan is described in this section as one "to run for the same period as the retail installment contract, where the actual cash received by the borrower after deduction of interest in advance would be equal in amount to the time balance of the retail installment contract", at the present time the maximum annual percentage rate that would be permitted on a 48 month retail installment contract is well over 60 per cent. One of the changes that has been made in this section is to substitute the "principal balance" for the "time balance" in the finance charge calculation in order to remove that rather extreme result. This section is also changed so that the maximum rate or amount of finance charge that can be assessed on a retail installment contract is determined by a comparable loan under Chapter 408 in which interest is charged in the same manner as it is in the retail installment contract. In addition, in order to make this section consistent with section 408-15(b) provisions are added for interest after maturity. Your Committee has revised the interest after maturity provision in subparagraph (1) to enable the buyer and seller to contract for a lower rate than that stated in the statute. Revisions have also been made to subparagraph



(2) to clarify its application to simple interest transactions, including variable rate transactions.

28. Deleted Section 476-34. This section is deleted because all provisions in this chapter relating to security interests were deleted in the last session, and the Uniform Commercial Code applies to security interests and credit sales automatically, without the necessity of this section.

29. Section 476-29. This section (at present section 476-35) was initially deleted because consumer credit advertising is now governed by the Federal Truth-in-Lending Act and Regulation Z. Your Committee has reinstated it, however, to assure that consumers will receive full disclosure in credit advertising. The disclosure requirements have been conformed to those of the Federal Truth-in-Lending law concerning open-end and closed-end credit. The regulatory provision has been deleted, and a provision that compliance with the Federal Truth-in-Lending law provides compliance with the requirements of this section has been added, following the pattern adopted with respect to sections 476-4 and 476-24.

30. Section 476-30. This new section is added to insure that there is a clear resolution of conflicts of law questions relating to the application of this chapter to credit sales transactions. The source of this proposed section was the Uniform Consumer Credit Code which has been adopted in several different jurisdictions. Your Committee revised this section to clarify the right of the buyer and seller to agree that the contract be governed by Hawaii law.

31. Deleted Section 476-36. This section has been deleted because it is no longer apparently necessary. Your Committee is unaware of any recent transactions involving "consumer notes". Furthermore, the matter is fully covered by the Holder In Due Course Rule promulgated by the Federal Trade Commission.

Your Committee has added this new section 2 to the bill to cover the possibility that a provision of the chapter may be held to be invalid.

Your Committee has made clarifications in the transition provisions in section 4.

Your Committee on Consumer Protection and Commerce is accord with the intent and purpose of S.B. No. 785, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 785, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 547-84      Consumer Protection and Commerce on S.B. No. 1551-84

The purpose of this bill is to amend twenty-six chapters of Hawaii Revised Statutes pertaining to boards and commissions and provide for:

(1) Separate application, examination, and license fees where fees have not been separated;

(2) Delete from the statutes all wording specifying the amount of fees; and

(3) Add language to the effect that all fees are to be established by rule, by the Director of Commerce and Consumer Affairs.

The bill will also delete (1) the U.S. citizenship requirement for optometry license, and (2) the requirement to submit an annual report to the Governor by the Board of Optometry.

The Director of Commerce and Consumer Affairs was authorized by the Legislature in 1980, Act 92, Session Laws of Hawaii 1980, to increase or decrease the board and commission fees to maintain a reasonable relation between the revenues derived from fees and the cost or fair value of services rendered. Section 26-9(k), Hawaii Revised Statutes, further authorized the Director to establish separate application, examination, and license fees.

The Department adopted new rules on fee changes on September 1, 1983 which are intended to establish a reasonable relation between revenues and expenditures. This bill amends the various sections of the board and commission statutes affected to conform to the action taken by the department of fees.

The Department of Commerce and Consumer Affairs testified in support of this bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1551-84, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 548-84 Consumer Protection and Commerce on S.B. No. 1541-84

The purpose of this bill is to:

(1) Authorize the Director of the Department of Commerce and Consumer Affairs to appoint a time share administrator to perform the duties and responsibilities conferred upon the Director under the provisions of the chapter; and

(2) Authorize the Director to employ such other administrative and clerical assistants as the Director deems necessary or advisable for the proper administration of the chapter.

Currently, there are no positions funded for time sharing within the department.

Your Committee finds that in view of the continued expansion of the industry in Hawaii over the past several years, as reflected by the present number of registered time share plans in the State, an adequate staff is necessary to administer the program and to fully implement the provisions of Chapter 514E, Hawaii Revised Statutes.

The Department of Commerce and Consumer Affairs testified in support of this bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1541-84 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 549-84 Transportation on H.R. No. 167

The purpose of this resolution is to request the State Department of Transportation to conduct a study on the planned takeover of the Saddle Road on the Island of Hawaii. This study would include a determination of when the transfer of the Saddle Road from the County of Hawaii to the state highway system might take place, cost estimates for bringing the road up to standard and cost estimates for alternative routes.

Your Committee received testimony from the Kona Coast Chamber of Commerce, the Hawaii Island Chamber of Commerce, the Big Island Business Council, and the Chamber of Commerce of Hawaii favoring passage of this resolution. Your Committee finds that improving the Saddle Road would promote the economical transportation of persons and goods between East and West Hawaii to the benefit of all residents of, and visitors to, the Big Island.

Your Committee on Transportation concurs with the intent and purpose of H.R. No. 167 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Medeiros.

SCRep. 550-84 Higher Education and the Arts on S.B. No. 1918-84

The purpose of this bill is to amend Section 26-52, Hawaii Revised Statutes, which would empower the University of Hawaii Board of Regents to set the University of Hawaii President's salary up to a specified ceiling of \$95,000.

Currently the salary of the president is set by law. According to the most recent data compiled by the College and University Personnel Association (CUPA) for 1982-83, the salary of the University of Hawaii President is the lowest in the

nation among comparable institutions. The Board of Regents is currently engaged in a search to find a replacement for the resigning President. Testimony provided to the Committee indicates the President's current salary has already reduced the number of qualified scholar-administrators who might otherwise have applied for the position.

Your Committee agrees with the Board that while the presidency of the University of Hawaii is an attractive opportunity for academic career fulfillment, raising the existing statutory limitation is necessary to recruit and secure a qualified university President.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of S.B. No. 1918-84, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 551-84      Employment Opportunities and Labor Relations and Judiciary  
on H.R. No. 99

The purpose of this resolution is to request that the Governor direct the Office of Affirmative Action to study and report on the feasibility of establishing a Civil Rights Commission for this State. It further requests that the Governor direct the Department of Personnel Services to maintain statistics on job applicant flow data and provide those statistics as requested.

After hearing testimony from the Office of Affirmative Action, your Committees decided that it would be preferable to request that the Legislative Reference Bureau carry out the study on the feasibility of establishing a Civil Rights Commission for Hawaii. Your Committees also felt that it would be desirable for the Office of Affirmative Action to initiate informal communications with the United States Navy and United States Coast Guard. In this manner the State can inquire about the affirmative action programs of these Federal institutions without commencing a formal review process. Finally, your Committees have decided to delete the request for examination of the Department of Education, the University of Hawaii and the Department of Personnel Services and the request for the Department of Personnel Services to maintain statistics on applicant flow data. These two requests would be repetitive in light of H.R. No. 61 and directive 80-2.

Accordingly your Committees have amended H.R. No. 99 by changing the title to read, "HOUSE RESOLUTION REQUESTING THE LEGISLATIVE REFERENCE BUREAU TO TAKE CERTAIN STEPS REGARDING THE ESTABLISHMENT OF A CIVIL RIGHTS COMMISSION". Your Committees deleted clauses 3 and 4 on page 1 and clause 1 on page two. Clauses 7 and 8 on page one have been amended in manner which directs the Legislative Reference Bureau to carry out the study. Clause 2 on page two has been amended so that only the concerned agencies will receive copies of this resolution.

Your Committees on Employment Opportunities and Labor Relations and Judiciary concur with the intent and purpose of H.R. No. 99, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 99, H.D. 1.

Signed by all members of the Committees except Representative Baker.

SCRep. 552-84      Water, Land Use, Development and Hawaiian Affairs and  
Consumer Protection and Commerce on H.R. No. 178

The purpose of this resolution is to request the Department of Planning and Economic Development, the Department of Defense, and the county civil defense agencies to conduct a study of State-subsidized insurance for damages from earthquakes and volcanic activity.

Your Committees are in support of the general purpose of the resolution but are concerned with the implied magnitude of the proposed study. For example, to address the question of subsidized insurance for earthquake and volcanic damages, a full review should be undertaken of the scope and magnitude of the feasibility study itself, the questions and issues involved, the technical requirements and

expertise required, the study costs, and methods of funding the study. Your Committees have amended the resolution to reflect this concern.

Your Committees have also amended the resolution by adding the mayors of the counties as recipients of certified copies of the resolution, because they are, in fact, civil defense deputy directors.

Technical and non-substantive amendments have also been made.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and on Consumer Protection and Commerce concur with the intent and purpose of H.R. No. 178, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 178, H.D. 1.

Signed by all members of the Committees except Representatives Baker and Tungpalan.

SCRep. 553-84      Water, Land Use, Development and Hawaiian Affairs on H.R.  
No. 177

The purpose of this resolution is to request the Department of Land and Natural Resources, with the assistance of the county water departments, to assess the problems of inadequate water supply faced by the State's rural residents who are not served by county water systems and to assess various possible solutions to the problems, such as the provision of long-term low interest loans by the State to enable residents to purchase large water catchment tanks.

Your Committee is in support of the general purpose of the resolution. However, your Committee recognizes that the primary responsibility of water supply and zoning falls under the jurisdiction of the counties. Therefore, your Committee recommends two major amendments:

(1) That a final "WHEREAS" clause be included:

"WHEREAS, the primary responsibility of water supply and zoning in the State is a jurisdiction of the counties; now, therefore,".

Such amendment will clarify the role which the various counties must assume in conducting these assessments.

(2) That the mayors and the county councils be responsible for conducting the assessments, in light of the new "WHEREAS" clause to be included. Therefore, the Department of Land and Natural Resources would not be made responsible.

Your Committee also recommends a minor, but substantive, amendment: that, in the third "BE IT FURTHER RESOLVED" clause, a time period for submitting findings and recommendations to the Legislature be specified as "at least twenty days" before the convening of the Regular Session of 1985.

Technical and non-substantive amendments have also been made.

Your Committee on Water, Land Use, Development and Hawaiian Affairs concurs with the intent and purpose of H.R. No. 177, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 177, H.D. 1.

Signed by all members of the Committee.

SCRep. 554-84      Water, Land Use, Development and Hawaiian Affairs on  
H.R. No. 76

The purpose of this resolution is to request the Department of Planning and Economic Development to evaluate the economic feasibility of utilizing public and private lands in Hilo as warehousing space for Oahu businesses.

According to testimony by the Department of Planning and Economic Development, costs of industrial space at fee simple and for lease on Oahu, for the purpose of warehousing, are considerably higher than on neighbor islands. Your

Committee is of the opinion that the evaluation is desirable. However, your Committee recommends two major amendments:

(1) That four other ports and their adjacent areas be included in the evaluation: Nawiliwili Harbor on Kauai, Kaunakakai Wharf on Molokai, Kahului Harbor on Maui, and Kawaihae Port on the Big Island. These additional ports are closer than Hilo in distance to Honolulu and should be given equal consideration.

(2) That the various counties and certain private landowners in these five areas assist the Department of Planning and Economic Development in the evaluation study. They are affected parties in any possible economic use of public and private lands in the five areas.

Technical and non-substantive amendments have also been made.

Your Committee on Water, Land Use, Development and Hawaiian Affairs concurs with the intent and purpose of H.R. No. 76, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 76, H.D. 1.

Signed by all members of the Committee.

