

SCRep. 379-86

Judiciary on H.B. No. 2397-86

The purpose of this bill is to extend the time to file a civil action for damages or injury to a child when a criminal action involving the same incident is pending.

The present statute of limitations is not tolled where there is a criminal action arising out of the same incident. Therefore, if a victim's parents wish to recover damages for injuries suffered, said persons may have to file a civil action during the period of time the criminal action is being prosecuted.

Your Committee heard testimony in support of the bill from Mr. Joseph Ryan and the City and County of Honolulu Victim/Witness Kokua Services. Victim/Witness Kokua Services testified that there are potential problems and conflicts if the victim's family is forced to commence a civil action prior to the conclusion of the criminal action.

Your Committee amended the bill to clarify that the pending criminal action extends to the final adjudication in the trial court but does not include an appeal.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2397-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2397-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 380-86

Judiciary on H.B. No. 2526-86

The purpose of this bill is to extend the wiretap law to include wireless communications.

The present wiretap law covers only wire communications.

Your Committee heard testimony in support of the bill from GTE Mobilnet Incorporated (GTE). GTE testified that they received a Certificate of Public Convenience from the Public Utilities Commission and that they will be introducing cellular telephone service to Hawaii later this year. This service is a new form of mobile and portable telephone service which the Federal Communications Commission recently authorized. They further testified that this bill will insure that the wire tap law will protect all private telephone conversations regardless of how the call is placed. The Prosecutor's Office, City and County of Honolulu initially opposed the bill because the definition of "wireless communication" was too broad.

Your Committee finds that advancing technology has resulted in more sophisticated telecommunications equipment and service.

Your Committee amended the definition of "wireless communication" to include the term domestic public cellular radio telecommunications to conform with the term used by the Federal Communications Commission terminology to describe the service.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2526-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2526-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 381-86

Judiciary on H.B. No. 1690-86

The purpose of this bill is to amend the Uniform Probate Code by increasing the jurisdictional limit for small estate administrations; by deleting the provisions relating to informal probate proceedings; by increasing the net value of an estate that may be collected by affidavit; and by making other technical amendments to the chapter.

Presently, the code provides for informal probate proceedings if a decedent's estate is valued at \$40,000 or less and administration by the court clerk for estates valued at \$20,000 or less.

Your Committee heard testimony in support of this bill from the Judiciary and a representative from Hawaiian Trust Company, Ltd.

Under this bill, those estates up to \$30,000 will be administered by the court clerk and informal probate procedures will be eliminated. The representative from Hawaiian Trust Company testified that the informal probate was not facilitating settlement and saving money to the decedent's estate. Your Committee also heard testimony that informal probate procedures oftentimes placed an undue burden on individuals who were named as personal representatives because such individuals were inexperienced in settling an estate and unfamiliar with probate laws. This sometimes resulted in increased costs and time in settling an estate. By increasing the jurisdictional amount for small estates, beneficiaries will have the benefit of the court clerk in settling a decedent's estate.

The Judiciary testified that additional funding would not be needed to implement the bill since the increase in value of personal property which can be collected by affidavit will offset an increase in the caseload caused by increasing the small estate ceiling.

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

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1690-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1690-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Taniguchi.

SCRep. 382-86 Judiciary on H.B. No. 2465-86

The purpose of this bill is to amend sections 706-605 and -642, HRS, to ensure that the payment of restitution has priority over the payment of the fine in cases where both are imposed and that no fine shall be collected until the restitution or reparation order is satisfied.

At the present time, sections 706-605 and -642, HRS, do not provide that payment of restitution take priority over the payment of the fine.

Your Committee received testimony from the Office of the Prosecuting Attorney in each of the four counties in support of this bill. Your Committee finds from the testimony received that prompt and fair restitution is an essential aspect in rehabilitating the defendant and compensating the victim.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2465-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 383-86 Planning, Energy and Environmental Protection and Health
on H.B. No. 2513-86

The purpose of this bill is to remove reference to the lot size requirements of Act 282, Session Laws of Hawaii, 1985, in situations where a septic tank followed by a subsurface disposal field is used to dispose of domestic sewage.

During deliberations on this bill, your Committees received a proposed amendment from the Hawaii Housing Authority. Inasmuch as the proposed amendment would effect major changes to this bill, your Committees feel that an additional hearing for this bill, in its amended form, should be scheduled. Without the amendment providing the revised contents of this bill, members of the public cannot be apprised of what the amended bill specifically purports to do. Thus, your Committees find that a hearing for the amended form of the bill is necessary.

Your Committees on Planning, Energy and Environmental Protection and Health are in accord with the intent and purpose of H.B. No. 2513-86, as amended herein, and recommend that it be recommitted to the Committees on Planning,

Energy and Environmental Protection, and Health for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2513-86, H.D. 1.

Signed by all members of the Committees except Representatives Hagino, Kiyabu, Leong and Kamali'i.

SCRep. 384-86 Employment Opportunities and Labor Relations on H.B. No. 1672-86

The purpose of this bill is to amend the Employment Security Law to allow payment of unemployment benefits to an owner-employee of a corporation upon a showing of good cause for dissolution of business.

Your Committee received testimony in favor of this bill from the Department of Labor and Industrial Relations (DLIR) and the Hawaii Business League. Similar provisions currently exist in Chapter 5, Title 12, Administrative Rules of DLIR. Your Committee believes that this bill would ensure that owner-employees are eligible to receive unemployment benefits upon certain conditions.

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

(1) Redefined an "owner-employee" to clarify that it means a "person who has performed services for an employing unit as defined in this section, and who is or has been a shareholder owning twenty-five per cent or more of the corporation's common stock, and a director or officer, or both, of a corporation which is or was the employing unit or who exercises a substantial degree of control over the direction of corporate activities."

(2) Deleted the good cause provisions which would render individuals eligible for benefits since interpretations of good cause are already included in the Administrative Rules.

(3) Permitted the transfer of the applicable portion of the organization's reserve fund if both the acquired and the acquiring organizations agree.

(4) Added a severability clause.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of H.B. No. 1672-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1672-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Nakasato and Onouye.

SCRep. 385-86 Employment Opportunities and Labor Relations on H.B. No. 2010-86

The purpose of this bill is to amend the Hawaii Revised Statutes so that the name change from the "State Commission on Manpower and Full Employment and Human Resources" to the "State Commission on Employment and Human Resources" will be reflected on all applicable and related sections of the statutes.

Through an oversight, Act 252, Session Laws of Hawaii, Regular Session of 1985, did not include provisions to incorporate the name change in related sections of the Hawaii Revised Statutes. This bill will make the appropriate changes.

Your Committee on Employment Opportunities and Labor Relations is in accord with the intent and purpose of H.B. No. 2010-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 386-86

Employment Opportunities and Labor Relations and Judiciary
on H.B. No. 2009-86

The purpose of this bill is to allow the Court to render a judgment based on a certified copy of the decision of the Director of Labor and Industrial Relations from which no appeal has been taken.

The present Section 378-37, Hawaii Revised Statutes, allows the department or the employee affected to petition the Circuit Court if the employer fails or neglects to comply with the final order of the department. However, in addition to the petition, the record of the proceedings must be filed, including all documents and papers on file, and the pleadings and testimony upon which the order was entered.

This bill would streamline the procedure by permitting the department or affected employee to obtain court judgment on the basis of a certified copy of the final decision of the director in a case where the employer does not appeal. Also the cost of obtaining a judgment would be reduced as this bill would eliminate the requirement of transcribing the tape or tapes of the hearing and transmitting and copying the entire record of the proceedings.

Your Committees on Employment Opportunities and Labor Relations and Judiciary are in accord with the intent and purpose of H.B. No. 2009-86 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Apo and Nakasato.

SCRep. 387-86

Judiciary on H.B. No. 1740-86

The purpose of this bill is to require that every deed or other instrument presented for registration or recordation include the assigned tax map key number for the real estate to be conveyed.

Presently, the law does not require the tax map key number of a parcel or condominium unit to be included in any instrument that is recorded in the Bureau of Conveyances or filed in the Land Court.

Your Committee heard testimony in support of the bill from Hawaii TMK Service and the Department of Taxation ("Tax Office"). Hawaii TMK Service testified that including the tax map key number on the instrument will enable private individuals and companies to trace real estate title. The Department of Land and Natural Resources (DLNR) testified against the bill. The DLNR believed that a review should be conducted to determine the impact of the bill.

Your Committee finds that the bill will increase the efficiency and should reduce the cost of title searches.

Your Committee recommended that the bill be amended as follows:

(1) Change the "Department of Taxation" to the "Department of Finance, Real Property Section". The Tax Office testified that the City and County of Honolulu handles real property assessment, tax maps and tax map key numbering;

(2) Addition of section to limit the responsibility of the DLNR, if incorrect tax map key numbers are provided on documents. The DLNR raised a concern that it did not want to verify the tax map key numbers. The DLNR would accept for registration or recordation all documents so long as a tax map key number was contained in the document. Verification was of special concern in the case of land court property since the State guaranteed title;

(3) Addition of provision for location of tax map key number. A concern was expressed that the tax map key number may be difficult to find in an instrument. Your Committee recommended that the DLNR determine by rule where the tax map key number should be placed in the document. Because the DLNR had more experience with recording and filing of documents, it would be in a better position to decide where in the document the tax map key number should be placed;

(4) Change the effective date to January 1, 1987. Your Committee recommended that the effective date be delayed to allow the DLNR time to implement

rules pertaining to the location of the tax map key number and to evaluate the impact of the bill on their automation and microfilming programs. In addition, your Committee believed the DLNR should use the time to disseminate information regarding the new requirements; and

(5) Require tax map key numbers for all instruments. Your Committee believed that the tax map key number should be required for all instruments and not only deeds and other conveyances. There may be other instruments that affect real property, such as a mortgage or an easement.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1740-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1740-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 388-86 Judiciary on H.B. No. 2361-86

The purpose of this bill is to clarify the methods of service by which personal jurisdiction may be acquired over a party in actions under chapter 584, HRS.

Under the present law, the court may acquire jurisdiction by personal service outside of the State and by any other method authorized by statute.

This bill would provide that personal service outside of the State and service by certified or registered mail are sufficient to acquire jurisdiction.

The Judiciary testified in support of this bill and further stated the bill would clarify the methods of service by which personal jurisdiction may be acquired.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2361-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 389-86 Judiciary on H.B. No. 1993-86

The purpose of this bill is to amend section 662-15, Hawaii Revised Statutes, to exempt the State from liability for all training activities of the Hawaii National Guard and during the period the Hawaii National Guard is engaged in federal service.

Under the present law the Hawaii National Guard is only exempt under the State Tort Liability Act for claims arising out of combat activities.

Your Committee received testimony from Alexis T. Lum, State Adjutant General, in support of this measure. General Lum's testimony indicated that if the law is not changed, the State will remain exposed to claims arising out of activities in which guardspersons are engaged while on federal duty status.

Your Committee also received testimony from the Hawaii Academy of Plaintiffs' Attorneys (HAPA) in opposition to this bill. The testimony from HAPA indicated that the bill is unnecessary to the extent that it immunizes the State from liability for acts not done by its employees and that the proposed language is overly broad, vague, and ambiguous. HAPA also indicated that the broad language could well include times when the guardspersons are employees of the State and therefore, leave victims without redress.

While in agreement with the intent of the bill to provide an exemption for the Hawaii National Guard under the State Tort Liability Act, your Committee finds that the language is broad and ambiguous. Your Committee has therefore amended the bill to only exempt the National Guard from liability during the times it is engaged in federal service.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1993-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1993-86, H.D. 1, and be placed on the

calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 390-86 Consumer Protection and Commerce and Health on H.B. No. 1829-86

The purpose of this bill is to add a new section to Chapter 445, Hawaii Revised Statutes, to provide for definitions of hotel or boardinghouse, lodging or tenement house, and restaurant and to repeal Section 445-97, Hawaii Revised Statutes, relating to a fee for private boarders.

Your Committees received favorable testimony from the Department of Health.

Your Committees on Consumer Protection and Commerce and Health are in accord with the intent and purpose of H.B. No. 1829-86 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Leong.

SCRep. 391-86 Consumer Protection and Commerce on H.B. No. 2038-86

The purpose of this bill is to amend Chapter 453, Hawaii Revised Statutes, to allow temporary certification of physician assistants; provide explicit grounds for denial of licenses; accelerate reporting requirements of disciplinary decisions; deter submission of false information; establish the limits for fines; clarify that remedies and penalties are cumulative; clarify that Chapter 91, Hawaii Revised Statutes, is applicable for license denial hearings; and make provisions relating to temporary certificates for emergency medical service personnel correlate to those for physician assistants.

Your Committee received favorable testimony from the Board of Medical Examiners (Board). The Board presented the following testimony:

1. The national examination for physician assistants, as provided in Section 453-5.3, Hawaii Revised Statutes, is held once a year in October. Some schools have extended their courses to end in February. To avoid an applicant's inactivity and loss of skills in the period between February to the release of examination results, the proposed amendment will authorize the Board to issue a one-time, temporary certificate to a successful graduate during that period.

2. Under existing law the denial of a license application is made on uncertain statutory grounds. The proposed amendments to Section 453-8, Hawaii Revised Statutes, will clarify the Board's power to deny a license. It will also make the proposed expanded grounds for disciplinary action against a licensee, including the requirement of prompt reporting, apply similarly to the denial of a license. Also, the existing ground for disciplinary action under Section 453-8(a)(14) with respect to reporting disciplinary decisions in other jurisdictions, is vague with respect to where and when the report must be filed. The amendments to this section make this clear. Further, Section 453-8(a)(15) has been added to make clear that all statements and documents submitted to the Board must be true and have no material omissions.

3. Presently, the limit of a \$500 fine per violation that exists in the criminal penalty section, Section 453-13, Hawaii Revised Statutes, has acted as the limit of fines that can be imposed under the disciplinary action Section 453-8.2. These fines have not been increased since 1955. The amendment is to provide limits in disciplinary actions of no less than \$500 and no more than \$5,000 for each violation, exclusive of disciplinary proceeding costs. Also, Section 453-8.2(b) has been added to give clear notice to licensees that the Board may order one or more of the remedies provided for in the section as appropriate relief if they violate the law.

4. Section 453-9, Hawaii Revised Statutes, has been amended to provide the right to a hearing to applicants whose applications are denied.

5. Presently, emergency medical service personnel may use a temporary certificate under Section 453-32.5, Hawaii Revised Statutes. This bill will make the eligibility and term of the certificate similar to that provided in Section 453-5.3.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2038-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 392-86 Consumer Protection and Commerce on H.B. No. 2217-86

The purpose of this bill is to amend those sections in Chapter 437, Hawaii Revised Statutes, which have been affected by Act 204, Session of Laws Hawaii 1982. This bill would also amend Chapter 437 by deleting gender references and indefinite modifiers.

Under Act 204, Session Laws of Hawaii 1982, the Legislature required that all boards and commissions delegate their authority to receive, arbitrate, investigate, and prosecute complaints through the Department of Commerce and Consumer Affairs. Accordingly, this delegation of authority is fully implemented by deleting provisions contained in Sections 437-6, 437-28 and 437-30, Hawaii Revised Statutes, which refer to the Motor Vehicle Industry Licensing Board's power to investigate, compel the attendance of witnesses, administer oaths, issue subpoenas and maintain records of proceedings.