SCRep. 555-84      Energy, Ecology and Environmental Protection and Public  
Employment and Government Operations on H.C.R. No. 78

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to conduct a study on the establishment of a State Environmental Protection Agency (EPA). In addition, the concurrent resolution requests that the study include consideration of these topics which includes:

- 1) other states which have a separate environmental protection agency;
- 2) the 1977 State Reorganization plan recommendation which stated that the Department of Land and Natural Resources evolve into a Department of Environmental Affairs;
- 3) the roles of Hawaii's Department of Agriculture and Health with respect to consolidating enforcement, regulatory, advisory, research, monitoring, and health assessment functions;
- 4) the functions of the Office of Environmental Quality Control;
- 5) an evaluation and function of the University of Hawaii's in environmental quality research;
- 6) the best alternative possible in regard to the formation of a state EPA and where it should be housed jurisdictionally;
- 7) a comprehensive plan for contaminants in the environment and the establishment of a manifest system; and
- 8) an educational and informational dissemination system.

The Joint House-Senate Interim Committee to Review the State's Capability to Monitor and Prevent Contamination of Water Resources by Pesticides reported that there is a need to provide for central coordination of the responsibilities of regulatory, monitoring, and enforcing pesticide usage and water quality to enhance the operating effectiveness of state agencies involved with environmental quality management.

Your Committee heard testimony from the Director of the Office of Environmental Quality Control, Chairman of the Environmental Council, representatives for the UH College of Tropical Agriculture and Human Resources, the Water Resources Research Center, and the School of Public Health, all of which supported the resolution.

Your Committee also believes that the establishment of a manifest and records system deserves special and immediate attention.

Your Committees on Energy, Ecology and Environmental Protection and Public Employment and Government Operations Committee concur with the intent and purpose of H.C.R. No. 78 and recommend that it be referred to the Committee on Finance.

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

SCRep. 556-84 Consumer Protection and Commerce on S.B. No. 26

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

Although the Office of Consumer Protection testified in support of the intent of this bill, the acting Director expressed some concern that certain provisions of the bill would severely curtail rights and remedies that are already available to consumers. Accordingly, the Office of Consumer Protection recommended amendments to ensure that this bill would not limit existing consumer rights or remedies.

Your Committee is in agreement that this bill is necessary to insure the full range of protection envisioned by the warranty statutes.

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

(1) In subsection (a), the bill has been amended to read "the consumer reports the nonconformity in writing to the manufacturer, or at its option, its agent, distributor, or its authorized dealer";

(2) Also, in subsection (a), the following language has been deleted from page 1, line 9 through 11, "or during the period of one year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date";

(3) The language "or such one-year period" has been deleted from page 1, lines 15 and 16.

(4) The word "distributor" has been added between the words "agents" and "or authorized dealers" on the following pages: page 2, lines 1 and 16; page 3, lines 5 and 20; page 4, line 1;

(5) In subsection (b), the full purchase price refundable to the consumer has been amended to exclude interest charges;

(6) The following language has been deleted from subsection (c): (a) "or during the period of one year following the date of original delivery of the motor vehicle to a consumer, whichever is the earlier date"; (b) "or during such period, whichever is the earlier date"; (c) "such one year period"; and (d) "The work order, when drawn up during the applicable period, shall constitute a written notice of defect";

(7) Also in subsection (c), the third sentence has been amended to read as follows: "The presumption provided in this subsection shall not apply against a manufacturer if the manufacturer has not received a written report of the nonconformity from the consumer in accordance with subsection (a) or from its agent, distributor, authorized dealer, or if the manufacturer has been denied a reasonable opportunity to repair the nonconformity alleged";

(8) Subsection (f) has been amended to read: "Any action brought under this section shall be commenced within 1 year following expiration of the express warranty term"; and

(9) On page 5, line 4, the term "household" has been inserted between the words "family" and "or business use".

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 26, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 26, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 557-84      Consumer Protection and Commerce on S.B. No. 29

The purpose of this bill is to require strict disclosure requirements in situations wherein sales or acquisition agents will offer gifts or prizes in writing to prospective time share purchasers on the condition that the prospective purchaser attend a time share presentation.

Currently, there is no statutory requirement that the offeror disclose the following information:

- (1) The prize or gift being offered;
- (2) The condition of receipt of said offer; and
- (3) A full description of the item being offered.

Your Committee finds that this bill would regulate mail solicitation of time sharing interest by imposing specific disclosure requirements. Among these requirements would be that there must be a complete description of the gift or prize being offered and its cash value, the terms or conditions attached to the prize or gift, a statement that the purchaser must submit to a sales presentation, and full description of the product, real estate, investment, services, membership, or any other time share item to be offered for sale, including the price of the least expensive and the most expensive item or parcel.

The Department of Commerce and Consumer Affairs testified that it was in accord with the proposed amendments to both sections 514E-11 and 514E-11.1, Hawaii Revised Statutes, as it would afford greater protection to prospective purchasers, by encompassing both oral and written time sharing solicitations. Also testifying in support of this bill was the Acting Director of the Office of Consumer Protection.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 29, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 558-84      Agriculture on H.R. No. 24

The purpose of this resolution is to request the House Committee on Agriculture to conduct hearings during the Regular Session of 1984 to investigate and discuss the nature and extent of the problem concerning pilferage of agricultural products.

Your Committee has received testimony in support of the intent of this measure from the Superintendent of Agricultural Operations for the Dole-Wahiawa Plantation.

Your Committee finds that agricultural pilferage poses a serious threat to the viability of the diversified agricultural industry in the State, although details as to the exact extent and nature of pilferage are difficult to obtain.

Your Committee concurs with the Chairman of the Board of Agriculture that an investigation on agricultural pilferage conducted by the State at this time should be focused at strengthening enforcement measures against pilferagers rather than at quantifying the extent of pilferage.

Your Committee finds that it would be more appropriate to request the Hawaii Farm Bureau Federation to investigate the nature and assess the extent of agricultural pilferage of the property of its members, to undertake a study to identify and evaluate alternative means of deterring agricultural pilferage, and to submit a report of its findings and recommendation to the Legislature prior to the convening of the Regular Session of 1985, and has amended this resolution accordingly by adding three new "BE IT RESOLVED" clauses.

Your Committee has also amended this resolution by deleting two of the original "BE IT RESOLVED" clauses which requested the Committee on Agriculture to hold



hearings to investigate and discuss the nature and extent of agricultural pilferage and to submit to the Legislature recommendations for appropriate legislative action prior to the adjournment of the Regular Session of 1984.

Your Committee has also amended this measure by resolving that certified copies of this Resolution be transmitted to the President of the Hawaii Farm Bureau Federation; to the Chairpersons of the Departments of Agriculture, Taxation, and Land and Natural Resources; and to the Mayor and Chairperson of the County Council of each of the counties; as well as to the Speaker of the House of Representatives and the Chairperson of the House Committee on Agriculture.

Your Committee on Agriculture is in accord with the intent and purpose of H.R. No. 24, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 24, H.D. 1.

Signed by all members of the Committee.

SCRep. 559-84      Water, Land Use, Development and Hawaiian Affairs on  
H.R. No. 13

The purpose of this resolution is to request the U.S. government to establish a program of government-sponsored earthquake insurance comparable to the federal flood insurance program.

According to testimony by the State's Department of Defense, a federally sponsored earthquake insurance program would help to put prohibitively expensive earthquake insurance within reasonable financial reach of most victims. The Federal Emergency Management Agency has already begun a long-term study of the possibilities of providing federally subsidized earthquake insurance to victims in order to assist them in recovering more fully and expeditiously from the devastation caused by an earthquake. Your Committee is in agreement that such victims need federal assistance.

Your Committee recommends an amendment such that a certified copy of the resolution be transmitted to the Federal Emergency Management Agency.

Technical and non-substantive amendments have also been made.

Your Committee on Water, Land Use, Development and Hawaiian Affairs concurs with the intent and purpose of H.R. No. 13, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 13, H.D. 1.

Signed by all members of the Committee.

SCRep. 560-84      Ocean and Marine Resources on H.R. No. 184

The purpose of this resolution is to request that the Governor of the State of Hawaii find unacceptable the designation of the Hawaii Humpback Whale Marine Sanctuary and the President of the United States and the Secretary of Commerce are respectfully urged to reject the proposed whale sanctuary in light of the strong stand against the sanctuary by residents of the State of Hawaii.

Your Committee finds that in 1976 the Hawaiian Humpback Whale was designated as the State Marine Mammal of Hawaii. In 1977 a proposal was submitted to the National Oceanic and Atmospheric Administration (NOAA) to establish a National Marine Sanctuary for Humpback Whales in Hawaiian waters, pursuant to Title III of the Marine Protection, Research, and Sanctuaries Act of 1972.

Your Committee further finds that at present a strong conflict exists between the residents of the State of Hawaii who oppose the establishment of the Humpback Whale Marine Sanctuary and the National Oceanic and Atmospheric Administration which continues to proceed with the designation process despite strong local opposition to the sanctuary proposal.

Testimonies before your Committee by the Hawaii Council of Diving Clubs and the Hawaii Fishing Coalition, Inc., strongly endorse the intent and purpose of this resolution. Also testifying in favor of H.R. No. 184 were Ms. Joyce Kainoa, Molokai fisher, Mr. Kenji Ego, former Director of the State Division of Fish and

Game; Mr. Welby Taylor and Ms. Wendy Deihl, formerly of Green Peace; and other private citizens.

Your Committee also recognizes the environmental and social concerns expressed by Mr. Dave Raney of the Hawaii Chapter of the Sierra Club and Ms. Susan Miller, who testified against this resolution.

The Department of Planning and Economic Development testimony indicated that since the public comment period on the Draft Management Plan and Draft Environmental Impact Statement will close on March 20, 1984, it would be somewhat premature for the Administration, at this time, to either support or oppose this resolution.

Mr. Glenn Nishihara of the Hawaii Fishing Coalition, Inc., testified that the "National Marine Sanctuary for the Humpback Whales in Hawaiian Waters is not necessary" because: 1) there are sufficient Federal and State Regulations which apply to the protection of the Humpback Whales (e.g. Endangered Species Act of 1973, Marine Mammal Protection Act of 1972, Fisheries Conservation and Management Act of 1976, Hawaii Revised Statutes Chapter 190, Marine Life Conservation Program, Natural Areas Reserve System); 2) there are no guarantees on commercial and traditional fishing; 3) efforts to educate the public will only increase the exploitation and harassment of the whales; 4) there is no added protection from harassment to the whale; 5) the management plan is vague, ambiguous and could lead to further restrictions (Draft Management Plan page 4); 6) nearly all citations of harassments were due to scientific or research activity; 7) more research translates into more harassments; 8) the management plan does not explain why the humpback whales in Hawaii need more protection; 9) there is no recourse if management plan should fail (i.e., no sunset clause).

Your Committee has, based on the testimony, changed the resolution by adding the underscored amendment below:

WHEREAS, any monies made available for humpback whale management would prove most cost effective and result in greatest benefit to the cetacean if expended through the Marine Fisheries Service rather than through any other federal agency;

Your Committee on Ocean and Marine Resources concurs with the intent and purpose of H.R. No. 184, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 184, H.D. 1.

Signed by all members of the Committee.

SCRep. 561-84      Ocean and Marine Resources on H.C.R. No. 74

The purpose of this concurrent resolution is to request that the Governor of the State of Hawaii find unacceptable the designation of the Hawaii Humpback Whale Marine Sanctuary and the President of the United States and the Secretary of Commerce are respectfully urged to reject the proposed whale sanctuary in light of the strong stand against the sanctuary by residents of the State of Hawaii.

Your Committee finds that in 1976 the Hawaiian Humpback Whale was designated as the State Marine Mammal of Hawaii. In 1977 a proposal was submitted to the National Oceanic and Atmospheric Administration (NOAA) to establish a National Marine Sanctuary for Humpback Whales in Hawaiian waters, pursuant to Title III of the Marine Protection, Research, and Sanctuaries Act of 1972.

Your Committee further finds that at present a strong conflict exists between the residents of the State of Hawaii who oppose the establishment of the Humpback Whale Marine Sanctuary and the National Oceanic and Atmospheric Administration which continues to proceed with the designation process despite strong local opposition to the sanctuary proposal.

Testimonies before your Committee by the Hawaii Council of Diving Clubs and the Hawaii Fishing Coalition, Inc., strongly endorse the intent and purpose of this concurrent resolution. Also testifying in favor of H.C.R. No. 74 were Ms. Joyce Kainoa, Molokai fisher, Mr. Kenji Ego, former Director of the State Division of Fish and Game; Mr. Welby Taylor and Ms. Wendy Deihl, formerly of Green Peace; and other private citizens.

Your Committee also recognizes the environmental and social concerns expressed by Mr. Dave Raney of the Hawaii Chapter of the Sierra Club and Ms. Susan Miller, who testified against this concurrent resolution.

The Department of Planning and Economic Development testimony indicated that since the public comment period on the Draft Management Plan and Draft Environmental Impact Statement will close on March 20, 1984, it would be somewhat premature for the Administration, at this time, to either support or oppose this concurrent resolution.

Mr. Glenn Nishihara of the Hawaii Fishing Coalition, Inc., testified that the "National Marine Sanctuary for the Humpback Whales in Hawaiian Waters is not necessary" because: 1) there are sufficient Federal and State Regulations which apply to the protection of the Humpback Whales (e.g. Endangered Species Act of 1973, Marine Mammal Protection Act of 1972, Fisheries Conservation and Management Act of 1976, Hawaii Revised Statutes Chapter 190, Marine Life Conservation Program, Natural Areas Reserve System); 2) there are no guarantees on commercial and traditional fishing; 3) efforts to educate the public will only increase the exploitation and harassment of the whales; 4) there is no added protection from harassment to the whale; 5) the management plan is vague, ambiguous and could lead to further restrictions (Draft Management Plan page 4); 6) nearly all citations of harassments were due to scientific or research activity; 7) more research translates into more harassments; 8) the management plan does not explain why the humpback whales in Hawaii need more protection; 9) there is no recourse if management plan should fail (i.e., no sunset clause).

Your Committee has, based on the testimony, changed the concurrent resolution by adding the underscored amendment below:

WHEREAS, any monies made available for humpback whale management would prove most cost effective and result in greatest benefit to the cetacean if expended through the Marine Fisheries Service rather than through any other federal agency;

Your Committee on Ocean and Marine Resources concurs with the intent and purpose of H.C.R. No. 74, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 74, H.D. 1.

Signed by all members of the Committee.

#### SCRep. 562-84      Transportation on H.R. No. 26

The purposes of this resolution are: (1) to request the Department of Agriculture, the Department of Transportation, and the Governor's Agriculture Coordinating Committee to review the status and progress of the establishment of a consolidation facility in Kona; and (2) to request the Governor's Agriculture Coordinating Committee, with the cooperation of the Departments of Agriculture and Transportation, to investigate and prioritize the feasibility of establishing consolidation facilities in each county.

Your Committee finds that the study called for in H.R. No. 26, H.D. 1, will provide the Legislature with valuable information on the needs of the several counties with respect to agricultural storage and distribution consolidation facilities. The study will also enable the Legislature to determine funding priorities for such facilities.

Your Committee believes that the feasibility study should include a determination of the potential benefits to be derived from the establishment of storage and consolidation facilities and a rough estimate of the cost of establishing such facilities.

Your Committee on Transportation concurs with the intent and purpose of H.R. No. 26, H.D. 1, and recommends its adoption.

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

#### SCRep. 563-84      Transportation on H.R. No. 105

The purpose of this resolution is to urge the Mayor and the City Council of the City and County of Honolulu to join in a concerted effort with the State Department of Transportation to fund highway improvements for Fort Weaver Road.

Your Committee received testimony from the State Department of Transportation stating that it has been proposed to have Fort Weaver Road redesignated from a Federal-Aid Urban Route to a Federal-Aid Primary Route, and that the redesignation process is presently in progress.

Your Committee has therefore amended the title of H.R. No. 105 to read as follows: "HOUSE RESOLUTION URGING COMPLETION OF HIGHWAY IMPROVEMENTS TO FORT WEAVER ROAD, OAHU".

Your Committee has also amended the resolution by deleting the "subject to" clause of the first "WHEREAS" clause, by deleting the final "WHEREAS" clause and by adding the "now, therefore" language to the new final "WHEREAS" clause. In line with these amendments, your Committee has amended the "BE IT RESOLVED" clause to urge the "State Department of Transportation, with the concurrence, if necessary, of the Mayor and City Council of the City and County of Honolulu" to fund "completion of highway improvements to Fort Weaver Road".

Finally, your Committee has amended the "BE IT FURTHER RESOLVED" clause to change the title, "Director of the Department of Transportation", to "Director of Transportation", in accordance with §26-19, Hawaii Revised Statutes.

Your Committee on Transportation concurs with the intent and purpose of H.R. No. 105, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 105, H.D. 1.

Signed by all members of the Committee except Representative Medeiros.

SCRep. 564-84      Transportation and Agriculture on H.R. No. 107

The purpose of this resolution is to request the State Department of Transportation to investigate the availability and feasibility of obtaining federal funds to develop an intrastate marine highway system for the transportation of products and persons in Hawaii. The State Department of Agriculture and the Governor's Agriculture Coordinating Committee are requested to assist the Department of Transportation.

Your Committees find that it would be more appropriate for the Governor's Agriculture Coordinating Committee to be the "lead" agency conducting the investigation called for in the resolution. Therefore, your Committees have amended the "BE IT RESOLVED" clause and the first "BE IT FURTHER RESOLVED" clause to replace "Department of Transportation" with "Governor's Agriculture Coordinating Committee" and vice versa.

Your Committees have also amended the fifth and final "WHEREAS" clauses by removing the word "other" in each to correct grammatical errors.

Finally, your Committees have completely rewritten the ninth "WHEREAS" clause.

Your Committees on Transportation and Agriculture are in accord with the intent and purpose of H.R. No. 107, as amended herein, and recommend its adoption in the form attached hereto as H.R. No. 107, H.D. 1.

Signed by all members of the Committees except Representative Medeiros.

SCRep. 565-84      Energy, Ecology and Environmental Protection and Health on  
H.C.R. No. 11

The purpose of this resolution is to request a ban on the disposal of nuclear waste materials in the Pacific Basin.

Your Committees find that during the fission process that splits uranium atoms, unstable particles are emitted that remain dangerous for thousands of years. Large amounts of radioactive wastes have accumulated over a period of time and are awaiting permanent disposal sites. If exposed to large enough doses, human beings could contract cancer from such materials.

Your Committees find that the effects of widespread dumping could result in irreversible damage to the ocean environment and the food chain. Therefore, your Committees respectfully request the banning of all dumping of nuclear materials in the Pacific Basin by the United States and any other country.

Your Committees received testimony from the University of Hawaii Environmental Center which noted that wording in the Fourth whereas clause was unclear and referred to California inappropriately, therefore your Committees have made the following amendment.

Whereas, there has been no guarantee that basic technology has been developed which will ensure safety in the disposal [or long term wildlife sanctuary off the California coast between 1946 and 1966,] of nuclear waste materials in the Pacific Ocean.

Your Committees on Energy, Ecology and Environmental Protection and Health concur with the intent and purpose of H.C.R. No. 11, as amended, and recommend its adoption in the form attached hereto as H.C.R. No. 11, H.D. 1.

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

SCRep. 566-84      Energy, Ecology and Environmental Protection and Health on  
H.R. No. 57

The purpose of this resolution is to request a ban on the disposal of nuclear waste materials in the Pacific Basin.

Your Committees find that during the fission process that splits uranium atoms, unstable particles are emitted that remain dangerous for thousands of years. Large amounts of radioactive wastes have accumulated over a period of time and are awaiting permanent disposal sites. If exposed to large enough doses, human beings could contract cancer from such materials.

Your Committees find that the effect of widespread dumping could result in irreversible damage to the ocean environment and the food chain. Therefore, your Committees respectfully request the banning of all dumping of nuclear materials in the Pacific Basin by the United States and any other country.

Your Committees received testimony from the University of Hawaii Environmental Center which noted that wording in the fourth whereas clause was unclear and referred to California inappropriately, therefore your Committee has made the following amendment.

Whereas, there has been no guarantee that basic technology has been developed which will ensure safety in the disposal [or long term wildlife sanctuary off the California coast between 1946 and 1966,] of nuclear waste materials in the Pacific ocean.

Your Committees on Energy, Ecology and Environmental Protection and Health concur with the intent and purpose of H.R. No. 57, as amended, and recommend its adoption in the form attached hereto as H.R. No. 57, H.D. 1.

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

SCRep. 567-84      Energy, Ecology and Environmental Protection on S.B. No.  
1503-84

The purpose of this bill is to redefine "gasohol" in more explicit terms, thereby making the definition compatible with federal interpretation and avoiding probable tax litigation. This bill seeks to establish the minimum standard in mixing gasoline and alcohol for those taxpayers engaged in selling the liquid fuel mixture by specifying that the ten percent ethanol is ten volume percent and that the ethanol includes a denaturant.

Your Committee on Energy, Ecology and Environmental Protection is in accord with the intent and purpose of S.B. No. 1503-84 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Say.

SCRep. 568-84 Human Services on S.B. No. 1629-84

The purpose of this bill is to provide statewide parking privileges, including eligibility criteria, for disabled persons.

Your Committee finds that at present, the various counties follow disparate practices in their promulgation and administration of rules and ordinances governing parking for the handicapped. Because of this, the permit verifying a handicapped person's parking privileges in one county may not be recognized in another, and that person may be cited wrongfully. Consequently, a disabled person must apply at several agencies to obtain various parking decals, with definitions of what constitutes being handicapped varying from agency to agency.

Your Committee agrees with the provisions of this bill as it defines disabled persons, certificate of disability and provides uniform policies and procedures for issuing permits and placards.

Your Committee heard favorable testimony from the Department of Transportation, the Commission on the Handicapped, the Office of Human Resources of the City and County of Honolulu, and other agencies and finds that this bill will be instrumental in resolving the current problems pertaining to parking for disabled persons.

Your Committee has amended this bill by deleting on page 3, line 18, "the appropriate county ordinance", and has inserted "law" for purposes of broadening the mechanism to provide penalties.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1629-84, S.D. 1, as amended herein, and recommends that it pass Second Reading and be referred to the Committee on Finance in the form attached hereto as S.B. No. 1629-84, S.D. 1, H.D. 1.

Signed by all members of the Committee except Representative Baker.

SCRep. 569-84 Human Services on S.B. No. 2123-84

The purpose of this bill is to provide for the establishment of a citizens advisory committee to study and advise the legislature on the role of the State, counties and various private agencies in the delivery of human services to the people of this State.

Your Committee finds there are two current issues which require review. The first is the roles and responsibilities that the State and counties have in the delivery of human services. The other is the role and responsibilities of private agencies in the provision of human services and the development of state policies to guide which kinds of programs should be conducted directly by government agencies and private agencies.

Your Committee agrees that the robust economy of the late 60's and throughout most of the 70's and abundance of federal moneys have ended. The present situation of limited fiscal resources and forecasts of conservative economic growth means there will be difficult decisions to be made. This bill emphasizes the urgency for the legislature to determine whether changes should be made in the responsibilities and delivery systems for human services.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 2123-84 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Baker.