Your Committee received favorable testimony from the Motor Vehicle Industry Licensing Board.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2217-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 393-86 Water, Land Use, Development and Hawaiian Affairs on
H.B. No. 2835-86

The purpose of this bill is to designate high technology districts in Hawaii.

H.B. No. 2835-85 was introduced as a short-form bill, which is sometimes referred to as a "vehicle" bill primarily used for convenience to introduce a bill containing only a general idea as to its purpose and means without specific details in long form. Your Committee has amended the bill to provide the substantive contents of the bill in long form so that a public hearing may properly be held on its substantive provisions. Without the amendment providing the substantive contents, members of the public cannot be duly apprised, in advance of the hearing, as to what the bill specifically purports to do and the specific means by which it intends to achieve the desired results. Thus, a hearing on a short-form bill may not be helpful, and a notice thereof could be less meaningful.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2835-86, as amended herein, and recommends that it be recommitted to the Committee on Water, Land Use, Development and Hawaiian Affairs, for the purpose of holding a public hearing thereon, in the form attached hereto as H.B. No. 2835-86, H.D. 1.

Signed by all members of the Committee except Representatives Crozier, Tom, Isbell and Kamali'i.

SCRep. 394-86 Consumer Protection and Commerce on H.B. No. 1908-86

The purpose of this bill is to amend Section 26H-4, Hawaii Revised Statutes, to extend the Pest Control Board until December 31, 1992.

Your Committee heard testimony from the Pest Control Board of the Department of Commerce and Consumer Affairs and the Hawaii Pest Control Association in support of the bill.

The Hawaii Pest Control Association testified that there is significant potential for harm to the public health, safety, and welfare from activities of pest control operators. Unskilled, negligent, or dishonest pest control operators can seriously

endanger the public health and environment as well as cause significant property damage and financial loss to consumers. The Pest Control Board and the Association supported the continued regulation of the pest control industry.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1908-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1908-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 395-86

Housing on H.B. No. 2123-86

The purpose of this bill is to clarify that the free assignability of leases under section 516-63, HRS, does not apply to residential leasehold units or lots developed and sold by the Hawaii Housing Authority or other State and county agencies.

The Hawaii Housing Authority testified that use and transfer restrictions are placed on dwelling units developed and sold by the Hawaii Housing Authority pursuant to chapter 359G, HRS. These owner-occupancy and transfer restrictions are placed on units developed with government funds to discourage speculation and assure utilization of the units by the segment of the public which the program is intended to benefit.

The present language of section 516-33, HRS, however, would appear to invalidate the owner-occupancy and transfer restrictions on dwelling units developed pursuant to chapter 359G and sold under a lease. This "housekeeping" measure clarifies that the right to freely assign one's lease pursuant to section 516-33 does not apply to the ten year restriction placed on lots developed and sold under chapter 359G, or other similar restrictions.

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 2123-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 396-86

Health and Human Services on H.B. No. 1951-86

The purpose of this bill is to add to the program elements within the community residential treatment system of the mental health program of the State, a new element providing an unsupervised, independent living arrangement for persons who do not need professional support or supervision.

This bill would bring within the jurisdiction of chapter 334, Hawaii Revised Statutes, those unlicensed, unsupervised, independent living arrangements which currently exist if the operator applies for State funding. A large number of complaints apparently have been received by various agencies, including the department of health and the Ombudsman, attesting to problems with both the operators and residents of such living arrangements. Abuses have been reported in which operators are involved in the questionable use of food stamps belonging to residents and improperly cause welfare and social security checks to be cashed. Much of these problems arise due to the fact that these unsupervised living arrangements are unlicensed. This bill would require that such unlicensed arrangements be licensed if the operator requests State funding under this chapter.

Your Committees agree that these unlicensed living arrangements should be subject to monitoring and have amended the bill to more clearly show that the department of health shall have the responsibility of overseeing the operational, fiscal, and resident selection policies for each living arrangement. The bill also was amended to provide that the unsupervised, independent living arrangement would apply not only to substance abuse treatment programs but also to mental health treatment programs. Finally, the bill was amended to provide that the living arrangement shall be designed and intended to allow persons to be fully released into the community within 12 months.

Your Committees on Health and Human Services are in accord with the intent and purpose of H.B. No. 1951-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1951-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Leong.

SCRep. 397-86 Health and Judiciary on H.B. No. 2170-86

The purpose of this bill is to grant an immunity from civil liability to those authorized persons who withdraw blood at the direction of a police officer for testing of the blood's alcoholic content.

Presently, medical personnel, including private laboratory personnel, are reluctant to withdraw blood from a person suspected of driving under the influence of intoxicating liquor because of the possibility of civil liability. This bill would remove the impediment and should effectively assist the police in the testing of blood.

To insure that the taking of blood is appropriately done and that there be no abuse of the suspect or his rights, the bill provides that only authorized persons may withdraw blood and that there is no immunity from civil suit where any damage to the suspect arises from the authorized persons' gross negligence or wanton acts or omissions.

Your Committees on Health and Judiciary are in accord with the intent and purpose of H.B. No. 2170-86 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Leong.

SCRep. 398-86 Health and Judiciary on H.B. No. 1999-86

The purpose of this bill is to more clearly define the term "medical records" by excluding therefrom certain classifications of medical records in order to improve record keeping operations, and to establish retention periods for those medical records which come within the definition of the term.

Under present statutory provisions the term "medical records" is so broad as to require the retention of virtually every kind of record, including those which should be routinely discarded after reasonable retention periods. While these types of medical records are not significant or important, the law requires either their retention or the costly abstracting/microfilming of these records. This bill would make it possible for the discarding of those medical records which are not significant or important.

The effect of this bill also would be to enable a health care provider to reduce his record keeping costs by requiring that he shall retain his records for twenty-five years with respect to adults and for twenty-five years following the attainment of majority with respect to minors. Presently, he is required to retain his records permanently.

Your Committees agree that there are certain types of records which are not important or significant and only add to the cost of health care. However, your committees could not agree to the deletion of mass immunization records, x-ray films, electro-encephalogram tracings and similar records from the retention requirements. The bill has been amended to reflect this position.

The bill also was amended to correct an inadvertent error by changing the word "thirty" which appears on line 7 of page 3 to read "twenty-five."

Your Committees on Health and Judiciary are in accord with the intent and purpose of H.B. No. 1999-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1999-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Leong.

SCRep. 399-86

Public Employment and Government Operations on H.B. No.
2569-86

The purpose of this bill is to provide that the legislative, executive and judicial branches of government may give consideration to the "Aloha Spirit" in exercising their respective powers.

Your Committee received testimony from the Judiciary, Alu Like, Incorporated and several individuals in support of this measure. The testimony indicated that the "Aloha Spirit" is the coordination of mind and heart within the individual and embodies kindness, unity, agreeableness, humility and patience. These character traits express the charm, warmth and sincerity of Hawaii's people and their working philosophy. Moreover, the "Aloha Spirit" is the essence of Hawaii and is what makes the "Aloha State" and its people so unique.

Although the Hawaiian Political Action Council of Hawaii testified in opposition to this bill claiming its enactment would constitute an infringement upon religious freedom, your Committee believes it is important that the "Aloha Spirit" be enacted as public policy. Its guiding principles are especially relevant to decision-making by all three branches of government. Hopefully, this legislation will help improve decisions made by government as well as perpetuate the "Aloha Spirit" so that future generations will not lose sight of the cultural bonds which hold the "Aloha State" together.

Your Committee on Public Employment and Government Operations is accord with the intent and purpose of H.B. No. 2569-86 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 Nakasato.

SCRep. 400-86

Transportation on H.B. No. 2374-86

The purpose of this bill is to amend Section 286-108, Hawaii Revised Statutes, which would allow the examiner of driver's to waive the road test of applicants who possess a valid driver's license issued by the Commonwealth of the Northern Mariana Islands.

Your Committee finds from testimony presented that the Commonwealth was not included in H.B. No. 495-85, H.D. 1, which became Act 26, since the Commonwealth did not require the knowledge and road tests as a condition for issuance of an initial driver's license. Since that time, the Commonwealth has instituted these requirements. Your Committee therefore agrees with the intent of this bill to provide for the waiver.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2374-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Lardizabal, Manegdeg, Souki and Yoshimura.

SCRep. 401-86

Transportation and Judiciary on H.B. No. 2599-86

The purpose of this bill is to reclassify information contained in the motor vehicle registration file, including the owner's name and address, as public information.

Your Committees received testimony from the Department of Transportation opposing passage of this bill due to possible constitutional issues. Testimony was also received from G.A. Morris on behalf of R.L. Polk & Co. favoring passage of this bill due to the problems encountered in attempting to obtain information from the motor vehicle registration file.

Your Committees have concerns about classifying the motor vehicle registration file as a public record and will therefore delete the provision on page 3, lines 18 to 21 and page 4, lines 1 and 2, dealing with that issue. Your Committees feel the safeguards contained in the present law are reasonable and the only obstacle appears to be the amount of the bond.

Your Committees have deleted the phrase "a penal sum to be determined by the director" on page 3, lines 2 and 3, and have inserted the appropriate language to set the amount of the bond at not more than \$50,000.00. The original bracketing has been deleted throughout the body of the bill to keep the existing statutory language.

Your Committees on Transportation and Judiciary are in accord with the intent and purpose of H.B. No. 2599-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2599-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 402-86

Transportation and Judiciary on H.B. No. 2444-86

The purpose of this bill is to amend Section 291-21.3, Hawaii Revised Statutes, to delete the definition of "luminous reflectance". In addition, this bill amends Section 291-21.5, subsection (d) (7) and (8), Hawaii Revised Statutes, by deleting "and a luminous reflectance of no more than twenty per cent plus or minus three per cent" from sun screening devices for the front side wing vents, windows, rear side windows and rear window necessary for driving visibility.

Presently, the law requires that sun screening devices be tested for luminous reflectance. The law does not specify the angle of incidence at which point the reflectance should be tested. Therefore, the testing of luminous reflectance remains vague.

Representatives from the State Department of Transportation, City and County of Honolulu's Department of Finance, Police and Prosecuting Attorney submitted testimony in support of this bill. Testimony indicated that testing for luminous reflectance is difficult due to a lack of proper testing devices. Testimony also indicated that light transmittance is sufficient for testing of tinted vehicle windows.

Your Committees on Transportation and Judiciary are in accord with the intent and purpose of H.B. No. 2444-86 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 403-86

Transportation and Consumer Protection and Commerce on
H.B. No. 1895-86

The purpose of this bill is to relieve the seller of a motor vehicle from civil or criminal liability when possession of the motor vehicle is transferred to the purchaser pursuant to a contract of sale and the purchaser has given the seller a binder of insurance on such motor vehicle.

Your Committees find that there is some uncertainty in the interpretation of the present law as to the exact point in time liability passes to the purchaser. This bill clarifies this question by setting specific requirements which would exempt the seller from civil or criminal liability.

Your Committees received testimony from the Hawaii Automobile Dealers Association favoring passage of this bill. The Department of Finance of the City and County of Honolulu opposed this bill as it felt the present statutes adequately protected the seller from liability. Upon further questioning by your Committees, the Department of Finance testified it would not strongly oppose the bill if the bill required only proof of insurance rather than a binder of insurance.

Your Committees would like to note it is not the intent of these Committees to exempt dealers from liability for negligence with regards to manufacturing or mechanical defects in the condition of the vehicle.

Your Committees have amended this bill in Section 1, page 7, line 10, by deleting the words "given to" and inserting therefor the word "provided"; and on line 11 of the same page by deleting the words "a binder" and substituting the words "with proof" to clarify what the purchaser needs to provide to the seller under this bill.

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

Your Committees on Transportation and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 1895-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1895-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Lardizabal, Manegdeg, Souki and Tom.

SCRep. 404-86 Transportation and Consumer Protection and Commerce on
H.B. No. 2192-86

The purpose of this bill is to 1) require insurers to issue a proof of insurance card for liability insurance issued to motorcycles and motor scooters, 2) require the card to be kept in the motorcycle at all times, 3) require production of the card upon demand by a police officer and 4) require production of the card for vehicle safety inspection purposes.

Your Committees find that present law does not require insurers to issue cards for proof of liability insurance policies held by motorcycle or motor scooter owners. As a result, safety inspection stations as well as police officers could not determine whether these vehicles were covered by the required insurance.

Your Committees on Transportation and Consumer Protection and Commerce received testimony from the Department of Commerce and Consumer Affairs, the Honolulu Police Department, and the Department of Finance of the City and County of Honolulu favoring the passage of this bill. Testimony was also received from the Hawaii Business League who did not oppose the bill but was concerned about the practicalities of requiring the proof of insurance to be in the vehicle at all times.

Your Committees have amended the bill in Section 2, page 4, line 8, by inserting the phrase "carried on the person operating the insured motorcycle or motor scooter, or" after the word "be" to clarify where the proof of insurance card can be kept or placed.

Your Committees on Transportation and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2192-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2192-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Lardizabal and Manegdeg.

SCRep. 405-86 Transportation on H.B. No. 2605-86

The purpose of this bill is to allow the Department of Transportation to utilize volunteer enforcement officers to assist the regular enforcement officers in enforcing State laws and rules.

Your Committee finds that there presently exists a shortage of permanent enforcement officers to enforce the laws and rules relating to the shore and shorelines. This bill would allow the use of volunteer enforcement officers to supplement the existing force of permanent enforcement officers.

Your Committee received testimony from the Department of Transportation favoring passage of the bill to provide the director of the Department of Transportation with the authority to appoint volunteer enforcement officers.

Your Committee had some concerns with regards to conferring full police powers to the volunteer enforcement officer and has therefore amended the proposed language on page 2, lines 17 through 23 which would clarify the powers and authority of the volunteer enforcement officers.

Your Committee has also amended the bill on page 2, lines 1 and 4, by adding the words "and volunteer enforcement officers" after the word "officers" on the respective lines.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2605-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2605-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 406-86 Transportation on H.B. No. 2348-86

The purpose of this bill is to provide motor carrier safety officers with additional enforcement powers to enter into property or buildings of motor carriers to inspect freight, equipment, and various other documents held by the motor carrier.

Your Committee finds that the present statute is very broad and this bill would provide some specificity as to the enforcement powers of the Department of Transportation.

Your Committee received testimony from the Department of Transportation favoring passage of this bill. Testimony was also received from the Hawaii Transportation Association opposing passage of this bill. Upon further questioning by your Committee, the Hawaii Transportation Association representative stated there would be no objections to the bill if the provisions that allow enforcement personnel "to inspect and copy any and all accounts, books, records, memoranda, licenses, permits, correspondence," were deleted from this bill.

Your Committee has amended the bill by deleting the proposed language on page 2, lines 1 through 6, beginning with the word "enter". In its place, your Committee has included language which would specify the powers of enforcement which are given to the Department of Transportation.

Your Committee has also amended the bill on page 1, line 13 by adding the phrase, "and the safe transportation of hazardous materials and waste on any public highway," after the word "public".

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2348-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2348-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 407-86 Transportation on H.B. No. 2598-86

The purpose of this bill is to conform the provisions of Act 104, Session Laws of Hawaii, 1985, to meet constitutional requirements by limiting the Department of Transportation's jurisdiction to water areas and several sectors of Waikiki Beach.

Your Committee finds that under the present law, there was some question as to the constitutionality of the provisions dealing with management over these public lands. This bill would clarify the Department of Transportation's jurisdiction over certain portions of these public lands.

Your Committee received testimony from the Department of Transportation favoring passage of this bill, to conform the Department of Transportation's jurisdiction over State public lands to constitutional requirements.

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

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2598-86 and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2598-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Lardizabal, Manegdeg and Souki.

SCRep. 408-86 Employment Opportunities and Labor Relations and Consumer Protection and Commerce on H.B. No. 1322

The purpose of this bill is to require out-of-state employers who plan to commence employment within the State to register with the Director of Labor and Industrial Relations a statement of approximate total wages to be paid, and the dates of employment activity within the State. Employer will be required to file notice of insurance and a copy of insurance contract or policy which has been countersigned by a licensed insurance agent.

The passage of this bill will subject out-of-state employers to the same worker's compensation requirements that are generally imposed on local employers.

Your Committees on Employment Opportunities and Labor Relations and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 1322 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Hirono, Menor, Oshiro, Tom, Jones and Liu.

SCRep. 409-86 Employment Opportunities and Labor Relations and Consumer Protection and Commerce on H.B. No. 2714-86 (Majority)

The purpose of H.B. No. 2714-86 is to amend Section 383-10, Hawaii Revised Statutes, by including tips which are paid directly by a customer to a worker and reported to the employer for income and payroll tax deduction purposes as "wages" for unemployment purposes.

Currently, tips which are paid directly by a customer to a worker are considered wages for unemployment purposes only if they are reported to the employer to meet minimum wage standards. Tips reported to an employer for federal tax reporting purposes are not considered wages and are excluded in computing the individual's entitlement to benefits.

Your Committees on Employment Opportunities and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2714-86 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Apo, Nakasato and Tom.
(Representative Anderson did not concur.)

SCRep. 410-86 Planning, Energy and Environmental Protection and Water, Land Use, Development and Hawaiian Affairs on H.B. No. 2015-86 (Majority)

The purpose of this bill is to give the Board of Land and Natural Resources the discretion to hold a public hearing when the proposed use of lands is for commercial purposes. This bill will also clarify certain sections of Chapter 183-41, Hawaii Revised Statutes.

Your Committees find that Section 183-41(c)(1), HRS, requires the Board of Land and Natural Resources to hold a public hearing on every application which proposes a use of land for commercial purposes even if the application may have an insignificant impact upon the conservation subzone. This requirement creates a burden upon the Board in light of the 180 day deadline. Your Committees feel that the Board, given the discretion to waive hearings on applications of insignificant impact, will be better able to address issues of greater significance.

Your Committees further find that Section 183-41, HRS, regulates the uses within conservation districts, however, the title has never been changed from the original designation of "Forest and Water Reserve Zones". Your Committees feel that the term "conservation districts" will clear the confusion that currently exists regarding the purpose of this statute.

Your Committees have amended this bill by providing additional language to Section 183-41(d), HRS. Your Committees feel that the Board of Land and

Natural Resources should be required to hold public hearings in all cases where the proposed commercial use has substantial effects on the uses of the district as determined by the Board.

Your Committees have further amended this section by providing that the Board shall publish a public notice of commercial use applications determined to be of insignificant impact at least once within both a newspaper of statewide circulation and a newspaper published within the county in which the property is located. Your Committees have further specified that this notice shall be published no later than ten days prior to a regular meeting of the Board.

Your Committees on Planning, Energy and Environmental Protection and Water, Land Use, Development and Hawaiian Affairs are in accord with the intent and purpose of H.B. No. 2015-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2015-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.
(Representative Pfeil did not concur.)

SCRep. 411-86 Human Services and Employment Opportunities and Labor
Relations on H.B. No. 1838-86

The purpose of this bill is to establish a priority for unwed, teenage mothers under the federal Job Training Partnership Act (JTPA) of 1982.

The Department of Labor and Industrial Relations, in testifying in support of this bill, acknowledged that states are given broad discretion in determining priorities under JTPA and that unwed, teenage mothers at present are not specifically addressed in the Act.

Your Committees believe that unwed, teenage mothers have a high propensity for ending up on our welfare rolls. National statistics show that 50 percent of women on AFDC were unwed, teenaged mothers. Your Committees believe that the odds of dropping out of school are much higher for unwed, teenage mothers. Furthermore, national statistics show that the odds of having subsequent pregnancies for women who were unwed, teenage mothers are much higher. Unless job training is provided, the cycle of dependency for these individuals will be difficult to break. In the long run, therefore, placing a priority on this population will result in cost-savings to the State.

Your Committees on Human Services and Employment Opportunities and Labor Relations are in accord with the intent and purpose of H.B. No. 1838-86 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives
Kiyabu, Leong, Nakasato, Yoshimura and Anderson.

SCRep. 412-86 Human Services on H.B. No. 2002-86

The purpose of this bill is to amend Act 272, Session Laws of Hawaii, 1985, to correct the purpose section of the Act to delete independent group residences from the scope of adult residential care homes.

Since passage of Act 272, however, the U.S. Department of Housing and Urban Development (HUD) has notified the Department of Health and the Department of Social Services and Housing that independent group residences must continue to be licensed in order for the residents to qualify for federal rent subsidy.

Your Committee therefore amended the bill by deleting independent group residences from the category of adult residential care homes, but added independent group residences to Section 321-11, Hawaii Revised Statutes, to provide for the licensing authority for such residences.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2002-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2002-86, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 413-86 Human Services on H.B. No. 2001-86

The purpose of this bill is to amend Section 46-4, Hawaii Revised Statutes, to protect the mentally ill from discrimination in housing.

Your Committee heard testimony in support of this bill from the Department of Health, the Department of Social Services and Housing, the Commission on the Handicapped, United Group of Home Operators, and Mental Health Association in Hawaii.

Under current law, the elderly, handicapped, and developmentally disabled who live in group facilities are protected by law against discrimination in housing. Unfortunately, the mentally ill were inadvertently omitted when Act 272 was passed by the 1985 Legislature. This bill corrects the oversight.

In addition, however, since there are boarding homes on land zoned for agricultural use, your Committee made further amendments by deleting the phrase "in areas zoned for residential use" on page 1, line 3, and page 2, line 14, of the bill.

The DSSH testified that similar amendments were necessary for other sections of the Act. Your Committee, therefore, made these amendments in the interest of consistency and completeness.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2001-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2001-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Kiyabu and Leong.

SCRep. 414-86 Human Services on H.B. No. 1950-86

The purpose of this bill is to provide immunity to condominium associations, owners of a building, landlords, lessors, or other owners of real property for any negligence by a tenant or lessee in connection with operating a child care facility on the premises.

After providing child care in her apartment for thirteen years, Joan Sequito was sued by her condominium association. The association was concerned about possible liability because of her work as a family day care provider. The Circuit Court of the State of Hawaii in July 1985 ruled that child care was a proper residential use but that since the association was potentially liable in any action for negligence, the action by the association curtailing Joan Sequito's child care activities was proper.

Your Committee finds that there is a severe shortage of child care providers in Hawaii, particularly for children under two. The majority of child care providers are family day care providers and the majority of family day care providers are renters. As a result of the court decision in the Joan Sequito case, your Committee is concerned that unless legislative action is taken, the supply of family day care providers will be further eroded.

Your Committee believes strongly that child care providers perform a necessary service for the working parents of Hawaii. Family day care is the primary type of care available, as well as the preferred type of care, and an increase in the number of persons providing this service would be a desirable legislative objective.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 1950-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

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

SCRep. 415-86

Human Services on H.B. No. 2069-86

The purpose of this bill is to expand the scope of persons required to report elderly abuse or neglect so as to include the staff of skilled nursing facilities, intermediate care facilities, adult residential care homes, and adult day care centers.

Your Committee heard testimony in support of this bill from the Department of Social Services and Housing, the Executive Office on Aging, the Office of Human Resources of the City and County of Honolulu, and the Protection and Advocacy Agency of Hawaii.

Your Committee reviewed the statutes on child abuse and elderly abuse. Because of the similarities between these two social problems, your Committee amended the bill to pattern the reporting requirements for elderly abuse after those in the child abuse statute. The amendment included elimination of the two-tiered approach to reporting. Under current law, health care providers are required to report elderly abuse to the DSSH, while employees of hospitals and medical facilities are required to report to the facility. The facility would thereupon transmit the report to the DSSH. Your Committee believes that the two-step procedure for employees of hospitals and medical facilities is unnecessary. The bill was therefore amended to require all persons to report directly to the DSSH.

Your Committee further amended the bill by adding employees and officers of adult residential care homes and adult day care centers. Employees and officers of skilled nursing facilities and intermediate care facilities are covered by existing reporting requirements as employees and officers of medical facilities.

Your Committee also amended the bill by providing for a penalty of \$500.00 for any person failing to file a written report on elderly abuse.

The bill was further amended to include financial exploitation to the definition of elderly abuse and neglect. Currently, DSSH refers reports of financial exploitation of the elderly to the Protection and Advocacy Agency of Hawaii. Your Committee finds that the referral provides an opportunity for advocates for the elderly to look into the specific circumstances of a report and believes that this practice should continue.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2069-86, as amended herein, and recommends that it pass Second Reading and be placed on the calendar for Third Reading, in the form attached hereto as H.B. No. 2069-86, H.D. 1.

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

SCRep. 416-86

Consumer Protection and Commerce on H.B. No. 1695-86

The purpose of this bill is to amend Chapter 431, Hawaii Revised Statutes, by adding a new section which would provide general casualty insurance on a group basis.

Your Committee received favorable testimony from the Department of Health, the Hawaii Transportation Association and the National Federation of Independent Business.

Your Committee finds that there is a dire need to resolve the insurance crisis which has left many businesses with either unaffordable insurance premiums or no insurance carriers to provide such coverage.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1695-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 417-86 Consumer Protection and Commerce on H.B. No. 2354-86

The purpose of this bill is to amend Chapter 514A, Hawaii Revised Statutes, by adding a new section which would provide that apartment owners may purchase parking stalls from the developer.

Your Committee received favorable testimony from the Hawaii Association of Realtors, the Hawaii Council of Associations of Apartment Owners and Lee Brothers, Inc.

Your Committee, upon further consideration, has amended the bill in order to clarify the intent of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2354-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2354-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 418-86 Consumer Protection and Commerce on H.B. No. 2756-86

The purpose of this bill is to amend Chapter 467, Hawaii Revised Statutes, by adding a new section to allow a person whose license has been revoked or automatically terminated to apply for a license as a new applicant after the revocation period or after repayment to the real estate recovery fund. The bill would also require both a broker and a salesperson to reapply as a salesperson.

Your Committee received favorable testimony from the Hawaii Association of Realtors (Association). The Association testified that it was fully supportive of the intent of the bill and in agreement that the Real Estate Commission should have the authority to take into account an applicant's previous education, examination score and or experience in issuing a new license.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2756-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 419-86 Consumer Protection and Commerce on H.B. No. 2693-86

The purpose of this bill is to amend Chapter 281, Hawaii Revised Statutes, by adding a new section authorizing a person who holds a manufacturer's or wholesale dealer's license who sold and delivered liquor to a licensee or to others, and who did not receive payment for such liquor by the expiration of the 42nd day from the date of delivery, to charge the licensee or other purchaser interest of 1 percent of the unpaid balance.

Your Committee received favorable testimony from the Wholesale Liquor Dealers Association (Association). The Association testified that this bill would prevent the wholesale dealer or manufacturer from being compelled to pay taxes on sales which have not been collected or received. Further, credit sales laws are common in the 35 states which, like Hawaii, have adopted a "license" system of regulating their liquor industry.

Your Committee, upon further consideration, has amended page 2, lines 15 and 19, by deleting the word "invoice" and inserting the word "delivery". This amendment would conform subsection (c) to subsection (a), which sets forth that the grace period for payments will be measured from the date of delivery and not the date of the invoice. Your Committee has also amended this bill by making some technical, nonsubstantive changes for purposes of style and clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2693-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2693-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 420-86

Consumer Protection and Commerce on H.B. No. 2586-86

The purpose of this bill is to amend Section 431-300, Hawaii Revised Statutes, by allowing insurers to deposit any of its funds in shares or share draft accounts in solvent state-chartered credit unions or federally-chartered credit unions.

Your Committee received favorable testimony from the Department of Commerce and Consumer Affairs (Department), the Hawaii Federal Credit Union, the Honolulu Federal Employees' Federal Credit Union, the Pacific Corporate Federal Credit Union, the Hawaii Central Credit Union and the Hawaii State AFL-CIO. The Department testified that present statutory language allows insurers to deposit its funds only in banks or trust companies and savings and loan associations.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2586-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 421-86

Consumer Protection and Commerce on H.B. No. 2030-86

The purpose of this bill is to amend Chapter 440, Hawaii Revised Statutes, by adding a new section which would list the specific causes for license revocation, suspension or fines; hold managers and seconds liable for the actions of their boxers; include a maximum penalty provision; include a provision allowing the State Boxing Commission to prohibit any person, partnership or corporation found in violation of the chapter from engaging in any boxing activities in Hawaii; and add a section indicating all penalties or remedies are cumulative to each other.

Your Committee heard favorable testimony from the Department of Commerce and Consumer Affairs (Department). The Department testified that the new section clarifying the basis for suspension or revocation of a license or to fine a licensee includes a list of violations similar to those found in other licensing statutes. The Department testified that the provision holding managers and seconds liable for the actions of their boxers is required because, in many instances, a boxer relies totally on the integrity and expertise of his manager or second for guidelines in handling "paperwork" and financial matters and, therefore, the manager or second should, in certain circumstances, share the responsibility for a boxer's alleged violation of the statute. The Department also testified that a maximum penalty provision is required for clarification and to serve as a deterrent. Further, the provision banning a licensee from all boxing activities in Hawaii for a period in conformity with Chapter 92, Hawaii Revised Statutes, is based on the fact that there are many different types of licenses relating to boxing, and this provision ensures that a licensee, whose license has been suspended or revoked for cause, may not attempt to acquire a "different" license or work in some capacity related to boxing during the period in question. Finally, the Department testified that the addition of a cumulative penalties section ensures that a licensee can be pursued under one or all of the provisions which provide penalties for violation of the law.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2030-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 422-86

Consumer Protection and Commerce on H.B. No. 2695-86

The purpose of this bill is to amend Chapter 486, Hawaii Revised Statutes, by adding a new section to prohibit the sale of an item labeled "made in Hawaii" unless the item has been actually manufactured, assembled, or fabricated in Hawaii.