SCRep. 570-84 Consumer Protection and Commerce on S.B. No. 1675-84

The purpose of this bill is to propose amendments to Chapters 431 and 433, Hawaii Revised Statutes, to include sections which provide reimbursement to licensed psychologists for services which would be covered by an individual or



group accident and sickness policy if the services were performed by a licensed physician.

This bill will broaden the choice of health care providers and the types of expertise available to consumers who have insurance plans which currently limit services to those performed by physicians.

The Insurance Division did not testify either in support or in opposition to the bill. The Division felt that since this bill involved a policy determination as to whether a health care provider should be considered co-equal to another class of health care provider, it was therefore inappropriate to take a position.

The Department of Health testifying in support of this bill stated, this enactment would broaden the choice of providers and types of expertise available to the consumer, as well as, serve to contain cost since this bill could result in increased competition.

The Board of Certification for Practicing Psychologists and the Hawaii School of Professional Psychology also testified in support of this bill.

The Hawaii Medical Service Association although in support of free choice, could not testify in support of this bill as it would deprive consumers the freedom to choose what kind and how much coverage to buy. The Association further stated that it has long recognized the need and demand for health benefits, and the coverage for psychologists services and has therefore already made it a part of their individual and group plans. Accordingly, the Association did not believe that there was a need to mandate such coverage.

Your Committee is in agreement with the testimony offered in support of this bill. It is your Committee's feeling that this legislation is necessary as it would serve to require other insurance companies to provide the coverage HMSA is currently providing, and that this would prevent HMSA from withdrawing this service in the future.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1675-84 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Baker.

SCRep. 571-84      Consumer Protection and Commerce on S.B. No. 1546-84

The purpose of this bill is to allow the Department of Commerce and Consumer Affairs' business registration division to retain personnel hired under section 416-97, Hawaii Revised Statutes, for an additional year.

Under section 416-97, Hawaii Revised Statutes, a special fund was established in the Department to fund at least two temporary business registration assistant positions. The special fund is set to be repealed by statute on July 1, 1985. Act 153, Session Laws of Hawaii 1983, increased the amounts paid into the special fund by raising certain fees paid to the Department and providing for part of the increased fees to be paid into the special fund. However, Act 153 provides that after June 30, 1984, payment of a portion of the increased fees to the special fund shall cease and the entire amount of the fees shall be deposited in the general fund. This bill allows continued payment of a portion of the increased fees into the special fund until July 1, 1985, the date on which the special fund terminates under section 416-97, Hawaii Revised Statutes.

Extension is needed for several reasons. First, the extra year will allow the Department to realize the full benefit of the temporary personnel hired, since much of the Department's time thus far has been spent training the new hires. Secondly, the extension will allow the Department to better evaluate the feasibility of Act 153 to determine if these positions can be funded by the increased fees. Finally, the extension provides the Department with some compensation for the loss of three positions which were reassigned to the business registration division, but were frozen by the State.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1546-84, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.



Signed by all members of the Committee except Representative Baker.

SCRep. 572-84 Consumer Protection and Commerce on S.B. No. 2131-84

The purpose of this bill is to amend section 294-22(b)(2)(A), Hawaii Revised Statutes, to provide free no-fault insurance to those recipients of public assistance benefits who own motor vehicles but are unable to operate the vehicles due to a physical handicap.

Currently, only licensed drivers receiving public assistance benefits are able to obtain free no-fault insurance.

The Insurance Division in support of this bill stated that, basic fairness would seem to dictate that a physically handicapped motor vehicle receiving public assistance benefits who is unable to operate their own motor vehicle should be able to receive no-fault insurance protection on parity with other persons receiving public assistance benefits.

The Department of Social Services and Housing also concurred with the intent and purpose of this bill. The Department felt that this bill would aid those handicapped individuals who live in the rural areas of Oahu and on the neighbor islands where there is little or no special transportation services available for the physically handicapped.

Your Committee also heard favorable testimony from the Hawaii Insurers Council and the Hawaii Centers for Independent Living. The latter believes that the intent of the present system is to encourage welfare clients to become more independent and productive by allowing greater mobility in their community, therefore, this opportunity should also be extended to severely disabled welfare recipients.

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

(1) Page 4, line 11 through 20 has been amended to read as follows:

"(A) All licensed drivers and all motor vehicle owners unable to operate their own vehicles because of physical handicaps thereby requiring the services of attendant licensed drivers, [receiving] who receive public assistance benefits consisting of medical services or direct cash payments through the Department of Social Services and Housing ...";

(2) Page 4, line 23 has been amended to read as follows:

"... provided the licensed drivers and the physically handicapped motor vehicle owners are the sole ..."; and

(3) A new SECTION 3. has been added in order to amend section 294-24(b)(2), Hawaii Revised Statutes, to read as follows:

For the [licensed] public assistance licensed driver and handicapped motor vehicle owner, as defined at section 294-22(b)(2)(A), no premium shall be assessed for the basic no-fault, the mandatory public liability or the mandatory property damage policies; and all policies shall conform to the provisions of section 294-22(b)(2).

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2131-84, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2131-84, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Baker.

SCRep. 573-84 Higher Education and the Arts on S.B. No. 2050-84 (Majority)

The purpose of this bill is to clarify Section 304-4, Hawaii Revised Statutes, by establishing a more meaningful definition of the powers and duties of the University of Hawaii Board of Regents.

In March 1978, the Legislative Auditor submitted Report No. 81-9, entitled Management Audit of the University of Hawaii, to the Governor and the Legislature. Since its publication, the findings and recommendations of this audit have been an extremely valuable resource in critiquing the University system.

Your Committee has been informed that the intent of this bill is to put into statute the more pertinent recommendations of the Legislative Auditor. These recommendations include the establishment of clear and meaningful guidelines which accurately describe the major duties and responsibilities of the Board of Regents for which they may and should be held fully accountable.

In testimony received by your Committee, the University expresses agreement with the content of the bill and indicated that efforts were underway to strengthen further its attention to the areas of concern as contained in this bill.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of S.B. No. 2050-84 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 574-84      Employment Opportunities and Labor Relations on S.B. No.  
1525-84

The purpose of this bill is to extend authorization of the use of federal Reed Act credits from twenty-five to thirty-five years from the date the funds were first credited to the State.

Your Committee finds that extending the time limit for using the funds will allow the State to take advantage of the law to restore funds for future use.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of S.B. No. 1525-84, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 575-84      Employment Opportunities and Labor Relations on S.B. No.  
1520-84

The purpose of this bill is to incorporate the quick kokua program and career resource centers into a comprehensive and unified transition center system for delivery of career, employment, social, and health counseling to the youth of Hawaii.

Many traditional jobs have become obsolete and new industries in oceanography, communication, and high-technology make high school and post-high school career decision-making ever more complex and the need for transition services all the more crucial. This bill will promote coordination between individual career resource centers in the utilization of resources, facilitate long-range planning to meet the career service requirements of Hawaii's students, provide a mechanism for inter-agency collaboration in delivering career services, and provide for the development of goals, objectives, and measures of effectiveness to guide the activities of school-to-work transition centers in Hawaii.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of S.B. No. 1520-84, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 576-84      Housing on S.B. No. 2251-84

This bill would expand the definition of an eligible rental housing project under Section 356-302, Hawaii Revised Statutes, to include all rental housing projects which the Hawaii Housing Authority determines will require rental assistance to make them financially feasible. It would further change the corresponding rental

assistance fund to a revolving fund in order to prevent the lapsing of current monies in that fund.

Your Committee finds that under the present language, the definition of "eligible project" in Section 356-302, HRS, does not include projects funded by the Farmers Home Administration or Community Development Block Grant programs. The proposed new language, which establishes financial feasibility, rather than funding or subsidy source, as the criteria for determining eligibility, will ensure that the widest range of projects--provided they are targeted for low and moderate income rental households--can be considered for Rental Assistance Program funds.

Your Committee stresses that the primary purpose of the Rental Assistance Program herein, contained in Chapter 356, Part III, is to utilize the funds therein in conjunction with the provisions of Chapter 356, Part II (Hula Mae), to facilitate the issuance of tax-exempt revenue bonds for the construction of multi-family low and moderate income rental housing projects, even if the program is not limited to just these types of Hula Mae funded projects. In keeping with this objective, your Committee would like to monitor the utilization of the Rental Assistance Program by requesting the Hawaii Housing Authority, in its annual report, henceforth to provide a description of each project utilizing the Rental Assistance Program.

Your Committee on Housing concurs with the intent and purpose of S.B. No. 2251-84, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 577-84      Housing on S.B. No. 2249-84

The purpose of this bill is to allocate to the Hawaii Housing Authority (HHA) and to each of the various counties a proportion of the bond allocation received under the federal Mortgage Subsidy Bond Tax Act of 1980, or as that act may be amended. It further provides that the allocation provisions be placed within the Hawaii Revised Statutes, rather than the Session Laws, and specifies that the allocation formula will apply under any act with a similar purpose to the federal Mortgage Subsidy Bond Tax Act.

Your Committee finds that such an allocation of revenue bond authorization by the Legislature is necessary, in the likely event Congress extends the federal Mortgage Subsidy Bond Tax Act of 1980, implemented in Hawaii as the Hula Mae program. Your Committee also finds that the provisions allowing both the HHA and the counties to effectuate reallocations of the bonds are desirable because they provide flexibility in the utilization of these bond allocations by HHA and the counties.

Your Committee has amended the bill by adding a provision to Section 1 such that the allocations to the counties, if the subject bonds are issued by said counties, shall be used solely for new construction projects. This restriction on the counties' utilization of their allocations is for the purpose of preventing duplication of the State's efforts under the Hula Mae program. We note that this limitation does not apply to the issuance of the bonds in question where the issuer is HHA.

Your Committee on Housing concurs with the intent and purpose of S.B. No. 2249-84, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2249-84, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 578-84      Housing on S.B. No. 2248-84

The purpose of this bill is to amend Section 46-15, Hawaii Revised Statutes, to allow a county, through a designated county agency or official, to submit to its county council preliminary plans and specifications for certain housing projects to obtain certain exemptions from existing county statutes, ordinances and regulations.

Section 46-15 created broad authority for the counties to develop experimental and demonstration housing projects to meet the need for affordable housing. The current statute requires submittal of final plans, rather than preliminary plans, to the respective county council. Final plans and specifications are both costly and time consuming to prepare and do not provide a significantly increased level of information to the council on which to base a determination regarding requested exemptions. In other words, submittal of preliminary plans, which contain the requested exemptions, provides adequate information to the council from which exemption decisions may be made.

While not all of those who testified on this measure agreed that planning standards should be included among those to be exempted, your Committee trusts that if a county administration did not wish to exempt projects from planning standards, it need not do so, simply by not submitting exemption requests for those standards.

Your Committee has made a technical, non-substantive amendment to Section 1 of the bill for purposes of consistency throughout the section.

Your Committee on Housing concurs with the intent and purpose of S.B. No. 2248-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2248-84, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 579-84      Housing on S.B. No. 1718-84

This bill would add a new section to Part I, Chapter 356, Hawaii Revised Statutes, to create a housing finance revolving fund to support the administration and operation of the Hawaii Housing Authority's various housing finance programs.

Your Committee finds that such a fund would enable the Authority to deposit certain revenues into one revolving fund to be principally used for the operational expenses of administering various housing finance programs, and for financing long-term and special projects, including the provision of below-market permanent loans. One specific objective of such a fund would be to relieve the Authority's Dwelling Unit Revolving Fund (DURF) of current long-term commitments in favor of the short term loans DURF was originally intended to provide. Testimony by the Authority stressed the importance of such relief in light of the fact that the issuance of additional general obligation bonds to supplement DURF may be limited by federal law.

Your Committee has made technical, non-substantive amendments to this bill.

Your Committee on Housing concurs with the intent and purpose of S.B. No. 1718-84, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1718-84, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 580-84      Judiciary on S.B. No. 546

The purpose of this bill is to enable the chief of police of each county to charge an application fee when a fingerprint comparison check is performed in connection with an application for a permit to acquire a firearm. The fee shall equal the amount of the charge assessed by the agency making the fingerprint comparison check.