Your Committee received favorable testimony from the Department of Planning and Economic Development and the City and County of Honolulu. The City and County of Honolulu testified that this bill does not seek to keep non-Hawaii goods off the market. Instead, it seeks to have "made in Hawaii" a recognized label, associated only with goods actually made in Hawaii. By so creating such a label,

it will give local manufacturers their own market "niche".

The City and County of Honolulu also submitted a house draft which would amend Chapter 486, Hawaii Revised Statutes, by adding a new section which would prohibit any person from keeping, offering, displaying or exposing for sale or solicit for sale any item which is labeled "made in Hawaii" and has not been manufactured, assembled, or fabricated within the State of Hawaii.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2695-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2695-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 423-86 Consumer Protection and Commerce on H.B. No. 2525-86

The purpose of this bill is to amend Chapter 431, Hawaii Revised Statutes, by prohibiting mid-term cancellations of insurance policies except for grounds expressly allowed by providing a written notice requirement when cancellation is permitted, and restricting arbitrary nonrenewal policies.

Your Committee received favorable testimony from the Insurance Division (Division) of the Department of Commerce and Consumer Affairs. The Division testified that during the past several months, it has been inundated with phone calls and letters from businesses and nonprofit groups concerned about the non-renewal of their insurance policies and their inability to find replacement coverage. The Department also testified that many of the insurers are foreign insurance companies which transact business in several states. A few states have already enacted prohibitions and notice requirements and several other states are presently considering similar statutory amendments. Therefore, this amendment to Chapter 431, Hawaii Revised Statutes, would not be unduly burdensome on such insurers as they are either required to comply with such provisions or will be required to comply shortly when other states enact such legislation.

Your Committee finds the following:

1. Subsection (a) of the bill exempts from this proposed amendment certain insurance contracts;
2. Subsection (b) of the bill provides the grounds for which mid-term cancellations are permissible, and when such cancellations are effective;
3. Subsection (c) permits insurers to insert a clause providing for cancellation upon notice if the term of a policy is longer than one year or for an indefinite term; and
4. Subsection (d) gives policyholders the right to renewal, tempered by the insurers' right under (d) and (e) to give notice of nonrenewal or to give notice to change in terms or premiums in the manner prescribed and for grounds specified.

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

1. On page 1, line 11, the phrase "...automobile insurance contracts,..." has been added to subsection (a)(2);
2. On page 2, subparagraph (b)(1)(F) has been deleted; and
3. On page 6, line 20, subsection (d)(2) has been added between subsection (b)(2) and the words "does not".

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2525-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2525-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 424-86

Consumer Protection and Commerce on H.B. No. 2040-86

The purpose of this bill is to amend Section 103-3, Hawaii Revised Statutes, by clarifying the authority of the Contractors License Board and the trustees of the travel agency recovery fund to retain attorneys.

Your Committee received favorable testimony from the Department of Commerce and Consumer Affairs (Department). The Department testified that there are three recovery funds established in the Department to address consumer losses: the real estate recovery fund, the contractors recovery fund, and the travel agency recovery fund. In each case, a board or commission is given authority to manage the fund and to hire an attorney to represent the fund. However, through what the Department believes to have been an oversight, only the Real Estate Commission was given an exemption from the restrictions on the hiring of attorneys.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2040-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 425-86

Consumer Protection and Commerce on H.B. No. 2039-86

The purpose of this bill is to amend Chapter 437B, Hawaii Revised Statutes, relating to Regulation of Motor Vehicle Repairs, by adding a new section entitled "Aiding and abetting", which will make it unlawful for a registered repair dealer or registered mechanic to aid or abet an unregistered dealer or mechanic with the intent of evading the motor vehicle repair law and set forth that such conduct is subject to prosecution. The bill also clarifies the statutory licensing exemption; makes it possible for registered motor vehicle repair dealers or mechanics to place their registration on an inactive status for the biennial licensing period; and provides for the automatic termination of the registration when a bond is not kept active.

Your Committee heard testimony in support of the bill from the Motor Vehicle Repair Industry Board (Board) of the Department of Commerce and Consumer Affairs and from the Hawaii Business League. Your Committee also heard testimony from the Hawaii Insurers Council and the Automotive Technicians of Hawaii P.A.C. in opposition to the bill.

The Board testified that Section 437B-2, Hawaii Revised Statutes, has caused some confusion since this section seems to exempt all governmental employees from registration or certification as motor vehicle repair dealers or motor vehicle mechanics. The proposed amendment will make it clear that government officers and employees are exempt from the requirements of Chapter 437B only when they are carrying out the functions of their government employment. The Board also testified that there is no provision in the law which will permit a registrant to place an active registration on inactive status. This provision exists in other laws administered by the Department of Commerce and Consumer Affairs. To provide equity to motor vehicle repair dealers and mechanics who may wish to place their registrations on an inactive status, a new subsection has been added to Section 437B-9 to allow a licensee to place an active registration on inactive status.

The Board also testified that under the Administrative Procedures Act, the Board is required to conduct a formal hearing to prevent a registrant from operating after the expiration or cancellation of a bond. It takes several weeks before a hearing can be held, and there is nothing to prevent a registrant from continuing to engage in business thereby exposing the consuming public to potential losses. To remedy the situation, amendments proposed in Section 437B-26 provide for the automatic suspension of a registrant's registration effective immediately upon the expiration or cancellation of the bond, with the possibility of termination of the registration should the registrant fail to activate the bond to a current and valid status. A due process provision has also been added to allow a registrant to appeal the termination of the registration.

Finally, the Board testified that all boards and commissions are required to delegate their authority to receive, arbitrate, investigate and prosecute complaints to the Department of Commerce and Consumer Affairs under Act 204, 1982 Session

Laws of Hawaii. This bill repeals Sections 437B-6 and 437B-18 to bring Chapter 437B into conformance with the meaning and intent of Act 204.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2039-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 426-86 Consumer Protection and Commerce on H.B. No. 1905-86

The purpose of this bill is to amend Section 26H-4, Hawaii Revised Statutes, by extending Chapter 437 (Motor Vehicle Industry Licensing Board) to December 31, 1992.

Your Committee received favorable testimony from the Motor Vehicle Industry Licensing Board and the Hawaii Automotive Dealers' Association.

Your Committee, upon further consideration, has amended page 3, line 20, by correcting the name of the Board from the "Motor Vehicle Repair Industry Board" to the "Motor Vehicle Industry Licensing Board". Your Committee has also made non-substantive changes to correct drafting errors.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1905-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1905-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 427-86 Consumer Protection and Commerce on H.B. No. 1906-86

The purpose of this bill is to amend Section 26H-4, Hawaii Revised Statutes, by extending Chapter 437B (Motor Vehicle Repair Industry Board) to December 31, 1992.

Your Committee received favorable testimony from the Motor Vehicle Repair Industry Board (Board), the Hawaii Business League, the Hawaii Automotive and Retail Gasoline Dealers, and the Automotive Body and Painting Association of Hawaii.

Your Committee, in light of the Legislative Auditor's Report No. 86-4, dated January 1986, has amended the bill by requiring that the Board contract with the University of Hawaii to develop and administer a certification program for motor vehicle mechanics.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1906-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1906-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 428-86 Consumer Protection and Commerce on H.B. No. 2118-86

The purpose of this bill is to amend Section 294-10, Hawaii Revised Statutes, by utilizing the Western Region Consumer Price Index in place of the Honolulu Metropolitan Area Consumer Price Index for purposes of computing the medical-rehabilitative tort threshold under the Hawaii No-Fault Insurance Law.

Your Committee received favorable testimony from the Motor Vehicle Repair Industry Board (Board) of the Department of Commerce and Consumer Affairs. The Board testified that Act 181, 1985 Session Laws of Hawaii, requires the Insurance Commissioner of the Department of Commerce and Consumer Affairs to annually revise the medical-rehabilitative tort threshold by directly indexing the threshold level to the Consumer Price Index for medical care in Honolulu as

published by the U. S. Bureau of Labor Statistics. The Board has been informed, however, that effective January 1987, the Bureau of Labor Statistics (Bureau) will only publish the Consumer Price Index for metropolitan areas, including Honolulu, on a semiannual basis; currently, the Index is published on a bimonthly basis.

In light of the Bureau's intention to change the frequency of publication of the Honolulu Consumer Price Index from bimonthly to semiannually, the current threshold formula as measured from April to April of each year will no longer be possible when the threshold is revised in 1987.

Accordingly, it has been recommended by the consulting actuary for the Insurance Division of the Department of Commerce and Consumer Affairs that the index formula be switched from the Honolulu to the Western Region Index, which will continue to be published monthly. The actuary's recommendation determines that the Honolulu and Western Region medical indices have moved in a reasonably close fashion and that the Western Region Index may be more stable than the Honolulu Index.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2118-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 429-86

Consumer Protection and Commerce on H.B. No. 2216-86

The purpose of this bill is to amend Chapter 471, Hawaii Revised Statutes, by adding new sections which would provide for criminal penalties and cumulative penalties. This bill would also remove the reinstatement or restoration of license provision, clarify and add additional "causes" for disciplinary action against licensees, remove the two-year limitation for license suspension, remove the criminal penalty provision calling for imprisonment and require only administrative penalties, and increase the maximum fine for each violation.

Your Committee received favorable testimony from the Board of Veterinary Examiners (Board). The Board provided the following testimony:

1. The new section relating to "criminal penalties" has been added to include the language formerly contained in Section 471-13, Hawaii Revised Statutes, and to clarify the type of penal sanctions which may be imposed.
2. The new section relating to cumulative penalties clarifies that both criminal and administrative penalties, as provided in Chapter 471, Hawaii Revised Statutes, can be imposed on a licensee.
3. The reinstatement or restoration of license provision is being deleted from Section 471-10(a), Hawaii Revised Statutes, because it is already provided in Section 92-17.
4. The addition of the word "fine" to Section 471-10(b), Hawaii Revised Statutes, is to clarify existing authority provided by Section 92-17. The clarification of and the inclusion of additional causes for disciplinary action is to assist the Board in its enforcement efforts in regulating the industry and protecting the public. The sentence regarding the time limitation for a license suspension as provided at the end of Section 471-10 is being deleted because it is already provided for in Section 92-17.
5. The "criminal penalty" provision relating to "imprisonment" has been removed from Section 471-13, Hawaii Revised Statutes, and placed in the new section referenced above. The intent is to have Section 471-13 refer only to administrative penalties. Accordingly, the increase in the maximum penalty limitation is based on the fact that these fines have not been increased in over thirty years and that it would provide a strong deterrent effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2216-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 430-86 Consumer Protection and Commerce on H.B. No. 2493-86

The purpose of this bill is to amend Section 444-9.2, Hawaii Revised Statutes, to clarify the contractors license law in regards to advertising.

Your Committee received favorable testimony from the Contractors License Board (Board), the Plumbing & Mechanical Contractors Association of Hawaii and the Hawaii Business League. The Board testified that present statutory language gives the impression that it is a misdemeanor only if an unlicensed person advertises in a directory as a contractor under the classification of contractor. Accordingly, an unlicensed person could circumvent the intent of the law by advertising in a directory other than under the classification of contractor.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2493-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 431-86 Consumer Protection and Commerce on H.B. No. 2238-86

The purpose of this bill is to amend Chapter 346, Hawaii Revised Statutes, by adding a new section to part VIII, subpart A, to eliminate the requirement that child care facilities maintain liability insurance. The bill also requires child care facilities that do not have liability insurance to disclose this fact to parents of children under their care.

Your Committee received testimony in favor of the bill from the Department of Social Services and Housing (DSSH) and People Attentive to Children (PATCH).

Current licensing regulations require insurance coverage of \$5,000 per child and \$10,000 per occurrence. Your Committee believes that removing the current requirements for coverage as a condition for licensing and leaving the decision on the amount of coverage to the child care facility would be one solution to the problem. Also, removing liability coverage as a condition of licensure provides the further benefit of allowing the facility to continue to seek adequate and affordable coverage without having to close its operation or operate in violation of DSSH rules.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2238-86, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 432-86 Consumer Protection and Commerce on H.B. No. 2074-86

The purpose of this bill is to amend Section 291-51, Hawaii Revised Statutes, to correct a medical notation describing a disabled person's arterial oxygen tension.

Your Committee, upon further consideration, has amended the bill by replacing the medical notation ($P_A O_2$) with ($P_a O_2$).

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2074-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2074-86, H.D. 1.

Signed by all members of the Committee.

SCRep. 433-86 Judiciary on H.B. No. 2364-86

The purpose of this bill is to amend section 584-14(c), HRS, to clarify the circumstances under which a man may be subject to the jurisdiction of the court in a parentage action.

Presently under section 584-14(c), HRS, evidence offered by an alleged father with respect to a man who is not subject to the jurisdiction of the court concerning the sexual access to the mother during the probable time of conception of

the child is only admissible if the man has undergone and made available to the court blood test results which could possibly establish his paternity to the child.

Your Committee finds from the testimony presented that the amendment in this bill would clearly indicate that a man who is identified and is subject to the jurisdiction of the court shall be made a party in a parentage action. Your Committee further finds that if the man becomes a joinder in the action, the court can require that the man submit to a blood test and all testimony relating to his sexual access to the mother would become admissible as evidence.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2364-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 434-86

Judiciary on H.B. No. 2214-86

The purpose of this bill is to extend the statute of limitations in cases involving fraud or breach of fiduciary obligation.

Presently, fraud or breach of fiduciary obligation cases may be prosecuted if it is commenced within one year after the date of discovery, but in no event should the applicable limitation be extended by more than three years.

The bill will extend the statute of limitations for fraud or breach of fiduciary obligation cases to three years from date of discovery and delete the provision that limits the extension of the limitation to three years.

Your Committee heard testimony from the Department of the Attorney General and the Prosecuting Attorney, City and County of Honolulu in support of the bill. The Attorney General testified that the present statute of limitations is too short especially for complex fraud cases. These cases often require review of financial records covering several years and sometimes records are difficult to obtain because they are in the defendant's possession. The Prosecutor's Office testified that discovery and investigation of these types of crimes often take place long after the initial act of wrongdoing has been committed.

A concern was expressed that the bill deleted the maximum limitation. Thus, a case may be prosecuted, as an example, ten years after the offense was committed, so long as the case was initiated within three years after discovery. After discussion of the bill, your Committee amended the bill by extending the limitation to two years from the date of discovery and limiting the extension period to no more than six years.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2214-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2214-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 435-86

Judiciary on H.B. No. 2215-86

The purpose of this bill is to amend section 704-412(1), HRS, to allow the Director of Health to apply to the court for release of individuals acquitted of a misdemeanor when their condition has improved and further, to amend section 704-413(1), HRS, to exclude "Saturday, Sunday and holiday" from the seventy-two hour time limit within which a court hearing must be held for individuals returned to the State Hospital by a parole officer.

Under the present law, the Director of Health must wait at least ninety days before application can be made for a conditional release, Section 704-412(1), HRS. Also, under Section 704-413(1), HRS, a probation officer may order a conditionally released person to be hospitalized for a maximum of seventy-two hours if the probation officer has reason to believe the person has violated the conditions for release.