Under present law, the counties do not assess a fee for processing applications for permits to acquire firearms. Section 134-3 of the Hawaii Revised Statutes, however, requires the fingerprinting of permit applicants for the purpose of making positive identification in criminal history checks. The police department of each county makes positive identification checks in criminal history by utilizing the criminal history records of the Federal Bureau of Investigation (FBI). In 1982, the FBI initiated a new procedure to assess \$12.00 for providing a fingerprint comparison check with the FBI national criminal history files.

Your Committee has received testimony from the Police Department of the City and County of Honolulu, the Hawaii Federation of Sportsmen, and the Hawaii Gun Control Coalition.

Your Committee finds that it is in the interest of the State to make positive identification checks by utilizing the criminal history record information maintained by the FBI.

Your Committee further finds that the cost of comparison check, should be paid by applicants.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 546, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Baker.

SCRep. 581-84      Judiciary on S.B. No. 1509-84

The purpose of this bill is to appropriate \$384-850.86 to pay victims and providers of services who were awarded compensation pursuant to the Criminal Injuries Compensation Act.

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

Your Committee has amended this bill by correcting a technical error on page 22, line 7, of the bill. The amount to be paid to Queen's Medical Center (Case No. 83-258) should be \$2,939.00. The total amount to be appropriated is changed accordingly from \$384,850.86 to \$384,849.95.

Your Committee is in accord with the intent and purpose of S.B. No. 1509-84, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1509-84, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Baker.

SCRep. 582-84      Judiciary on S.B. No. 1734-84

The purpose of this bill is to provide an increase in the fees paid to sheriffs, police officers, and other serving or levying officers for service of process. This bill will increase the fee for serving civil summons or any other civil process, except a subpoena or a garnishee summons, from \$7.00 to \$10.00 effective July 1, 1984; for serving subpoena or garnishee summons, from \$5.00 to \$7.00; and for every mile of travel in serving any process, from 18 cents to 20 cents.

Your Committee has received testimony from the Judiciary in support of this bill.

Your Committee finds that the costs and fees provided under present law have not been raised since 1979 while the general cost of living has risen. The increased costs and fees will reimburse sheriffs, police officers, and other serving and levying officers for their out-of-pocket expenses.

Your Committee has made technical, non-substantive amendments to the bill by inserting the words "than" on page 2, line 15, and "a" on page 5, line 5, which appear in the present statute.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1734-84, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1734-84, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Baker.

SCRep. 583-84      Health on S.B. No. 423

The purpose of this bill is to provide for a comprehensive system for mental health and substance abuse services, including the establishment of a State Council on Mental Illness and Substance Abuse and local Service Area Boards to advise each community mental health center.

Your Committee finds that federal guidelines, which have provided direction for the State in delivering and developing mental health and substance abuse services, were repealed by the Congress in 1981, leaving the responsibility for Hawaii's mental health system with the State. This bill would return needed direction to the system and place clear priority on providing needed services in the least restrictive and most appropriate setting possible.

In accomplishing these ends, the bill ensures strong consumer input in the system by establishing a State council and local boards. The spectrum of services to be included in community mental health system are also defined. Finally, the powers and duties of the Department of Health in developing and administering this system are set forth.

Although all parties testifying on this bill during the 1983 Regular Session were unanimous in supporting its intent, many details remained to be resolved. During the 1983 interim, the parties deliberated over the remaining issues and prepared proposed language which has been incorporated in the present House draft.

In preparing and recommending this draft, your Committee has amended this bill in the following principal respects:

(1) Subsections (d) and (e) beginning on page 8 have been redesignated and reformatted into Section 1 of the House draft. In the amended bill, the members of the Service Area Boards are to be appointed by the Governor rather than the Director of Health, and their terms are to be set by the Governor rather than by board by-laws.

(2) The service area centers and the board are to jointly participate in developing service area plans and budgets, rather than placing the board in a review and comment capacity to the centers.

(3) The charge to the Department of Health to promote and provide for the establishment of a community-based mental health system has been made mandatory, within the funds available within the designated mental health programs.

(4) Case management and emergency intervention have been set forth as separate and distinct services to be provided within the system.

(5) The charge to revise, refine, and develop the community-based mental health system has been made mandatory. The word "continually" on page 5, line 6, has been deleted.

(6) The activities of the Department listed in subsection (c) on page 5 have been made mandatory.

(7) Paragraph 2 on page 6 has been clarified to read as follows:

"(2) Utilize geographical service areas for the delivery of services in the areas of mental or emotional disorders and substance abuse. These areas shall be defined by catchment boundaries existing as of June 30, 1984. Each statewide four-year plan shall include a review of the effectiveness of the geographical service areas in promoting accessibility and continuity of appropriate care to all residents of that geographical area;"

(8) A new paragraph (3) has been inserted following the amended paragraph (2) above which requires the establishment of a service area center within each geographical service area.

(9) The word "treatment" in paragraph (9) on page 7 has been replaced by the words "prevention" and "intervention" to provide greater specificity.

(10) The planning function described in paragraph 13 has been clarified by specifying the submission of recommendations for a statewide four-year mental health systems plan by the service area centers and boards.



(11) A new duty of the Department has been inserted which requires staffing to be provided to assist the State council and local boards.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 423, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 423, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Jones.

SCRep. 584-84      Agriculture on S.B. No. 1800-84 (Majority)

The purpose of this bill is to authorize the Department of Budget and Finance to issue special purpose revenue bonds in a total amount not to exceed \$3,500,000 to assist Hawaiian Agronomics Process in the acquisition, renovation, or construction of an irradiation processing facility in the State.

Your Committee finds that approximately 80 percent of the annual Hawaiian papaya crop is shipped out of State, and all of this fruit must be treated for fruit fly infestation. Without an effective post-harvest disinfestation method, the papaya industry could not remain viable.

Testimony presented by the Manager of the Papaya Administrative Committee indicates that the papaya industry has found in the "double-dip" treatment method a promising alternative to EDB usage. Your Committee finds that it would be in the interest of the State, however, to assure that the papaya industry has some alternative for fruit fly disinfestation should implementation of the double-dip method prove unsuccessful or should double-dip regulatory procedures developed by the Animal and Plant Health Inspection Service (APHIS), USDA, not be approved in time.

Your Committee finds that the Papaya Administrative Committee (PAC) has been approached by at least five private companies with proposals for planning and constructing irradiation facilities in Hawaii, and that all of these companies have been told that at present the PAC does not see an immediate need for an irradiation facility. Your Committee recognizes the fact that without the PAC's business, the short-term future of any irradiation facility in Hawaii would be limited.

Your Committee does not wish to create a monopoly in the area of irradiation facility development and construction through issuance of special purpose revenue bonds to assist one particular company.

Your Committee has therefore explored the possibility of assigning the Governor's Agriculture Coordinating Committee to select the company which would utilize bond funds for construction of an irradiation processing facility in the State, as an alternative to directly designating through legislative act a single company in an otherwise competitive marketplace as sole beneficiary of the bond issuance. As a result of communications with the State's Bond Counsel in New York, however, your Committee has learned that this would constitute an unprecedented yielding of legislative discretionary powers to another governmental body, and your Committee has decided against pursuing this alternative.

Your Committee has amended Section 2 of this bill to require approval from the Governor's Agriculture Coordinating Committee for issuance of special purpose revenue bonds by the Department of Budget and Finance for the purposes of this measure.

Your Committee has further amended Section 2 of this bill to include a proviso that no bonds shall be issued until such time as an agreement regarding the processing of the Papaya Administrative Committee's products has been reached by the Hawaiian Agronomics Process and the PAC, and approved by the Governor's Agriculture Coordinating Committee.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1800-84, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1800-84, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.



(Representative Bunda did not concur.)

SCRep. 585-84      Water, Land Use, Development and Hawaiian Affairs on S.B.  
No. 1890-84

The purpose of this bill is to amend Act 62, Session Laws of Hawaii 1982, by:

(1) Adding a new Section 5 to the Act, thereby allowing the Department of Land and Natural Resources to develop, or assist in the development of, a residential subdivision for persons with long-term leases in the Big Island community of Miloli-Hoopuloa; and

(2) Extending the expiration date of the authorization of the Department to negotiate and enter into lease agreements with residents in the Miloli-Hoopuloa area.

Act 62 authorized the Department to negotiate and enter into long-term residential leases not to exceed 65 years for persons meeting the provision of the law. The authority set forth in the Act expires when leases are negotiated and recorded or on January 1, 1985, whichever comes first.

Your Committee is in agreement with the intent of the bill. Your Committee is of the opinion that the Department should be authorized to subdivide and provide for the creation of the residential subdivision, which would be exempt from county zoning and subdivision requirements, provided that it meets minimum requirements of health and safety. To eliminate any financial liability by the Department for the development of the residential subdivision, your Committee recommends the following amendment to page 1, lines 4-7, of the bill:

"The department of land and natural resources, on behalf of the State, is hereby authorized to subdivide and provide for the creation of a residential subdivision for persons who".

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 1890-84, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1890-84, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative KiyabuSaballa.

SCRep. 586-84      Water, Land Use, Development and Hawaiian Affairs on S.B.  
No. 2025-84

The purpose of this bill is to amend Chapter 6E, Hawaii Revised Statutes, by adding procedures in reporting the discovery of human remains, cultural remains, and artifacts and in protecting native Hawaiian burial grounds and shrines; by establishing new activities in the historic preservation program, and new duties of the State Historic Places Review Board and of the State Historic Preservation Officer; by specifying the number of meetings of the Review Board; by amending the criteria for listing state historic property; and by including curatorship of historic artifacts as an eligible funding activity.

Your Committee finds that there is a need to minimize the adverse impacts to significant historic and archaeological sites in Hawaii. This bill revises several aspects of the present law regarding historic and archaeological sites.

Your Committee is of the opinion that the discovery of human remains, cultural remains, artifacts, and native Hawaiian burial grounds and shrines may present problems. There is a lack of specific procedures necessary to dispose of the remains or artifacts uncovered at a construction site, and there is no time limitation established for the Department of Land and Natural Resources, to which the discovery of the remains or artifacts must be reported as specified in the bill, to determine whether or not such remains or artifacts have any historic or cultural value. Your Committee is in agreement with the intent of the bill, but recommends the following amendments:

(1) That Section 1 of the bill be deleted. Such amendment would eliminate the uncertainty of the impact, upon the completion of any construction project, of a discovery of human remains or artifacts. Present laws are sufficient.

(2) That, in Section 2 of the bill, definitions (6) to (10) be deleted. Without Section 1, these definitions have no context in the present law.

(3) That subsequent Sections be renumbered.

(4) That technical and non-substantive amendments be made.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 2025-84, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2025-84, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative KiyabuSaballa.

SCRep. 587-84      Water, Land Use, Development and Hawaiian Affairs and State  
General Planning on S.B. No. 1811-84

The purpose of this bill is to amend Chapter 206E, Hawaii Revised Statutes, relating to the Hawaii Community Development Authority:

(1) By amending Section 206E-2, thereby removing an inconsistency in the definition of "project costs"; and

(2) By amending Section 206E-10.5, thereby permitting the Authority to provide relocation assistance, short of direct monetary payments, to persons, families, and businesses displaced by private development action, and to make temporary relocation facilities available to those displaced, provided that government action displacees are afforded priority to the use of such facilities.

Under Section 206E-2, relocation costs are to be included as a project cost if such costs for relocation are in accord with Chapter III, Hawaii Revised Statutes, relating to the State's relocation assistance. However, Section 206E-10.5 requires the Authority to provide for relocation, notwithstanding any law to the contrary. Your Committees are in agreement that there should not be, in Section 206E-2, any reference to Chapter III, thereby permitting the Authority's relocation costs to be included in its project costs.