Your Committee heard testimony in support of the bill from the Judiciary,

Department of Health (DOH), and the Prosecutor's Office, City and County of Honolulu. The DOH testified that the bill will provide increased flexibility to meet the treatment needs of persons acquitted of a crime and committed to the State Hospital. The DOH further testified that persons charged with misdemeanors may require less than the ninety day period to reach a point when they may be conditionally released and therefore, the DOH would like the authority to petition earlier for conditional release. Lastly, excluding "Saturday, Sunday and holiday" from the seventy-two hour period will give the hospital staff more time to provide information to the court about the mental condition of the patient.

The Judiciary testified that persons committed for misdemeanor offenses usually do not seriously endanger the safety of the community and the kind of treatment for these patients do not justify hospitalization for ninety days or more.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2215-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 436-86 Judiciary on H.B. No. 2362-86

The purpose of this bill is to give the Family Court the discretion to waive notice of guardianship proceedings to the legal grandparent of the minor.

Under the present law, notice of the guardianship proceedings of a minor must be given to the living legal grandparent of the minor.

The Family Court, First Circuit testified in support of the bill. The Family Court found that in many cases the grandparents have never shown any interest in the minor or have never had any contact with the minor, or the whereabouts of the grandparents are not known. Also, a petitioner may incur exorbitant publishing costs, if notice to the grandparent is required to be given by publication.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2362-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 437-86 Judiciary on H.B. No. 2363-86

The purpose of this bill is to correct an error in section 578-2(c)(2)(B), HRS.

The present law allows the court, in adoption proceedings, to dispense with the consent of an adjudicated or presumed father upon a finding that he had not previously petitioned to adopt the subject child.

Your Committee finds from the testimony presented that, by definition, an adjudicated or presumed father has a legally recognized relationship to the child and therefore would not be required to file an adoption petition to establish paternity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2363-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 438-86 Judiciary on H.B. No. 2365-86

The purpose of this bill is to amend section 571-84(g), HRS, to allow by written request, disclosure of court dispositions of cases involving juvenile matters to victims.

Under present law, the Family Court only discloses the names and addresses, and, when practicable, the name of the parent or guardian of an adjudicated law

violator to the parties directly concerned after termination of the adjudication proceeding.

Representatives from the Family Court and the Victim/Witness Kokua Services testified in support of the bill.

Your Committee finds that the victim of a crime is entitled to request information on the action taken by the court regardless of whether the alleged offender is an adult or a minor.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2365-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 439-86 Judiciary on H.B. No. 2760-86

The purpose of this bill is to exempt retirement plan assets as described under the Employee Retirement Income Security Act from attachment, execution, seizure, the bankruptcy or insolvency laws or other legal process.

Your Committee received testimony from American Trust Company of Hawaii, Inc. and Conahan and Conahan in support of the bill. American Trust testified that courts in other states have in some instances preserved qualified retirement plan assets and in others have attached said assets for the benefit of creditors.

Your Committee finds that an employee who has worked for many years with the expectation of a pension or profit sharing benefit should be able to enjoy the benefit. This bill will preserve retirement savings for the benefit of the worker and his family.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2760-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 440-86 Judiciary on H.B. No. 2669-86

The purpose of this bill is to amend section 583-9, HRS, to provide confidentiality of records in cases where prior family violence or threat of violence has been or may be directed toward the child, or any person whose identity is disclosed by information required to be submitted under this section.

At the present time, section 583-9, HRS, does not provide for confidentiality of records in such cases.

Your Committee received testimony from the Judiciary in support of this measure. The testimony of the Judiciary indicated that there is good cause to keep confidential from other parties in a custody proceeding the identities or addresses of particular persons.

Your Committee also received testimony from the Director of the Victim/Witness Kokua Services and Hawaii Women Lawyers in support of this bill.

Your Committee finds that, if adopted, the amendments in this bill would enable the court to protect information as to the current location of persons involved in custody proceedings that involve a history of family violence.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2669-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 441-86

Judiciary on H.B. No. 2368-86

The purpose of this bill is to provide that any person who fails to appear after their original appearance is guilty of a violation as provided in the penal code.

Presently, section 291C-166, HRS, cannot be used to charge a person who subsequently fails to appear after the initial appearance.

The Judiciary testified that non-appearance of persons charged with traffic violations is a continuing problem. It increases court costs and requires additional measures to bring persons back to court. The Prosecutor's Office, City and County of Honolulu, testified that it supports the bill with certain reservations. The Prosecutor's Office was concerned that the proposed offense was already an offense under section 710-1077, HRS, and therefore, the bill would be in conflict with the present contempt of court statute.

Your Committee finds that this bill would expedite court response where a person fails to make a subsequent appearance as ordered by the court. Your Committee desires to establish by this bill another contempt of court violation for traffic offenses which will have a lower standard of proof than the contempt of court under section 710-1077, HRS.

Your Committee amended the bill to insert the phrase "knowingly, recklessly or negligently" as the state of mind for failure to make subsequent appearances as ordered by the court.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2368-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2368-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 442-86

Judiciary on H.B. No. 2479-86

The purpose of this bill is to amend section 456-3, HRS, to require that a notary seal clearly show when it is embossed, stamped, or impressed on a document.

Under present law, a notary public is required to keep a seal of office, which has engraved upon it his name, and the words, "notary public" and "State of Hawaii".

Your Committee finds from the testimony submitted that a colored seal will make duplicating documents less time consuming and less expensive.

Your Committee has amended the bill to permit the use of an engraved or rubber stamp facsimile of the notaries seal of office.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2479-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2479-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 443-86

Judiciary on H.B. No. 2483-86

The purpose of this bill is to amend section 571-14, HRS, to provide the Family Court with exclusive original jurisdiction over any violation of section 709-906, HRS.

The present law does not provide the Family Court with jurisdiction over violations of section 709-906, HRS.

Your Committee received testimony from Dennis Dunn, Director of Victim/Witness Kokua Services and Timothy Wales, Chairman of the Courts Subcommittee of the Oahu Spouse Abuse Task Force in support of this bill. In general, the testimony indicated that certain cases create jurisdictional confusion resulting in the re-

luctance of police and prosecutors to fully utilize section 709-906, HRS.

Your Committee finds that the amendments in this bill would clarify the present problem of whether the District Court or Family Court has jurisdiction over the alleged violations of section 709-906, HRS.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2483-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 444-86 Judiciary on H.B. No. 2561-86

The purpose of this bill is to amend and clarify laws governing elections in the State of Hawaii.

Your Committee received testimony from Raymond K. Pua, Third Vice President of the Association of Clerks and Election Officers of Hawaii in support of this bill.

The bill amends section 11-118, HRS, to provide that the chief election officer or county clerk in county elections have the authority to waive requirements in special circumstances where a vacancy occurs and the filing deadline is less than fifty days prior to a primary or special primary election or less than forty days prior to a special, general, or a special general election. The bill would also amend section 11-151, HRS, to specify that blank, spoiled, or invalid ballots shall not be counted as votes cast when a majority of votes is needed. Section 11-155, HRS, is also amended in this bill to clarify when the results of an election are effective and to provide for the issuance of a "certificate of results" when a question is voted upon. The bill also amends section 11-156, HRS, to provide the form for a "certificate of results", in addition to the present "certificate of election", where a question is presented to the voters. Finally, section 15-4, HRS, is amended to have requests for absentee ballots mailed by the person directly to the clerk and that the person's social security number and date of birth be included in the request.

Your Committee finds that the amendments in this bill will aid in the clarification of potential problems encountered in special elections.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2561-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 445-86 Judiciary on H.B. No. 2656-86

The purpose of this bill is to amend section 338-21, HRS, to provide that the full name of a legitimated child may be amended and that a new original birth certificate may be issued upon the child's legitimation.

Under the present law, only the child's surname may be changed when the child is legitimated. Sometimes, limiting the change to the surname may create an unsatisfactory result. The only way the parents could amend the child's name would be to petition the Lieutenant Governor's office for a legal name change. This could cause undue publicity and create additional expense.

Presently, the Department of Health does not issue a new birth certificate when the child's surname is changed. The Department's practice is merely to cross out the previous surname and write in the new surname.

Your Committee heard testimony in support of the bill from the Department of Health (DOH) and the Family Court, First Circuit. The DOH testified that the bill should have a minimal impact on their budget. The Family Court testified that the bill will permit the child's full name to be subject to amendment where appropriate and that a new original birth certificate will be issued which will change the DOH's practice and conform with the mandate of section 584-23(b), HRS.

Your Committee finds that this bill will encourage legitimation by clearing up certain concerns with the procedures to legitimate a child. The issuance of a new original certificate will maintain the confidentiality of the subsequent legitimation of a child born out of wedlock. Your Committee further finds that the full name of the child should be subject to amendment to avoid any unsatisfactory result or additional expense.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2656-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 446-86 Finance on H.B. No. 2395-86

The purpose of this bill is to conform the Hawaii income tax law with amendments made to the federal Internal Revenue Code during the calendar year 1985.

Congress enacted two public laws amending the Internal Revenue Code during 1985--Public Laws 99-44 and 99-121. Public Law 99-44 repealed the contemporaneous recordkeeping rules necessary in order to validate the deduction of expenses for the business use of a motor vehicle; rules which Hawaii adopted last year. Public Law 99-121 enacted rules governing imputed interest on loans made.

Your Committee has made one technical amendment to the bill as received by capitalizing the first letter of the word Law at the end of line 9.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2395-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2395-86, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 447-86 Finance on H.B. No. 1996-86

The purpose of this bill is to give the Director of Health the authority to regulate freestanding birthing facilities and adult day health centers.

Presently, the Director has the authority to regulate almost all things, services, and institutions which need to be regulated for reasons of public health and safety. This bill would amend the law to extend that authority to cover freestanding birthing facilities and adult day health centers.

Your Committee has made several nonsubstantive amendments to this bill to correct technical, typographical, and stylistic errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1996-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1996-86, H.D.1.

Signed by all members of the Committee except Representative Leong.

SCRep. 448-86 Finance on H.B. No. 2105-86

The purpose of this bill is to amend Section 171-21, Hawaii Revised Statutes, to remove the State as guarantor when its interests in lands are subjected to a security interest or mortgage.

Under present law, a lessee is authorized to mortgage the lessee's leasehold interest, with the consent of the chairperson of the board of land and natural resources. The statute also provides for notification to the lessee of any breach or default in order that the lessee may cure the breach or default. Similarly, the security interest holder is notified and given opportunity to cure or remedy the breach or default if the holder so desires. If the security interest holder decides not to cure or remedy the breach or default, and if the Board seeks to terminate the lease, the Board must either pay the holder the amount of the mortgage debt, together with interest and penalties, or terminate the lease subject to the lien or

mortgage. In effect, the Board acts as an insurer or guarantor to any lender.

Your Committee concurs with the Committee on Water, Land Use, Development and Hawaiian Affairs that the State should not act as guarantor of such mortgage loan and should be able to redispense the land free and clear of the mortgage if the default has not been cured. This bill, however, does not preclude a mortgagor from protecting its mortgage by foreclosing on a lease, pursuant to Section 171-22, Hawaii Revised Statutes, prior to the Board's redispense of the land. If the State should receive any value upon redispense in excess of the land's fair market lease value, the difference would accrue, after costs, to the mortgagee.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2105-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2105-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 449-86

Finance on H.B. No. 2024-86

The purpose of this bill is to amend Section 206E-6(c), Hawaii Revised Statutes, to provide that bonds issued by the district-wide improvement program and the income therefrom shall be exempt from all state, county, and municipal taxation, except transfer and estate taxes.

Under present law, the Hawaii Community Development Authority is authorized to develop needed public improvements in redevelopment districts such as Kakaako. The Authority is required to assess a portion of the improvement costs against those properties that benefit from the improvements. Property owners are allowed to make installment payments, with interest, over a period of up to 20 years, in order to mitigate the financial impact of the assessment amounts due. Section 206E-6 authorizes the Authority to issue improvement district assessment bonds to provide financing for these property owners.

According to testimony by the Authority, the State's Bond Counsel has determined that these assessment bonds are not exempt from state and county taxation because:

- (1) Under Chapter 39, Hawaii Revised Statutes, they are not revenue bonds; and
- (2) Under Chapter 206E, there are no exemptions of these assessment bonds from state and county taxes.

Your Committee concurs with the Committee on Water, Land Use, Development and Hawaiian Affairs that the Authority's assessment bonds are identical to revenue bonds issued by other state departments and agencies inasmuch as they do not rely on the full faith and credit of the State of Hawaii for their repayment. The administration bill would therefore place the Authority's assessment bonds on parity with other revenue bonds of the State. Without this exemption, the Authority's assessment bonds would be at a competitive disadvantage to other comparable revenue bonds.

Your Committee has amended this bill by deleting the words "and municipal" from page 2, line 19, of this bill. Your Committee has also made some technical, nonsubstantive amendments to the bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2024-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2024-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 450-86

Finance on H.B. No. 1687-86

The purpose of this bill is to make an appropriation for the State's rental

assistance program.

The State's rental housing assistance program was created to stimulate the development and rehabilitation of rental housing accommodations for Hawaii's residents. This innovative program provides interest earnings on the investments of the principal sums in the rental assistance revolving fund to finance rental assistance payments to eligible projects. The rental assistance revolving fund currently consists of \$4,000,000. According to testimony presented by the Hawaii housing authority (HHA), that sum has generated \$571,000 in net interest earnings and allowed HHA to issue commitments for rental assistance payments to owners of three different rental projects: (1) the 72-unit Manana Garden Apartments in Pearl City; (2) the 10-unit Papaaloa Elderly Project in Hilo; and (3) the 90-unit Ewa Village Elderly Project in Ewa.

Your Committee agrees with the House Committee on Housing that additional funds to the rental assistance revolving fund will help stimulate additional development and rehabilitation of affordable housing units. Your Committee also agrees that such funds are necessary because of the increasing costs in development, construction, and maintenance of rental housing, and the growing unavailability of key federal subsidy programs.

Your Committee has amended this bill to provide for a \$1,000,000 appropriation to the rental assistance revolving fund.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1687-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1687-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 451-86 Finance on H.B. No. 425

The purpose of this bill is to require motor vehicles, which are registered in one county and subsequently transferred to another county, to be registered in the county in which the motor vehicle is located upon expiration of the existing certificate of registration.

There is currently no state law or county ordinance which covers the situation where motor vehicles registered in one county are temporarily transferred to another county for operation upon the public highways in that county. The bill would require that motor vehicles which are transferred to another county shall be registered in the county where the motor vehicle is located upon the expiration of the existing certificate of registration regardless of the owner's residence or principal place of business.

Your Committee has amended this bill by making technical, nonsubstantive changes for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 425, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 425, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 452-86 Finance on H.B. No. 2574-86

The purpose of this bill is to secure an appropriation totaling \$1,829,781.30 to satisfy the judgment entered against the Department of Education, State of Hawaii, by the United States Court of Appeals for the Ninth Circuit in Department of Education vs. Terrel Bell, C. A. Nos. 82-7697 and -7698.