Under Section 206E-10.5, relocation assistance is limited to those displaced by government action. Your Committees are in agreement that residents and businesses displaced by private development should also be entitled to relocation assistance, but not including direct monetary payments.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and on State General Planning are in accord with the intent and purpose of S.B. No. 1811-84, S.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Baker and Morgado.

SCRep. 588-84      Water, Land Use, Development and Hawaiian Affairs and State  
General Planning on S.B. No. 1809-84

The purpose of this bill is to amend Section 206E-6, Hawaii Revised Statutes, relating to the Hawaii Community Development Authority, by clarifying provisions by which the Authority may issue improvement district bonds to provide for the financing of public improvements in the Kaka'ako District.

Section 206E-6 presently requires that bonds be secured solely by the improved properties and the assessments thereon, that all moneys relating to such bonds be used solely for the principal and interest payments due on the bonds, and that any premium received on the sale of bonds be deposited into the Authority's revolving fund. Your Committees are of the opinion that the Authority should be allowed to secure these bonds with its own reserve funds, bond insurance, and

other assets, as deemed necessary, to effectuate a favorable bond program. Moreover, the Authority should be allowed to use moneys, relating to the bonds, to establish reserve funds and to pay for certain expenses relating to the administration and maintenance of the program.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and on State General Planning are in accord with the intent and purpose of S.B. No. 1809-84 and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Baker and Morgado.

SCRep. 589-84      Judiciary on S.B. No. 2137-84

The purpose of this bill, as received, is to allow reasonable attorney's fees to a petitioner who prevails in a civil action against the State if a court determines that a state agency acted without a reasonable basis in law or fact. The award shall not exceed \$25,000, and shall be payable upon a budget request by the agency to the Legislature. The effect of this bill ceases on midnight of June 30, 1987.

The bill further provides that awards of attorney's fees shall apply to any civil proceedings initiated against an agency in a state court other than a family court and shall include judicial review of a final order of an agency, judicial review of a declaratory ruling of an agency, or judicial determination of the validity of an agency rule.

The bill also provides that a court may withhold all or a part of the attorney's fees awarded if the court finds that the agency has proved that its action was substantially justified or that the award is unjust because of special circumstances. The bill also prohibits the award of attorney's fees where a money judgment awarded to a petitioner, attorney's fees and costs included, is equal to or less than any monetary settlement offer, not conditioned on action by the petitioner other than dismissal of the petitioner suit, offered to the petitioner by the State prior to judgment.

Your Committee has received testimony from the Office of the Attorney General, the Retail Merchants of Hawaii, the National Federation of Independent Business, the Hawaii Business League, the Department of Commerce and Consumer Affairs, and the Department of Social Services and Housing.

Your Committee finds that it is necessary to support Hawaii's small business community by providing equal access to the courts. There are enormous disparities of resources between governmental agencies and the small business. Because of the disparity in resources, the small business do not generally challenge the validity of an agency action whenever a state agency enters a final order, issues a declaratory ruling, or establishes a rule that is not in the best interest of the small business.

Accordingly, your Committee has amended the bill by replacing "petitioner" with "small business", which is defined as an independently owned business with less than 50 employees, so that the scope of the bill is limited to benefit only small businesses.

Your Committee also has provided that awards of attorney's fees may apply to any civil proceedings initiated by a small business against an agency in a state court, and deleted the provisions relating to judicial review of a final order, declaratory rulings, or the determination of the validity of an agency rule.

It is the intent of your Committee to prohibit frivolous or nuisance suits against the State by limiting the circumstances that a court may award attorney's fees. Therefore, your Committee has further amended the bill as follows:

- (1) Requiring a finding by the court that the agency's action was frivolous and wholly without merit;
- (2) Providing that the court shall withhold all or part of the attorney's fees if the court finds in the small business' favor on only some of the issues or claims which the small business asserts;

(3) Requiring that the award of attorney's fees shall not exceed \$7,500 and shall be limited to not more than \$75 per hour; no award shall be made if the small business is represented by a publicly funded legal services organization;

(4) Requiring the small business to provide the court with evidence establishing the amount paid for services of an attorney.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2137-84, S.D. 2, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2137-84, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews, Baker, Honda and Medeiros.

SCRep. 590-84      Agriculture on S.B. No. 1577-84

The purpose of this bill is to correct a technical error in Act 253, Session Laws of Hawaii 1982, and thereby include animal and poultry producers as wholesalers, subject to the 0.5 percent general excise tax; to provide a definition of agricultural products in section 237-5, HRS; and to establish a 0.5 percent use tax on importations by licensed producers and cooperative associations.

Your Committee finds that Act 253, Session Laws of Hawaii 1982, extended the 0.5 percent excise tax rate to agricultural or aquacultural producers, but did not include animal and poultry producers, contrary to the intent of the Act. This bill corrects that technical error by extending the wholesale rate of one-half of one percent on sales to all "producers".

Your Committee finds that this provision should also be extended to the use taxation of those persons in this area so that the use tax on importations by producers and cooperative associations shall also be 0.5 percent instead of 4 percent.

For purposes of clarification, your Committee has further amended Section 4 of this bill, adopting language for section 238-4, HRS, suggested by the State Director of Taxation, which reads as follows:

"§238-4    Certain property used by producers. If a licensed producer, or a cooperative association acting under the authority of chapter 421 or 422, in order to sell to such producer, or a licensed person, imports into the State or acquires in the State commodities, materials, items, services, or living things enumerated in section 237-4(3) and (5) to (7), then such persons shall be deemed a wholesaler as provided under section 237-4. If section 237-4(3) and (5) to (7) applies and the producer is engaged in the sale of his products at retail or in any manner other than at wholesale, then the tax upon use of property in the State imposed by section 238-2(2) shall apply the same as in the case of a purchaser who is a licensed retailer. In other such cases no tax shall be imposed under this chapter."

Your Committee has also amended Section 3 of this bill to include agronomic products under the classification of "agricultural products".

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1577-84, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1577-84, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Souki and Dang.

SCRep. 591-84      Public Employment and Government Operations on S.B. No.  
2119-84

The purpose of this bill is to establish a temporary study commission to review the need for and application of the concept of comparable worth for State and county employees. The commission is to submit its preliminary findings to the Legislature prior to the convening of the regular session of 1985, and final

findings and recommendations for any needed changes to the existing statutes and personnel systems to the 1986 Legislature.

Your Committee believes that public employment should be governed by a fair and unbiased system of classification, evaluation, and compensation. Although it has been the policy of the State to ensure the development and operation of such a system for public employees, a 1979 study sponsored by the Governor's Intergovernmental Personnel Act State Advisory Committee found evidence which suggests that many government jobs in Hawaii are segregated by sex, and that female-dominated job classes receive less pay than male-dominated job classes.

Your Committee notes that the State of Washington recently lost a United States District Court case which assessed substantial monetary damages against that state because the Court found that it knowingly ignored the existence of gross pay inequities between male-dominated and female-dominated jobs requiring the same skill, effort, and responsibility levels. Soon after the ruling in that case was announced, the Hawaii Government Employees' Association announced its intention to file a similar suit against Hawaii's public employers early in 1984. In view of these recent events, your Committee believes that it would be in the public interest for the State to take the initiative in reviewing the concept of comparable worth to ensure that public employees are compensated according to an orderly and equitable system that is free from any sex discrimination or other unfair or prohibited employment practices.

Following its deliberations on this bill, on submitted testimony, and on the many arguments relating to comparable worth, your Committee has amended this bill in the following principal respects:

- (1) For the sake of brevity, Section 1 of the bill has been shortened to only state the purpose of the bill.
- (2) The numerical limitation on the composition of the commission membership has been deleted.
- (3) The Administrative Director of Courts and the State Affirmative Action Director have been included as members of the commission.
- (4) The function of the commission has been clarified to be a review and study of various issues relating to comparable worth. Underlining has been added for emphasis.
- (5) Item (1) on page 2 relating to the commission's duties has been amended from a "determination" to an "examination."
- (6) Item (2) on page 2 has been amended to include the University of Hawaii, the Department of Education, and the Judiciary as agencies whose classification and compensation systems are to be evaluated by the commission.
- (7) Item 3 on page 2 has been amended to clarify that the commission is to arrive at a "recommendation, if found necessary," rather than a "determination."
- (8) Similarly, item 4 on page 3 has been changed from a "determination" to an "examination."
- (9) The reporting requirements of the commission have been amended to require an interim report to be submitted to the 1985 Legislature and a final report to the 1986 Legislature.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2119-84, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2119-84, S.D. 2, H.D. 1 and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Honda and Nakasato.

The purpose of this bill is to allow the use of a portion of the employees' retirement system investment earnings to cover its administrative expenses.

Under existing law, the State's general fund appropriations to the employees' retirement system includes funding for the system's administrative expenses. This bill would eliminate the need to include the system's administration cost in the general fund. Moreover, to provide for careful fiscal oversight any amount paid into the expense account from the investment earnings of the system would be subject to approval by the governor and the legislature.

According to testimony submitted by the Employees' Retirement System, in a recent survey of the other 49 state retirement systems, with 40 states responding, 26 states currently have statutory authority to utilize their investment earnings to cover administrative expenses and one more state is also considering a similar amendment.

Therefore your Committee finds that it is prudent to allow the use of investment earnings for the system's administrative expenses.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2126-84, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Honda and Nakasato.

SCRep. 593-84      Public Employment and Government Operations on S.B. No.  
2183-84

The purpose of this bill is to prevent members of the Employees' Retirement System from terminating employment for the sole purpose of withdrawing their contributions.

In the opinion of the Attorney General and others who presented testimony in support of companion measure H.B. No. 2564-84, the present law does not prevent such abuse of the system. A member loses credited service upon termination, but if the member returns to service and continues employment for at least five years, the member at the point of retirement, may purchase the service in a lump sum and select an option that would require the system to refund a portion or all of the member's contributions. This measure will correct this situation and protect the State from the higher costs resulting from this kind of abuse.

Your Committee is in agreement that these activities are not consistent with legislative intent and reiterates its position delineated in Standing Committee Report No. 460-84.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2183-84, S.D. 2, as amended herein, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Honda and Nakasato.

SCRep. 594-84      Public Employment and Government Operations on S.B. No.  
2093-84

The purpose of this bill is to provide additional flexibility for the banking industry regarding the use of deposited public funds by reducing the collateral or security requirement for such funds from the current level of one hundred per cent to fifty per cent.

Your Committee received testimony from the Hawaii Bankers' Association that this flexibility will enable the banking industry to meet the future borrowing requirements of the community which will result in continued economic activity benefitting the State in the form of employment and tax revenues. In recent years, the convergence of a rapid increase in the level of public deposits, a decline in the relative amount of investment securities as a percentage of total assets, and the dramatic increase in interest rate volatility have resulted in a situation where



banks are now having to purchase additional collateral to secure public deposits. The reduction in the collateral requirement was proposed to allow the deposits of the State and its political subdivisions to have a stimulative impact on the economy of the State.

Your Committee has amended this bill by re-inserting the word "or" after each numbered subsection. The retention of this word as well as the retention of the new underscored portion on page 4 as a separate subsection provides the bill with clarity and improved organization.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2093-84, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2093-84, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Honda and Nakasato.

SCRep. 595-84      Public Employment and Government Operations on S.B. No. 878

The purpose of this bill is to amend chapter 89, Hawaii Revised Statutes, relating to Collective Bargaining, by including contributions to the public employees health fund as a negotiable item, provided that negotiations on such contributions shall be made jointly between the employers and all exclusive representatives.

Your Committee agrees that joint negotiations will simplify the administration of the public employees health fund by allowing the Board of Trustees of Hawaii Employees Health Fund to continue its fiduciary role in negotiating benefits and insurance premium rates for each authorized employee benefit plan.

Your Committee has corrected an apparent inconsistency in subsection (d) on page 2 of the bill by revising the amendment on line 2 to read "benefits to but not contributions."

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 878, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form hereto as S.B. No. 878, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Honda and Nakasato.

SCRep. 596-84      Public Employment and Government Operations on S.B. No.  
2199-84

The purpose of this bill is to increase the fixed-dollar amount of public employers' monthly dental plan insurance contributions to the children's dental plan from \$5.28 to \$5.72 per eligible child under age 19.

Over the years, your Committee has endorsed occasional amendments to the Health Fund Law to augment the public employers' dental plan contribution to compensate for inflationary rate increases.

The Administrator of the Hawaii Public Employees Health Fund testified that the Board of Trustees, pursuant to Chapter 87-3, HRS, applied a \$189,000 surplus to fund the FY 1984-85 \$.44 per eligible child monthly rate increase in the Health fund children's dental plan and no additional State or county funds are required to implement this bill.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2199-84, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Honda and Nakasato.

SCRep. 597-84      Public Employment and Government Operations on S.B. No.



2240-84

The purpose of this bill is to authorize the board of trustees of the Hawaii Public Employees Health Fund to transmit a monthly contribution towards the purchase of health benefits under the health benefits plan of an employee organization.

Your Committee received testimony from the Administrator of the Hawaii Public Employees Health Fund that the Legislature authorized the portability of contributions in the Life Insurance Plan in 1968 and Children's Dental Plan in 1980. To date, the Health Fund transmits 8,200 monthly contributions to 15 different employee organization plans.

Your Committee concurs with the intent of this bill to allow employee beneficiaries a choice of health benefit plans, other than those sponsored by the Hawaii Public Employees Health Fund, to meet their medical care needs.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2240-84, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Honda and Nakasato.

SCRep. 598-84      Public Employment and Government Operations on S.B. No.  
2209-84

The purpose of this bill is to improve and clarify the provisions of chapter 42, Hawaii Revised Statutes (HRS).

Article VII, section 4, of the Constitution of the State of Hawaii prohibits the grant of public money or property except pursuant to standards provided by law. Chapter 42, Hawaii Revised Statutes, establishes the required standards for review of grants, subsidies, and purchases of service.

Implementation of the law in the early years was not without problems, as annual evaluations of the legislative auditor attested. During the past year, however, significant improvement in implementation by state agencies was noted. But, not all problems have been solved, and the solutions require legislative amendment of the law.

This bill, among other provisions, clarifies the definitions of "grant", "subsidy", and "purchase of service", the process for solicitation and review of requests and proposals for grants, subsidies, and purchases of service by line agencies and the chief executives, and the methods of funding by the legislature. State agencies and private organizations support the general intent of the bill.

Your Committee has amended this bill as follows:

(1) The definition of purchase of service on page 2 has been revised by the deletion of the reference to an exchange of goods and services provided for cash payments, with the substitution of the following language:

"Purchase of service" means an appropriation of public funds for the provision of services by an organization to specific members of the general public on behalf of an agency to fulfill a public purpose. Payments for such services shall be substantially equal in value to the services provided; provided that, the professional services of individuals in private business or profession, and services subject to the competitive bidding requirements of chapter 103 shall be excluded.

(2) Section 42-3(1) on page 5 has been amended to allow salary and benefit increases to organizational employees if contractually approved by the director of the expending State agency.

(3) Section 42-5 on page 10 has been amended to clarify the identification of Administrative requests by agency activity and source of funding in a budget submitted.

(4) Included in the list of appropriation justification on page 11 a new item (5) "The means of financing;". Other items listed have been appropriately re-numbered.

(5) The proposed revisions to section 42-5(c) have been deleted, and as a result the present statutory language has been retained.

(6) A new section has been added to page 17 to allow legislative funding of new requests which meet the requirements specified in section 42-1(f) and which have not been included in executive recommendations.

(7) Other nonsubstantive, technical revisions have been added to improve the consistency and clarity of the provisions of the bill.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2209-84, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2209-84, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Honda and Nakasato.

SCRep. 599-84      Public Employment and Government Operations on S.B. No.  
2125-84

The purpose of this bill is to provide financial relief to state and county retirees to counter the erosion of the purchasing power of their pensions due to inflation, and the inadequacy of the present post-retirement and cost-of-living bonus provisions in the law.

The post-retirement bonus program was initiated in 1961. Thereafter, the cost-of-living bonus became effective on January 1, 1966 and was increased several times thereafter. The process of legislating these retirement increases, however, is costly and time-consuming, and your Committee finds that comprehensive changes are needed to expedite this process.

This bill provides a bonus of \$1.50 a month for each year of credited service for persons retired after June 30, 1970 and before July 1, 1975. It also provides a bonus of \$1.00 a month for persons who retired after June 30, 1975 and before July 1, 1979. In addition, the bill provides that whenever employees in active service receive a pay increase, retirees will automatically be granted a percentage of the average dollar increase approved for the employees.

Your Committee has amended the bill by adding a provision to allow for the appropriation of necessary funds for fiscal year 1984-1985 from the general fund. Pending firm cost projections, the appropriate numerical section has been left blank.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2125-84, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2125-84, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Honda and Nakasato.

SCRep. 600-84      Public Employment and Government Operations on S.B. No.  
2182-84

The purpose of this bill is to amend section 88-107, Hawaii Revised Statutes, to clarify the allocation of earnings of the Employees' Retirement System.

Existing law provides that the Employees' Retirement System can only retain 7 per cent of its investment earnings. Any earnings in excess of 7 per cent are credited to the employer's contribution to the retirement system. The bill specifies how the income retained by the system would be credited. At the same time, the amount of interest credited to the post retirement fund but not paid to members would increase from 4  $\frac{1}{2}$  per cent to 7 per cent and reduce the unfunded liability in the post retirement fund.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2182-84, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Honda, Nakasato and Wong.

SCRep. 601-84      Public Employment and Government Operations on S.B. No. 1115

The purpose of this bill is to establish a compulsory arbitration procedure for the resolution of disputes over the terms of an initial or renewed agreement involving the exclusive representative of bargaining unit (12), police officers.

Presently, firefighters are subject to a complete final offer arbitration procedure while police officers have the right to strike. However because of the nature of their work, most police officers would almost certainly be designated as "essential employees", and be forbidden to participate in a strike. Consequently, police officers do not have sufficient leverage in labor negotiations. Compulsory arbitration would provide an effective alternative to settle disputes and is in the interest of continued public health and safety.

The State of Hawaii Organization of Police Officers submitted testimony in favor of extending compulsory arbitration to police officers to effectively strengthen their collective bargaining power. Your Committee agrees that the same compulsory arbitration process which covers firefighters should be extended to police officers as a viable alternative to strike action. Following its concern for a uniform arbitration procedure for firefighters and police officers, your Committee has deleted the proposed differentiation in the selection of the third impartial arbitrator. Therefore paragraph 1 on page 3 of the bill has been amended by the deletion of the residency requirement for the third impartial police arbitrator.

Your Committee is concerned that the present law requiring the arbitration panel to select one or the other final offer is too limited and believes that more equitable settlements could be reached if the arbitration panel is allowed greater latitude in fashioning a final and binding decision. Accordingly, your Committee has amended paragraph 2 on page 5 of the bill by deleting the requirement that the arbitration panel must select the most reasonable of the complete final offers submitted by the parties, and requiring instead that the arbitration panel select "the most reasonable of the final offers on each unresolved item" submitted by the parties, and issue a final and binding decision submitted by the parties, and issue a final and binding decision incorporating "those offers" without modification. In addition, a standard severability clause has been added to the bill.

Finally, your Committee wishes to make known its intent that of the factors listed in Section 89-11 which are to be utilized by the arbitration panel, the items relating to local State and county circumstances, in particular items 4 through 6 delineating local economic conditions, should be seriously considered. In this regard, the proposed amendment to item 6 has been deleted, and as a result, that item remains in its present statutory form.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 1115, S.D. 2, as amended herein, and recommends that it pass Second Reading and be referred to the Committee on Finance in the form attached hereto as S.B. No. 1115, S.D. 2, H.D. 1.

Signed by all members of the Committee except Representatives Honda and Nakasato.

SCRep. 602-84      Public Employment and Government Operations on S.B. No. 2213-84

The purpose of this bill is to reduce the public employees' monthly contributions to their health benefits plan by increasing the fixed dollar amounts of the public employer's monthly contribution to the medical plan.

Your Committee finds that over the years, the Legislature has had to make similar adjustments to the Public Employees Health Fund law in order to keep pace with the increased cost of medical insurance.

Representatives from the Hawaii Government Employees Association, the City and County of Honolulu's Department of Civil Service, and the Hawaii State Teachers Association submitted testimony in support of this bill.

Your Committee has amended this bill as follows:

1. On page 1, lines 6 and 7, your Committee has increased the employers' contribution from \$15.98 to \$26.04 for individual coverage, and from \$49.14 to \$80.04 for family coverage; and

2. On page 2, line 3, your Committee has inserted an appropriation totaling \$5,338,842 in general revenues for fiscal year 1984-85, which represents the State's increased contribution to the Public Employees Health Fund.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2213-84, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2213-84, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Honda and Nakasato.

SCRep. 603-84      Public Employment and Government Operations on S.B. No.  
1841-84

The purpose of this bill is to create a non-contributing benefit plan for certain members of the Employees' Retirement System (ERS).

Currently, public employees contribute six per cent plus one and eight-tenths per cent of their gross salaries as a post-retirement contribution, to the Employees' Retirement System, and most contribute an additional six and seven-tenths per cent to the Social Security System. In practical terms, this contribution results in retirement benefits which generally exceeds final take-home pay while employed and is costly to both employers and employees alike. These costs are expected to increase in the future, and viewed together with the low takehome pay ratio already experienced by most public workers, indicate that the system is inefficient and needs to be substantially changed.

The noncontributory benefit plan proposed in this bill will address the problems inherent in the system by doing the following (1) increasing employees' take home-pay; (2) providing a typical career public employee with combined system and Social Security benefits substantially equivalent to the employee's pre-retirement income; (3) giving present members of the system a choice of benefit plans; (4) making the system more tax efficient; (5) enhancing the opportunities for more individualized retirement planning; and (6) ultimately simplifying the administration of the system.

Your Committee has amended the bill to exempt members covered under section 88-74(3) from part VII of chapter 8 establishing the new non-contributory system. Section 88-46 subsections (1) and (3) on page 5 have been amended accordingly.