In entering that judgment, the United States Court of Appeals for the Ninth Circuit affirmed two earlier decisions of the United States Education Appeals Board, which held that Hawaii had misspent certain federal funds it received pursuant to the Elementary and Secondary Education Act of 1965 (Title I, currently designated "Chapter 1") during the fiscal years 1973 through 1977. Both the administrative agency and the court concluded that Hawaii had inappropriately used federal funds instead of state funds to pay for materials, supplies, and teachers' salaries in certain of its compensatory education programs, and failed to

use state funds to provide students enrolled in Title I schools with the same level of services provided to children enrolled in non-Title I schools.

Your Committee has amended the bill by providing that the appropriation made be for fiscal year 1986-1987.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2574-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2574-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 453-86 Finance on H.B. No. 2138-86

The purpose of this bill is to allow the transfer of administrative responsibility for Hoomana School from the university of Hawaii to the Department of Social Services and Housing effective July 1, 1986.

Testimonies in favor of this bill were received from the Department of Social Services and Housing (DSSH) and the University of Hawaii. Both agencies agree that this transfer will result in improvements in the educational programs and greater accountability on the part of DSSH.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2138-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2138-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 454-86 Finance on H.B. No. 1815-86

The purpose of this bill is to establish a justifiable rate and reasonable manner of assessing liveaboard fees within the State's small boat harbors.

Under present law, the liveaboard fee is based on a multiple of the mooring fee which is charged by the Department of Transportation.

Your Committee received testimony from the Department of Transportation favoring this bill to change the method of assessing the liveaboard fee.

Your Committee therefore agrees with the intent of this bill, to base the assessment of the liveaboard fee on factors other than the mooring fee.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1815-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1815-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 455-86 Finance on H.B. No. 1697-86

The purpose of this bill is to appropriate funds, to be matched dollar-for-dollar by the Hawaiian Sugar Planters' Association, for sugar research and development, including research on alternate crops.

The sugar industry is a vital component of the State's economic base and failure of this industry would have widespread detrimental effects on the economy of the State.

Your Committee finds that past research efforts on the development of disease-resistant and high yielding varieties of cane have greatly benefitted the industry and have been directly responsible for helping maintain industry profitability during this period of depressed prices. Therefore, your Committee believes that continuing research on alternate crops and by-products is important for the future of Hawaii's sugar industry.

Your Committee has amended this bill by providing that the sum of \$1,500,000 be appropriated for sugar research and development; provided that \$250,000 shall be used for research and development of alternate crops and by-products; and provided further that no funds shall be made available under this Act unless the Hawaiian Sugar Planters' Association provides for a dollar-for-dollar match of funds.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1697-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1697-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 456-86 Finance on H.B. No. 1708-86

The purpose of this bill is to establish a statewide kapu system to protect and manage Hawaii's ocean resources by appropriating funds for this purpose.

Your Committee on Finance concurs with the findings and conclusions of your Committee on Ocean and Marine Resources in Stand. Com. Rep. No. 84-86.

Your Committee has amended Section 3 of this bill to appropriate \$50,000, rather than \$200,000, to carry out the purposes of this bill.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1708-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1708-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 457-86 Finance on H.B. No. 2589-86

The purpose of this bill is to establish a permanent bilingual health education aide program.

The bilingual health education aide program has been funded on a temporary basis for the past 11 years. The program is designed to meet the needs of immigrants and other limited-English and non-English speaking persons. Bilingual aides have provided support to the Department of Health in its programs dealing with well-baby clinics, screening clinics, home visits to tuberculosis and Hansen's disease patients, and outreach, educational, and other activities.

The Department of Health, by this bill, seeks to have the bilingual health education aide program made permanent because it is needed to support the department's affirmative action efforts. The bilingual program will assure equal opportunity and access to health care services to those for whom English is a problem.

Your Committee has made several nonsubstantive amendments to this bill to correct grammatical and typographical errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2589-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2589-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 458-86

Finance on H.B. No. 1694-86

The purpose of this bill is to add a new chapter to the Hawaii Revised Statutes to allow the formation of captive insurance companies in Hawaii. In recent years, many corporations and business associations have been faced with mounting problems in the insurance marketplace. This has led to the formation of insurance subsidiaries or so-called captive insurance companies which are formed primarily to insure or reinsure the insurance exposures of the parent company and its affiliates.

There are numerous reasons why a company or association would look to the captive alternative, but they all have the common goal of greater management control of the organization's resources.

Your Committee has amended this bill to provide for the formation of only "pure captive insurance companies"; therefore, references to "industrial insured captive insurance companies" and "association captive insurance companies" have been deleted. Further, an appropriation of \$42,000 has been provided by your Committee to carry out the purposes of this bill, including the hiring of necessary staff.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1694-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1694-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 459-86

Finance on H.B. No. 2102-86

The purpose of this bill is to amend Section 213, Hawaiian Homes Commission Act, and other related sections of the Act which conform to the proposed amendments to Section 213, to simplify the Department of Hawaiian Home Lands funding structure by reducing the number of funds from fifteen to seven, in order that management of the Department's finances may be facilitated and handled more economically.

The Hawaiian Homes Commission Act creates seven revolving funds and eight special funds. According to the Department of Hawaiian Home Lands testimony, management of and accounting for these fifteen funds impose a tremendous burden and workload on the Department because of the complexity of the present fund structure.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2102-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2102-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 460-86

Water, Land Use, Development and Hawaiian Affairs on
H.B. No. 2835-86 (Majority)

The purpose of this bill is to amend Chapter 205, Hawaii Revised Statutes, to create high technology districts in Hawaii.

Your Committee finds that the growth of high technology industries is an economic development priority in the State of Hawaii. The benefits include increased employment opportunities, increased State revenues, and concomitant improvement in the quality of life for Hawaii's people.

Your Committee is aware of the fact that the designation of high technology districts may be approved through existing procedures under Chapter 205; however, it is incumbent on the Legislature to address the specialized land use needs of high technology industries. Your Committee is therefore in agreement that the

bill provides for these needs.

Your Committee has also amended the bill by inserting a new paragraph to section 205- , after line 2, page 2, to provide for legislative designation of South Point (Ka Lae) as a high technology district. This amendment is a recognition not only of State priorities in support of national defense programs of benefit to Hawaii and its people, but also of State support for high technology industrial growth and its social and economic impacts on neighboring regions.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H.B. No. 2835-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2835-86, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hagino and Shon.

(Representatives Nakata, Isbell and Kamali'i did not concur.)

SCRep. 461-86 Planning, Energy and Environmental Protection on H.B. No. 2836-86

The purpose of this bill is to designate the Department of Health as the 401 Certification agency thereby ensuring that activities permitted by the United States Army Corps of Engineers Section 404 dredge and fill program are consistent with State Water Quality Standards.

According to the Department of Health, passage of this bill will enable it to implement the Section 401 Water Quality Certification procedure of the Federal Clean Water Act and to review pending projects which have requested 401 Certification from the Department.

Your Committee has amended this bill to correct a typographical error; no substantive changes were made.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 2836-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2836-86, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 462-86 Planning, Energy and Environmental Protection and Higher Education and the Arts on H.B. No. 2786-86 (Majority)

The purpose of this bill is to amend Section 445-111, Hawaii Revised Statutes, by amending the definition of "outdoor advertising device" to allow for such devices at any University of Hawaii stadia.

Your Committees received favorable testimony from the Intercollegiate Athletic Department at the University of Hawaii at Manoa.

Your Committees on Planning, Energy and Environmental Protection and Higher Education and the Arts are in accord with the intent and purpose of H.B. No. 2786-86 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Grauly, Tam and Hemmings.

(Representatives Hagino and Shon did not concur.)

SCRep. 463-86 Judiciary on H.B. No. 2671-86

The purpose of this bill is to amend section 706, HRS, to add a mandatory minimum term of imprisonment for negligent homicide resulting from operating a vehicle while under the influence of intoxicating liquor.

Presently, the offense of negligent homicide in the first degree under section 707-103, HRS, is a class C felony. There is no law that addresses the drunk

driver who causes the death of another person.

Your Committee received testimony from the Department of Social Services and Housing (DSSH) and the Office of the Public Defender in opposition to this bill. The testimony of DSSH indicated that, while in support of the intent of the bill, there is concern regarding its effect on the prison population.

Your Committee also received testimony in support of the measure. The testimony of the Department of the Prosecuting Attorney indicated that a message must be sent to the community that it is not acceptable to drive a vehicle while under the influence of intoxicating liquor, however, they also testified that the proposed sentence may be too severe. Mothers Against Drunk Driving (MADD) testified that by asking for a mandatory minimum prison term, they are not seeking retribution but rather a sentence that is appropriate for the seriousness of the crime. MADD's testimony further indicated that the sentence needs to be one which will serve as a deterrent. Robert B. Raneses, a private citizen, who lost a son in a traffic accident caused by a drunken driver, testified that the legislature has increased penalties for violations of section 291-4, HRS, but in cases where a death has occurred, the penalties have not been proportionately upgraded.

A representative from the Department of Health (DOH) testified that the bill should be amended to require an assessment for alcohol dependency at least three to six months prior to a defendant's scheduled release. The testimony of the DOH further indicated that pre-release assessment would allow for establishing the need for treatment and rehabilitation, and facilitating the referral to an appropriate substance abuse program upon release, if suitable treatment cannot be provided during imprisonment.

Your Committee has adopted the recommendations of the Department of Health to require an assessment for alcohol dependency of an offender three to six months prior to release and require the offender to obtain appropriate treatment.

Your Committee has further amended this bill to set the mandatory minimum term of imprisonment at one year as opposed to the current proposal of five years.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2671-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2671-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 464-86

Judiciary on H.B. No. 1692-86

The purpose of this bill is to address the growing concern regarding the unavailability and unaffordability of liability insurance, and to seek solutions thereof, while protecting the victim's right to just compensation.

H.B. No. 1692-86 was introduced as a short-form bill. Your Committee amended the bill to provide the substantive contents of the bill in long form so that a public hearing could be held on the substantive provisions.

This bill was intended to address all tort actions including medical malpractice.

There was conflicting testimony presented by medical groups, insurers, the Chamber of Commerce, and the Hawaii Academy of Plaintiff's Attorneys (HAPA) as to the effect of the proposed bill. Various medical groups such as the Hawaii Federation of Physicians and Dentists, the Hawaii Medical Association, the Hospital Association of Hawaii, and insurers including the Hawaii Independent Insurance Agents Association, Mr. Bob Grantham of First Insurance Company, and Mr. William Hiraoka of Island Insurance testified that the rising cost of liability and medical insurance is the result of the present tort system and supported this bill as a means of reducing the increasing cost of liability insurance. By enacting this proposed measure which would reform the present tort system, the health care providers and the insurers conclude the cost of liability insurance will stabilize or may even be reduced.

Testimony against this bill was presented by HAPA and several other attorneys

who represent plaintiffs in personal injury cases. They contend that the proposed measure will not reduce the cost of liability insurance, however, it will have a detrimental effect on the rights of victims.

After discussion, your Committee recommended that medical torts be excluded from the scope of the bill.

In order to achieve the purpose of this bill, your Committee made several amendments.

Section 1 of the bill provides that an attorney's contingency fee, for the recovery of damage shall not exceed one-third of the amount recovered. To be fair and equitable, the section has been amended to provide that defendant attorney's fees in such cases shall be no more than \$90.00 an hour. The term "Recovered" has been amended to mean the gross sum recovered before deducting any disbursements or costs incurred in connection with the case, to reflect the current practice of calculating contingency fees.

Section 2 of the bill relating to noneconomic loss award, has been amended to provide the court with express authority to reduce the award, except for medical malpractice actions. Certain guidelines have been established for the court to follow in the reduction of the award.

Section 3 of the bill relating to periodic payment of damages, has been deleted.

Section 4 of the bill regarding the admissibility of collateral sources, provides that the jury shall be informed that certain past or future costs or expenses that the plaintiff is seeking will be replaced or indemnified, in whole or in part, by collateral sources such as insurance or workers' compensation. The section has been amended to allow the plaintiff the option to inform the jury that: (1) payments received from collateral sources must be reimbursed or repaid, or that such collateral source payments were earned (such as vacation or sick leave payments) or purchased by the plaintiff through an insurance plan; and (2) the defendant is covered by liability insurance and the amount thereof.

Sections 5 and 6 of the bill relating to minor's statute of limitation, have been deleted because H.B. No. 1768-86, H.D. 1 addresses the problem and will be reported out of this committee;

Section 7 of the bill relating to joint tortfeasor's liability, provides when joint tortfeasors shall be jointly and severally liable and when they will be severally liable. The section provides that: (1) in comparative negligence cases, the court is mandated to instruct the jury regarding the comparative negligence law; and (2) the court is mandated to instruct the jury concerning the joint and several law.

Under the law of comparative negligence, if a plaintiff is found to be fifty-one percent (51%) or more negligent, the plaintiff will not recover a cent. If the plaintiff is found to be fifty percent (50%) negligent, the plaintiff will receive one-half of the award. If the plaintiff is found to be forty-nine percent (49%) or less at fault, the plaintiff will receive the award less his share of fault.

The bill has been further amended to include a provision relating to frivolous suits. The present law, section 607-14.5, Hawaii Revised Statutes, applies to all civil actions and assesses attorney's fees against the party filing a frivolous claim. To impose stronger sanctions in tort cases, the court is authorized to assess attorney's fees not only against the party making a frivolous claim but also the party's attorney. Also, the bill has been expanded to include frivolous defenses as well as claims.

Section 13, relating to the effective date of the act, has been amended to exempt actions that occurred prior to the effective date of the act but did not accrue until after the effective date of the act.

To provide consistency and continuity to the bill, the section numbers have been renumbered to take care of the deleted sections.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. NO. 1692-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1692-86, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 465-86 Judiciary on H.B. No. 1770-86

The purpose of this bill is to amend chapter 671, HRS, to allow the court to admit evidence that plaintiff is receiving or did receive benefits from other sources.

This bill is one of several bills that was introduced as part of a package to address a growing concern among health care providers and insurers of the rising cost of medical malpractice insurance.

Under present law, evidence of the plaintiff receiving benefits from other sources are not admissible into evidence.

This bill provides that in any medical tort action, evidence shall be admissible to show that any past or future cost or expense will be paid by insurance (except for life insurance), social security, worker's compensation, or employee benefits program.

There was conflicting testimony presented by medical groups, insurers, the Chamber of Commerce, and the Hawaii Academy of Plaintiff's Attorneys (HAPA) as to the effect of the proposed bills. Various medical groups such as the Hawaii Federation of Physicians and Dentists, the Hawaii Medical Association, the Hospital Association of Hawaii, and insurers including the Hawaii Independent Insurance Agents Association, Mr. Bob Grantham of First Insurance Company, and Mr. William Hiraoka of Island Insurance testified that the rising cost of medical malpractice insurance is the result of the present tort system and supported these bills as a means of reducing the high cost of medical malpractice insurance. By enacting these proposed measures which would reform the present tort system, the health care providers and the insurers conclude the cost of medical malpractice insurance will stabilize or may even be reduced.

Testimony against these bills were presented by HAPA and several other attorneys who represent plaintiffs in personal injury cases. They contend that the proposed measures will not reduce the cost of medical malpractice insurance, however, it will have a detrimental effect on the rights of victims.

Your Committee heard testimony expressing concern that under the present law the trier of fact may be duplicating payments that the plaintiff would otherwise be receiving from some other source or benefit program. Those testifying in support of the bill felt that the admission of collateral sources will have a significant effect in reducing the loss experience of malpractice insurance carriers and in reducing premiums charged to health care providers. However, the impact on premiums could not be effectively measured with any degree of certainty.

Your Committee amended the bill to allow into evidence the amount of liability coverage of the defendant. Your Committee believes that in order to be fair and to let the trier of fact know all available sources, not only the plaintiff's but the defendant's, evidence of the liability coverage of the defendant should also be admissible.

Your Committee further amended the bill to provide that it will not apply to actions that have occurred prior to the effective date but did not accrue until after the effective date.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1770-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1770-86, H.D. 1.

Signed by all members of the Committee.

SCRep. 466-86 Judiciary on H.B. No. 1773-86

The purpose of this bill is to allow for periodic payment of judgments which are recovered in medical tort actions against health care providers.

This bill is one of several bills introduced as part of a package to address a growing concern among health care providers and insurers of the rising cost of

medical malpractice insurance.

Presently, there are no provisions that give the courts the option to order periodic payment of a judgment.

There was conflicting testimony presented by medical groups, insurers, the Chamber of Commerce, and the Hawaii Academy of Plaintiff's Attorneys (HAPA) as to the effect of the proposed bills. Various medical groups such as the Hawaii Federation of Physicians and Dentists, the Hawaii Medical Association, the Hospital Association of Hawaii, and insurers including the Hawaii Independent Insurance Agents Association, Mr. Bob Grantham of First Insurance Company, and Mr. William Hiraoka of Island Insurance testified that the rising cost of medical malpractice insurance is a result of the present tort system and supported these bills as a means of reducing the high cost of medical malpractice insurance. By enacting these proposed measures which would reform the present tort system, the health care providers and the insurers conclude the cost of medical malpractice insurance will stabilize or may even be reduced.

Testimony against these bills were presented by HAPA and several other attorneys who represent plaintiffs in personal injury cases. They contend that the proposed measures will not reduce the cost of medical malpractice insurance, however, it will have a detrimental effect on the rights of victims.

Your Committee heard testimony from various medical, health care providers and insurers that the bill will reduce the cost of medical insurance and will reduce the awards in medical malpractice cases. However, the impact on the cost of insurance could not be measures at this time.

Your Committee also heard testimony that the amount the court should consider for periodic payments be between \$500,000 and \$1,000,000. Your Committee compromised and set the threshold at \$750,000.

Your Committee amended the bill to provide that if an annuity is purchased the company shall be an A+ rated company according to industry standards.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1773-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1773-86, H.D. 2.

Signed by all members of the Committee.

SCRep. 467-86

Judiciary on H.B. No. 1771-86

The purpose of this bill is to limit the contingency fee a plaintiff's attorney may charge a client in a medical tort action.

This bill is one of several bills introduced as part of a package to address a growing concern among health care providers and insurers of the rising cost of medical malpractice insurance.

Presently, the law provides that for medical tort actions attorneys fees are limited to a reasonable as approved by the court. Testimony was presented that the fee being charged is approximately one-third of the amount recovered. However, there are attorneys who charge more and some who charge less.

The bill provides a fee schedule for attorney's fees for medical tort actions based upon the amount recovered. Further, the bill provides that the schedule is application whether the recovery is obtained by settlement, arbitration, or by trial.

There was conflicting testimony presented by medical groups, insurers, the Chamber of Commerce, and the Hawaii Academy of Plaintiff's Attorneys (HAPA) as to the effect of the proposed bills. Various medical groups such as the Hawaii Federation of Physicians and Dentists, the Hawaii Medical Association, the Hospital Association of Hawaii, and insurers including the Hawaii Independent Insurance Agents Association, Mr. Bob Grantham of First Insurance Company, and Mr. William Hiraoka of Island Insurance testified that the rising cost of medical malpractice insurance is the result of the present tort system and supported these bills as a means of reducing the high cost of medical malpractice insurance. By enacting these proposed measures which would reform the present tort system,

the health care providers and the insurers conclude the cost of medical malpractice insurance will stabilize or may even be reduced.

Your Committee heard testimony that the present contingency fee arrangements result in too few recovery dollars going to the patient, promotes non-meritorious suits, and escalates the cost of medical insurance. Insurers were unable to estimate the impact on premiums such a fee schedule would have. Your Committee also heard testimony that the attorney's fees for defending claims has also increased tremendously over the last few years.

Your Committee amended the bill to place a ceiling of ninety dollars an hour on the fees that an attorney representing the insured on behalf of an insurance company may charge.

Your Committee amended the bill to provide that it will not apply to actions that have occurred prior to the effective date but did not accrue until after the effective date.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1771-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1771-86, H.D. 2.

Signed by all members of the Committee.

SCRep. 468-86

Judiciary on H.B. No. 1768-86

The purpose of this bill is to amend sections 657-7.3 and -13, HRS, to shorten the statute of limitations for medical tort actions brought by or on behalf of a minor against certain health care providers.

This bill is one of several bills introduced as part of a package to address a growing concern among health care providers and insurers of the rising cost of medical malpractice insurance.

The current law provides that a minor must bring suit against certain health care providers for alleged professional negligence within six years after the minor reaches the age of eighteen years.

The bill will amend the law by requiring that the minor commence an action within six years from the date of the wrongful act. However, the bill further provides that if the minor is less than ten years old then the action must be commenced within six years from the date of the wrongful act or by the minor's tenth birthday, whichever period is longer.

There was conflicting testimony presented by medical groups, insurers, the Chamber of Commerce, and the Hawaii Academy of Plaintiff's Attorneys (HAPA) as to the effect of the proposed bills. Various medical groups such as the Hawaii Federation of Physicians and Dentists, the Hawaii Medical Association, the Hospital Association of Hawaii, and insurers including the Hawaii Independent Insurance Agents Association, Mr. Bob Grantham of First Insurance Company, and Mr. William Hiraoka of Island Insurance testified that the rising cost of medical malpractice insurance is the result of the present tort system and supported these bills as a means of reducing the high cost of medical malpractice insurance. By enacting these proposed measures which would reform the present tort system, the health care providers and the insurers conclude the cost of medical malpractice insurance will stabilize or may even be reduced.

Testimony against these bills were presented by HAPA and several other attorneys who represent plaintiffs in personal injury cases. They contend that the proposed measures will not reduce the cost of medical malpractice insurance, however, it will have a detrimental effect on the rights of victims.

Your Committee heard testimony in support of this bill from several medical, health care, and insurance organizations. They testified that the exceptionally long period of time that is presently available to a minor commonly referred to as the "tail", creates uncertainty for doctors and other health care providers as to their liability and also, as to the cost of medical malpractice insurance.

Your Committee also heard testimony against this bill from HAPA. They testified that the present statute of limitations is based on a sound and reasonable

principle--that since children are denied the legal right to file actions on their own behalf before age eighteen, they deserve statutory protection.

Your Committee hopes that passing this bill will address the concerns of uncertain liability and the escalating cost of malpractice insurance that is being experienced by doctors and other health care providers. Although the testimony from the insurers indicated that there is no certainty that insurance premiums for doctors and other health care providers will in fact be reduced.

Your Committee feels that reducing the statute of limitations for a minor in medical tort actions should not be detrimental to them. Your Committee believes the bill provides safeguards for the minor by tolling the time period in the event the parent or guardian, insurer, or health care provider have committed fraud or collusion by failing to bring an action.

Your Committee amended the bill to provide that it will not apply to actions that have occurred prior to the effective date but did not accrue until after the effective date.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1768-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1768-86, H.D. 1.

Signed by all members of the Committee.

SCRep. 469-86

Judiciary on H.B. No. 1769-86

The purpose of this bill is to add a new section to chapter 671, HRS, which would place a limit on the amount a party may recover for noneconomic losses in a medical tort action against a health care provider.

This bill is one of several bills introduced as part of a package to address a growing concern among health care providers and insurers of the rising cost of medical malpractice insurance.

Under the present law, there is no limit to the amount of damages for noneconomic losses that an injured party may recover.

There was conflicting testimony presented by medical groups, insurers, the Chamber of Commerce, and the Hawaii Academy of Plaintiff's Attorneys (HAPA) as to the effect of the proposed bills. Various medical groups such as the Hawaii Federation of Physicians and Dentists, the Hawaii Medical Association, the Hospital Association of Hawaii, and insurers including the Hawaii Independent Insurance Agents Association, Mr. Bob Grantham of First Insurance Company, and Mr. William Hiraoka of Island Insurance testified that the rising cost of medical malpractice insurance is the result of the present tort system and supported these bills as a means of reducing the high cost of medical malpractice insurance. By enacting these proposed measures which would reform the present tort system, the health care providers and the insurers conclude the cost of medical malpractice insurance will stabilize or may even be reduced.

Testimony against these bills were presented by HAPA and several other attorneys who represent plaintiffs in personal injury cases. They contend that the proposed measures will not reduce the cost of medical malpractice insurance, however, it will have a detrimental effect on the rights of victims.

Your Committee heard testimony in support of the bill from various medical and health care organizations and insurers. They testified that the unrealistically high awards for noneconomic losses has impacted the cost of medical malpractice insurance. The insurers testified that a cap on noneconomic losses will make such losses more predictable. However, the insurers further testified that it was difficult to predict whether insurance premiums will be reduced.

Your Committee believed there may be some noneconomic losses that should not be subject to a cap and therefore, your Committee amended the bill to provide that it will not apply to actions that have occurred prior to the effective date but did not accrue until after the effective date. Your Committee also amended the bill by placing the ceiling on damages awarded for pain and suffering and to exempt certain types of catastrophic injuries.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1769-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1769-86, H.D. 2.

Signed by all members of the Committee.

SCRep. 470-86 Consumer Protection and Commerce on H.B. No. 1388

The purpose of this bill is to amend Chapter 271, Hawaii Revised Statutes, by adding a new section which would give motor carriers who are certificated by the Hawaii Public Utilities Commission lien rights on shipments in their possession for the total amount owed to a motor carrier for any and all charges, including storage, that remain unpaid for.

Your Committee received favorable testimony from the Hawaii Transportation Association (Association).

Your Committee also received testimony in opposition from the Division of Consumer Advocacy (Division) of the Department of Commerce and Consumer Affairs. The Division testified that while a certificated motor carrier does have the legal obligation to deliver the goods in his possession, carriers are not obligated to deliver freight if the freight charges are unpaid. The present law, and circumstances, now place motor carriers in a favorable position: they currently have the leverage of withholding delivery of goods in their possession which they do not own, until they receive payment for the delivery of the goods. This proposal would apply this advantageous position to the collection of unpaid freight charges for prior shipments.

Accordingly, your Committee, upon further consideration, has made amendments to address the concerns of the Division.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1388, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1388, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 471-86 Consumer Protection and Commerce on H.B. No. 2191-86

The purpose of this bill is to amend Section 514A-82, Hawaii Revised Statutes, to specify the method by which elections to the board of directors of an association of apartment owners shall be conducted, provide for a method of replacement for directors, provide for an additional method by which bylaws can be amended, and prevent a member of the board from casting proxy votes for the election or re-election of board members.

Your Committee heard mixed testimony from the Hawaii Council of Associations of Apartment Owners, The Hawaii Association of Realtors, Chaney, Brooks & Company, and individual apartment owners.

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

1. Subsection 514A-82(1)(F) has been amended to provide for the removal of directors from office with or without cause.
2. Subsection 514A-82(11) has been amended to provide for the submission of proposed bylaws by the board of directors, as well as by a volunteer apartment owners' committee.
3. Subsection 514A-82(18) has been amended to provide a procedure by which a member of the board may cast proxy votes in the election or reelection of board members at any association meeting.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2191-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2191-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 472-86

Consumer Protection and Commerce on H.B. No. 2142-86

The purpose of this bill is to amend Section 486-1, Hawaii Revised Statutes, by expanding the definition of "misbranding" so as to specifically identify the percentage of Kona Coffee actually present in a given blend or container.

Your Committee received favorable testimony from the Board of Agriculture, United Coffee Corporation and the Kona Coffee Council (Council). The Council testified that consumers who purchase "Kona Blend" coffee are not aware that they are purchasing a product with less than 10 percent Kona Coffee. The same conclusion could be reached in regards to Kona Coffee ice cream, Kona Coffee honey, Kona Coffee glazed macadamia nuts, Kona Coffee candy and Kona Coffee liquer.

Your Committee finds that consumers are possibly being misled as to the actual amount of Kona Coffee in the products they are purchasing. Accordingly, your Committee agrees that consumers should be informed as to what they are purchasing and finds that the laws should be strengthened in order to accomplish this.

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

1. Section 486-1(14)(G) has been amended to specify that packages of coffee offered for sale and labeled Kona Coffee must contain 100 percent pure Kona Coffee.

2. Section 486-9 has been amended to allow the Director of Measurement Standards to promulgate rules regulating products labeled Kona Coffee.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2142-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2142-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 473-86

Consumer Protection and Commerce on H.B. No. 1937-86

The purpose of this bill is to address problems faced by lenders under this law. Currently, persons making secured loans who inadvertently fail to deliver a technical notice are subject to a loss of all future interest regardless of the size of the loan or whether the borrower freely chose the insurer. This bill amends Section 479-3 to provide a significant penalty but one which does not result in an inequitable windfall in the case of large loans. Borrowers would be able to recover actual damages, attorneys' fees and court costs as well as a penalty of \$5,000. The three year limit on recovery would not preclude a borrower from later raising the violation as an offset to amounts otherwise owed the lender.

Under current law, an individual selling his car or home on credit overlooking this law could lose all interest, merely because he or she failed to give the technical written notice even though the borrower in fact freely chose the car or home insurer. The law as amended would apply only to lenders regularly making loans.

The form of the notice required under Section 479-2 would be revised to make it consistent with Section 479-1. This would permit lenders to refuse a particular insurer for reasonable cause. In the case of one recent insurance company which went into receivership, lenders had to accept insurance from a company with unpaid outstanding judgments against it. Further, to participate in certain national loan programs, Hawaii lenders are required to accept only insurers of a certain rating class. Section 479-1 does not prohibit this under present law, but the current notice under Section 479-2 is confusing because it is not consistent with what the law actually requires under Section 479-1. A knowledge requirement has been added to the criminal penalty.

Your Committee heard favorable testimony from the Advisory Committee to the Commissioner of Financial Institutions of the Department of Commerce and Consumer Affairs, Hawaii League of Savings Institutions, Hawaii State Association of Life Underwriters, Hawaii Bankers Association and the Hawaii Insurers Council in support of the bill.

Your Committee, upon further consideration, has revised the bill by deleting certain language from Section 6 of the bill and adding a new sentence to Section 2 of the bill. This revision clarifies the original intent of the bill that notice forms complying with present law will continue to comply with the new law. This change with the "substantially stating" qualification would also permit a lender to disclose, for example, that the borrower is free to choose any insurer qualified to do business in Hawaii, subject to the lender's right to refuse any insurer for cause or reasonable excuse.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1937-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1937-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Liu.