In addition, your Committee has incorporated several non-substantive stylistic revisions to part VII of chapter 8 as suggested by the Employees' Retirement System in the presentation of its testimony to correct typographical errors and for clarity and organization, and they are as follows:

- (1) Page 7, line 2: "88-51" has been changed to "88-52".
- (2) Page 8, line 23: The phrase "and post retirement" has been inserted between "accumulated" and "contributions". In that same sentence, the phrase "with any interest credited thereon" has been deleted.
- (3) Page 9, line 4: The word "of" has been changed to "to".
- (4) Page 9, line 10: The phrase "and post retirement" has been inserted after the word "accumulated". In that same sentence, the phrase "with any interest credited thereon" has been deleted.
- (5) Page 9, beginning at line 17: A semicolon after "88- (a)" has been added. A reformatting of the rest of the subsection is as follows:

- (3) Service for members who return to service in the manner described in section 88- (b);
- (4) Service rendered prior to becoming a class C member in any of the categories described in section 88-51 which is not included in any of the above; provided that such service shall be credited by purchase at any time after January 1, 1985, and after completing five years of service as a class C member, in the following manner:
- (A) If the member had withdrawn the member's accumulated and post retirement contributions, by paying to the system in a nonrefundable lump sum an amount equal to eight per cent interest compounded annually on any . . .
- (6) Page 10, line 11: The words "and post retirement" after the word "accumulated" have been added.
- (7) Page 10, line 18: The word "nonrefundable" has been added after the word "a".
- (8) Page 10, beginning at line 22: The phrase "each year of service;" has been deleted and replaced with the phrase, "the period from the date the employee contributions should have been made to the date of purchase;"
- (9) Page Page 11, line 3: Item "3" has been renumbered to "5".
- (10) Page 11, line 5: Item "4" has been renumbered to "6".
- (11) Page 11, line 10: The phrase "class C" has been added after the word "any".
- (12) Page 11, lines 15 and 18: The phrase "class C" has been added after the word "former".
- (13) Page 13, line 5: The word "to" has been deleted and the following phrase "and shall be eligible to apply for" has been added.
- (14) Page 13, line 8: A new conforming subsection has been added and reads as follows:
- (d) A member may retire upon the written application to the board specifying the desired date of retirement which shall be not less than thirty days nor more than ninety days subsequent to the date of filing. If the member dies after the date of filing the application to retire but prior to the effective date of retirement, the member's designated beneficiary may receive the member's retirement benefits which shall be computed as though the member died on the effective date of retirement under the mode of retirement selected.
- (15) Page 13, line 19: The word "annual" has been deleted.
- (16) Page 14, line 1: The word "annual" has been deleted.
- (17) Page 15, line 3: A new conforming subsection has been added to read as follows:
- (4) Any election of a mode of retirement shall be irrevocable.
- (18) Page 16, line 1: The word "annual" has been deleted.
- (19) Page 16, line 6: The phrase "an annual" has been deleted and has been replaced with the word "a".
- (20) Page 15, lines 2, 14, 15, 20, and 21: The word "annual" has been deleted.
- (21) Page 16, lines 18  
Page 17, lines 1, 2, 7, 11, 12, 17, 22  
Page 18, lines 1, 8, 9, 14  
Page 19, lines 3, 5, 9: The word "annual" has been deleted.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 1841-84, S.D. 2, as amended herein, and

recommends that it pass Second Reading in the form attached hereto as S.B. No. 1841-84, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 604-84      Public Employment and Government Operations on S.B. No. 1725-84

The purpose of this bill is to authorize a holdover member of a board or commission to continue membership until a successor is nominated and appointed. The bill would also limit such membership by providing that a holdover member shall not hold office beyond the second regular legislative session following the expiration of the member's term of office.

Your Committee received testimony from the State Planning Council on Developmental Disabilities in support of this bill indicating that in most instances a full complement of Board members is required to legally conduct business, and, that in the past, a number of logistical problems have arisen when less than a full complement of members were available.

Your Committee finds that allowing holdover membership with limitations on the length of service of a holdover board or commission member better serves the intent of Article V, Section 6 of the State Constitution, governing executive and administrative offices and departments.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 1725-84, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Honda, Nakasato and Anderson.

SCRep. 605-84      Consumer Protection and Commerce on S.B. No. 1744-84

The purpose of this bill was to require the licensing of each person who provides services within the practice of medicine under the supervision of a physician, and to reduce the existing three year residency training requirement for foreign medical graduates to one year.

The bill further provides as follows:

(1) Amend existing law and require the Board to establish clear guidelines for shortage areas where physicians with a temporary license may practice.

(2) Provide that the Medical Advisory Committee may also advise the Department of Commerce and Consumer Affairs (DCCA).

(3) Require the employment of an employee of the DCCA to administer the medical claims conciliation panel. Currently, the DCCA provides administrative support to the Board.

(4) Require consumer complaints, peer review committee adverse decisions, insurance reports on medical tort cases, and convictions of physicians for violation of controlled substance law and possible violations of medicine and surgery law to be transmitted to the DCCA instead of the Board.

(5) Amend the procedure for subpoena of adverse decision reports by allowing for the subpoena of evidence other than patient records and deleting references to the Board. Currently, only the production of hospital records of those whose cases were reviewed by a peer review committee may be compelled. This amendment broadens the subpoena power.

(6) Allow temporary certification for emergency ambulance personnel and require the Board to establish an emergency medical services committee and to define the scope of practice of emergency medical services and degrees of supervision required.

(7) Establish a uniform method of certifying persons as qualified in emergency medical services by requiring the Board to use certification standards of the National Registry of Emergency Medical Technicians.

(8) Require the Board to establish standards relevant to medical practice in Hawaii.

(9) Clarify the Board's responsibilities by requiring it to assume direct responsibility for reviewing medical training credentials and administering examinations.

(10) Extend the existence of the Board of medical Examiners to December 31, 1990. Currently, the Board's existence is effective until December 31, 1984.

(11) The bill has been amended to reduce the existing three year residency training requirement for foreign medical graduates to two years.

Testimony was offered by the Board of Medical Examiners, the Department of Health of the State of Hawaii, the Department of Health of the City and County of Honolulu and practicing physicians who are foreign medical graduates. The testifiers each respectively addressed the sections of the bill which were of concern to them.

Your Committee, upon further consideration, has amended the bill by deleting all of the sections with the exception of section 3 and section 9. Section 3 extends the existence of the Board of Medical Examiners to December 31, 1990, and section 9 amends the current existing three year residency training requirement for foreign medical graduates to two years.

Your Committee has deleted the other sections because it either lacked merit and/or there was no testimony offered in support of it.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1744-84, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1744-84, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Baker.

SCRep. 606-84      Water, Land Use, Development and Hawaiian Affairs and  
Agriculture on H.C.R. No. 6

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to study:

(1) The feasibility of assigning complete jurisdiction to the State of Hawaii over all matters concerning agricultural lands, including the shifting of the zoning and improvement maintenance responsibilities for such lands from the various counties to the State; or

(2) The enactment of an exemption similar to that provided for the Hawaii Housing Authority projects; and

(3) If it is deemed feasible to assign complete jurisdiction to the State, an addressing of the issue as to whether jurisdiction should be assigned to the Department of Land and Natural Resources or to the Department of Agriculture.

Your Committees find that there is a problem of split jurisdiction over agricultural land use. The existing situation where both the State and counties have jurisdiction, where State and county may have aims not in complete harmony with each other, and where uncertainties regarding agricultural land use policies, laws, and rules are inevitable, because of the split responsibility, should be examined.

Technical and non-substantive amendments have been made.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and on Agriculture concur with the intent and purpose of H.C.R. No. 6, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 6, H.D. 1.



Signed by all members of the Committees.

SCRep. 607-84      Agriculture and Water, Land Use, Development and Hawaiian  
Affairs on H.R. No. 27

The purpose of this resolution is to request the Legislative Reference Bureau to study:

(1) The feasibility of assigning complete jurisdiction to the State of Hawaii over all matters concerning agricultural lands, including the shifting of the zoning and improvement maintenance responsibilities for such lands from the various counties to the State; or

(2) The enactment of an exemption similar to that provided for the Hawaii Housing Authority projects; and

(3) If it is deemed feasible to assign complete jurisdiction to the State, an addressing of the issue as to whether jurisdiction should be assigned to the Department of Land and Natural Resources or to the Department of Agriculture.

Your Committees find that there is a problem of split jurisdiction over agricultural land use. The existing situation where both the State and counties have jurisdiction, where State and county may have aims not in complete harmony with each other, and where uncertainties regarding agricultural land use policies, laws, and rules are inevitable, because of the split responsibility, should be examined.

Technical and non-substantive amendments have been made.

Your Committees on Agriculture and on Water, Land Use, Development and Hawaiian Affairs concur with the intent and purpose of H.R. No. 27, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 27, H.D. 1.

Signed by all members of the Committees.

SCRep. 608-84      Higher Education and the Arts on H.R. No. 115

The purpose of this resolution is to request the University of Hawaii to conduct a study of the feasibility of establishing a Pacific Basin executive chef school in Hawaii and to submit a report of its findings and recommendations to the Legislature prior to the convening of the Regular Session of 1985.

Your Committee has been informed that according to the 1979 Annual Report of the State Commission on Manpower and Full Employment, the greatest demand area for visitor industry employees is in the food service occupation category.

Your Committee has heard testimony that the major providers of food service training in Hawaii are the University of Hawaii community colleges, specifically Kapiolani, Leeward, Maui, and Hawaii. The students who graduate from these programs have skills to qualify only for entrance level chef positions.

If these students wish to upgrade or advance themselves, they are required to gain additional skills through on-the-job training or relocate to the mainland to attend the few, expensive, professional culinary institutes such as the Culinary Institute of America in New York City.

The result of this lack of training opportunities is that the majority of executive chefs in the major hotels and restaurants of our islands are from abroad. Due to lack of money, Hawaii residents are not able to attain upper level positions and other goals that they may have set for themselves.

Your Committee on Higher Education and the Arts concurs with the intent and purpose of H.R. No. 115, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 609-84      Human Services on H.R. No. 117

The purpose of this resolution is to request the Department of Social Services and Housing to evaluate the incidence of second and third generation welfare families in an attempt to isolate factors which may be creating a multigenerational welfare syndrome.

Your Committee finds that the tremendous rise in social welfare costs during the past decade poses a great concern that future costs will continue to grow at alarming rates. Analysis of the causes is important in order to contain costs.

Your Committee finds that there are implications that children growing up in a welfare family environment may be prone to become welfare recipients because they may feel less stigma in receiving public assistance. Other more accepted causes are lack of employment and educational opportunities, family instability and disabilities. There is lack of substantiation to indicate the correlation of these factors and how they result in acceptance of a welfare standard of living. This resolution would review the possible social causes as well as the more readily recognized factors in order to arrive at a more complete understanding of the cyclical welfare problem.

Your Committee has amended this resolution to include the support of the University of Hawaii in this study.

Your Committee on Human Services concurs with the intent and purpose of H.R. No. 117, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 117, H.D. 1.

Signed by all members of the Committee except Representative Baker.

SCRep. 610-84      Human Services on H.R. No. 56

The purpose of this resolution, as received by your Committee, is to request the Department of Health to study the feasibility of establishing an Alzheimer's Disease Center, to be attached to an existing hospital in Honolulu, to provide day activities and programs for persons afflicted with the disease and to collect data on the incidence of the disease in Hawaii.

Your Committee finds that Alzheimer's Disease results in the long-term, progressive deterioration of the brain as manifest in impaired memory, language ability, judgement, learning, and other intellectual abilities. Emotional disturbances and rages also make the victim very difficult to care for by family members. Because the disease is typically not covered by public or private insurance, caring for the victim can be financially devastating, and most nursing homes refuse to accept such persons as patients. Finally, the victim may become completely incapacitated, and eventually may die of pneumonia due to greatly diminished resistance to illness.

Your Committee is troubled by the lack of public or private assistance or programs for victims of the disease and their families. It is also concerned that the number of persons afflicted by the disease in Hawaii may be increasing due to the aging of the State's population profile. Your Committee thus believes attention must be given to this dreaded disease and on ways that assistance and support can be given to disease sufferers and their families.

In the public hearing on this resolution, testimony was received from the Kuakini Medical Center indicating that it already has a project underway to study and diagnose persons suffering from Alzheimer's Disease. Your Committee has therefore amended this resolution by changing its purpose to request the Department of Health to estimate the prevalence of Alzheimer's Disease among Hawaii's elderly, including the number of persons who may need appropriate programs, and to request a description of programs other states have provided to assist victims and their families. The title of the resolution has been amended accordingly. Other amendments include the addition of a "Whereas" clause describing Kuakini's recently funded project relating to Alzheimer's Disease and numerous other organizational and wording changes for stylistic purposes and clarity.

Your Committee on Human Services concurs with the intent and purpose of H.R. No. 56, as amended herein, and recommends that it be referred to the Committee on Finance, in the form attached hereto as H.R. No. 56, H.D. 1.

Signed by all members of the Committee except Representative Baker.