SCRep. 474-86

Consumer Protection and Commerce on H.B. No. 1945-86

The purpose of this bill is to amend Section 26H-4, Hawaii Revised Statutes, by extending Chapter 438 (Board of Barbers) to December 31, 1992. This bill would also amend Chapter 438, Hawaii Revised Statutes, by adding new definitions, expand the scope of practice to include permanent waving and hair coloring, delete requirements for good moral character, eliminate examinations for apprentices, allow barber shops to hire cosmetologists, and clarify and expand the grounds for disciplinary action.

Your Committee received favorable testimony from the Board of Barbers of the Department of Commerce and Consumer Affairs, the Hawaii Institute of Hair Design, and many practitioners of the profession.

Your Committee, upon further consideration, has amended the bill by deleting the amendments to Chapter 438.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1945-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1945-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Liu.

SCRep. 475-86

Consumer Protection and Commerce on H.B. No. 1942-86

The purpose of this bill is to amend Section 403-65, Hawaii Revised Statutes, by increasing the loan amount reportable for review by the banks' boards of directors from \$100,000 to \$250,000.

The present amount was set eight years ago during the 1978 Legislative Session. Your Committee has discovered that, since that time, the \$100,000 limit has been unable to cope with the increasing demands of inflation and the rising financial demands of business enterprises. Boards of directors are being overwhelmed by an increasing number of ordinary loans requiring review. That is not essential for the protection of depositors' funds, nor is the current regulatory burden reasonable in today's economic climate.

Your Committee heard testimony from the Advisory Committee to the Commissioner of Financial Institutions of the Department of Commerce and Consumer Affairs and the Hawaii Bankers Association in support of the bill.

Your Committee feels that this bill would greatly alleviate the practical difficulties created by the outdated loan limit. Passage of the Bill will not undermine the protection of depositors' funds or the financial well-being of banks.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1942-86 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 Liu.

SCRep. 476-86

Consumer Protection and Commerce on H.B. No. 2111-86

The purpose of this bill is to amend Section 444-2, Hawaii Revised Statutes, by clarifying the law regarding exemption of government employees from being licensed as a contractor while in the performance of their governmental duties. The bill also makes non-substantive, technical amendments.

Your Committee received favorable testimony from the Contractors License Board (Board). The Board testified that although the intent of Section 444-2, Hawaii Revised Statutes, is to exempt only those government employees who are working on a government project or operation, an argument could be raised that any governmental officer or employee who is working on any project or operation is exempt from the licensing requirements. Accordingly, the law should be clarified to limit the exemption to government employees who are working on a government project or operation.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2111-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 477-86

Planning, Energy and Environmental Protection and Water,
Land Use, Development and Hawaiian Affairs on H.B. No.
2202-86

The purpose of this bill is to eliminate the contested case hearing provision associated with the geothermal resource subzone process and the "preponderance of evidence" criteria before a county grants a geothermal resource permit or before the Board of Land and Natural Resources withdraws the designation of a subzone.

Your Committees find that due to the lengthy procedural process required for the development of geothermal resources, geothermal development in Hawaii has progressed at a less than optimal rate. However, during discussions on this bill, your Committees received numerous concerns in regard to the bill's proposed elimination of contested case hearings during geothermal development proceedings. Further, testimony submitted by the Board of Land and Natural Resources attested to the potential value of these hearings to both the Board and affected parties. In this regard, your Committees have amended this bill by reconsidering the bill's original approach and by proposing a new amendment.

In lieu of eliminating the requirements for contested case hearings and for "preponderance of the evidence" criteria as it is required under the geothermal resource subzone provisions, your Committees have inserted language in Section 205-5.1(d) of the bill which would give the Board of Land and Natural Resources the authority to help the parties in a contested case hearing attempt to achieve a negotiated rather than a litigated resolution to their differences. The proposed revisions introduce two new features to the contested case process: (1) a mandatory pre-hearing settlement conference; and (2) at the discretion of the Board, the use of an assigned special master for purposes of mediation.

Your Committees find that the inclusion of such language has been recommended by the Department of Planning and Economic Development. In its 1985 report to the Legislature in response to Senate Resolution No. 140 entitled: "Requesting the Department of Planning and Economic Development to Expedite Geothermal Development", the Department encouraged "the timely resolution of conflicts between developers and local opposition groups by providing for early public input on the various aspects of geothermal development, and by resolving disputes through non-judicial means such as mediation and arbitration whenever possible."

Your Committees find that the proposed revision will allow the Board of Land and Natural Resources additional opportunities to pursue negotiated settlements to geothermal subzone disputes. This amendment will also provide the necessary language for the use of mediation, thereby expediting the resolution of such matters in a more timely, less adversarial fashion.

Your Committees on Planning, Energy and Environmental Protection and Water, Land Use, Development and Hawaiian Affairs are in accord with the intent and purpose of H.B. No. 2202-86, as amended herein, and recommend that it pass

Second Reading in the form attached hereto as H.B. No. 2202-86, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 478-86 Legislative Management on H.B. No. 1913-86

The purpose of this bill is to amend section 26H-5, Hawaii Revised Statutes, to require the Legislative Auditor to submit drafts of legislation in connection with changes recommended in the Legislative Auditor's sunset reports to the Legislature.

Your Committee has amended the bill to require recommended legislation be incorporated in Auditor sunset reports where the Auditor finds that laws should be modified, allow the Auditor to seek help from the Legislative Reference Bureau in drafting such recommended legislation, allow the Auditor to release copies of preliminary sunset reports to the Bureau where drafting assistance is requested, and require the Bureau to comply with such requests for drafting help provided that the Auditor gives the Bureau a copy of the preliminary report at the same time it is sent out for external review.

Your Committee on Legislative Management is in accord with the intent and purpose of H.B. No. 1913-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1913-86, H.D. 1.

Signed by all members of the Committee.

SCRep. 479-86 Human Services and Judiciary on H.B. No. 2725-86

The purpose of this bill is to provide immunity from civil and criminal liability for any person acting in good faith on behalf of and with the authorization of the Department of Social Services and Housing to prevent child abuse and safeguard and enhance the welfare of minors under the child abuse statutes.

The Department of Social Services and Housing, Family Court, University of Hawaii School of Social Work and the National Association of Social Workers, Hawaii Chapter, testified in support of the bill.

Your Committees take cognizance of the morale and recruitment problems created by statutes which protect good faith reporters of child abuse and neglect, yet leave unprotected CPS workers and others who assist in protecting our children from abuse and neglect. The assessment of risk to a child is not a science and CPS workers and others have to make reasonable educated assumptions and judgments based upon their professional expertise and training. Your Committees believe that a measure of protection from civil immunity is necessary if workers are to make the difficult decisions necessary in this area.

Your Committees are aware that the Attorney General believes that such immunity already exists not only for CPS workers but for all civil servants carrying out their lawful duties. Several cases are currently before the courts on this issue. Your Committees believe that it is important for the Legislature to clearly state its intent and purpose in this difficult area.

Your Committee inadvertently omitted Chapter 587, the Child Protective Act, from the original draft of the bill and therefore amended the bill to correct the oversight.

Your Committees deleted immunity from criminal liability from the bill as immunity from criminal liability is not legally possible. The Office of the Honolulu Prosecuting Attorney testified in support of good faith immunity for these workers and indicated that the use of the Grand Jury criminal indictment procedure in the Ronnica Arcala case was an "aberration" and would not be repeated.

The National Association of Social Workers, Hawaii Chapter, was concerned that foster care certification workers assisting the CPS workers in placing children were not covered in the bill. Your Committees wish to state that activities relating to the safeguarding and enhancement of the welfare of minors include the workers in the foster care units when they are involved in CPS work.

Your Committees on Human Services and Judiciary are in accord with the intent and purpose of H.B. No. 2725-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2725-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Kihano, Kiyabu, Leong, Levin, Taniguchi, Tungpalan, Cavasso and Liu.

SCRep. 480-86 Planning, Energy and Environmental Protection on H.B. No. 2285-86

The purpose of this bill is to shorten the maximum allowable term of a variance issued by the Department of Health under Sections 342-7(d) and (e), Hawaii Revised Statutes, from ten years to one year.

Your Committee finds that the purpose of a variance issued under Sections 342-7(d) and (e), HRS, is to provide a pollution source with a temporary period of relief from compliance with state pollution control requirements. Currently, the State Department of Health is authorized to issue variances to pollution sources for periods of up to ten years. During this period of relief from compliance, pollution sources are required to seek a permanent means to control its pollutants so as to come into compliance with applicable standards and rules by the end of the period of variance. However, your Committee finds a variance period of ten years is unnecessarily long and permissive to allow a discharge exceeding applicable standards to continue unchecked.

Your Committee finds that shortening the maximum allowable term of variance would encourage pollution sources to more actively search for a means to attain levels within conformance with State standards. However, a term of one year would prove burdensome to members of the public who would continually have to renew variances every year. In addition, this would also increase the workload of the State Department of Health to a point of being impractical. Therefore, your Committee has amended this bill by changing the proposed term of variance from one year to five years. This amendment would be consistent with the purpose of the bill and would provide a workable situation for the public as well as the State Department of Health.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 2285-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2285-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 481-86 Planning, Energy and Environmental Protection and Water, Land Use, Development and Hawaiian Affairs on H.B. No. 2017-86

The purpose of this bill is to require the Board of Land and Natural Resources to add owners of land within or 1,000 feet from an area being considered for designation as a geothermal resource subzone to those whom the Board must notify in regard to a hearing to consider a proposed subzone.

Your Committees find that Section 205-5.2(d), Hawaii Revised Statutes presently does not require the Board of Land and Natural Resources to notify landowners within or adjacent to areas being considered for geothermal subzone designation. This bill will clarify the ambiguity that presently exists regarding the notification of affected owners. Your Committees find that the designation of a precise statutory standard would provide clarification and would encourage participation in geothermal resource subzone designation hearings.

Your Committees on Planning, Energy and Environmental Protection and Water, Land Use, Development and Hawaiian Affairs are in accord with the intent and purpose of H.B. No. 2017-86 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 482-86 Planning, Energy and Environmental Protection and
Consumer Protection and Commerce on H.B. No. 2028-86

The purpose of this bill is to repeal Chapter 468B, Hawaii Revised Statutes, relating to the Bonding of Solar Energy Device Dealers.

Your Committees find that the original intent of Chapter 468B, HRS, was to insure the protection of the consumers' interests by requiring the bonding of solar energy device dealers in the amount of \$5,000 so that recourse would be available for consumers to collect damages. Consequently, however, in addition to creating burdens of over-regulation, problems arose as dealers were unable to obtain bonds from the insurance companies. Further, in its evaluation of the need for regulation the Department of Commerce and Consumer Affairs found that complaints against solar device dealers have been minimal. Inasmuch as consumers are adequately protected through the Contractor's Recovery Fund, Chapter 444, HRS, and the Office of Consumer Protection, your Committee concurs with the intent of this bill.

Your Committees on Planning, Energy and Environmental Protection and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2028-86 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Liu.

SCRep. 483-86 Planning, Energy and Environmental Protection and
Consumer Protection and Commerce on H.B. No. 2108-86

The purpose of this bill is to give the Governor or an authorized representative the authority to promulgate rules to insure that petroleum products are made available to the public in an orderly, efficient and safe manner without the necessity of a fuel shortage being declared.

Your Committees find that rules to insure that petroleum products are made available to the public in an orderly and safe manner should be promulgated before an emergency arises. This measure will allow for the adoption of rules in a timely manner, and will also afford the public to comment on the proposed rules at a hearing.

Your Committees have amended this bill to clarify that the rules to be adopted should be promulgated in accordance with the procedures of Chapter 91, Hawaii Revised Statutes. These rules shall become effective when a shortage as defined in Section 125C-2, HRS exists.

Your Committees on Planning, Energy and Environmental Protection and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2108-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2108-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Liu.

SCRep. 484-86 Consumer Protection and Commerce on H.B. No. 2425-86

The purpose of this bill is to amend Section 490:2-313.1, Hawaii Revised Statutes, by specifying collateral charges to be paid to a consumer when the consumer receives a refund under this "lemon law" provision, requiring dealers to provide consumers with a written notice in plain language explaining informal dispute settlement procedures and the consumers' rights under the "lemon law" provision, listing possible remedies under the informal dispute settlement procedure and requiring such a decision to specify a date for performance and completion of all awarded remedies.

Your Committee received favorable testimony from the Department of Commerce and Consumer Affairs and representatives from Ford Motor Vehicles and General Motors. General Motors testified that the amendment to Section 490:2-313.1(b) would specify the various collateral charges that would be reimbursed to a consumer who is entitled to remedies for a defective vehicle. While the present law specifies that the consumer is entitled to such collateral charges, it does not

specify them. General Motors has no objection to reimbursing the general excise tax to the consumer directly; however, it believes that the State should not be entitled to keep the excise tax if the vehicle is returned. Accordingly, General Motors requested that the bill be amended to provide that the State government will reimburse the general excise tax to the manufacturer upon proof that the manufacturer has reimbursed the tax to the consumer.

General Motors also testified that the amendment to Section 490:2-313.1(e) specifically provides that where an informal dispute settlement procedure is established by a manufacturer the manufacturer and its agents must provide certain specific information to the consumer explaining the consumer's rights and potential remedies. General Motors is already in compliance with the proposed language.

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

1. On page 2, lines 3 and 4 have been inserted to address the problem raised by the testimony, in regards to the reimbursement of the general excise tax; and
2. On page 3, line 5, the word "substantial" has been inserted between the words "for" and "compliance".

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2425-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2425-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 485-86

Consumer Protection and Commerce on H.B. No. 2845-86

The purpose of this bill is to amend Article 8 of Chapter 490, Hawaii Revised Statutes, to incorporate changes adopted in 1977 by the National Conference of Commissioners on Uniform State Laws.

Your Committee received favorable testimony from John A. Chanin, an attorney at law. Mr. Chanin testified that these amendments were promulgated by the Uniform Laws Commission to modernize the procedures for dealing with stock certificates and bonds which fall under the definition of "securities" under Article 8 of the Uniform Commercial Code. This bill recognizes a transaction based upon an uncertificated security, namely one not represented by a specific piece of paper, and provides the mechanism for trading in such certificates.

Further, the amendments presently contemplated by the Legislature include the same features as the original Article 8, with the important exception of the certificate requirements, and have been carefully integrated into the older Article 8. They parallel the legal framework that the original Article 8 established for certificates, and give priority in law to neither system of transfer. The practical advantages of the uncertificated system are clear. They allow issuers to take advantage of the efficiency and speed of computer technology that can eliminate the sea of paper that afflicts the securities market.

Your Committee also received testimony from the Business Registration Division (Division) of the Department of Commerce and Consumer Affairs. The Division testified Section 490:8-401(1) should be amended to state the duty of the issuer to honor instructions to register the transfer, pledge or release of uncertificated securities under the same terms and conditions that the current statute imposes upon the registration or transfer of certificated securities. Additionally, the issuer's liability under Section 490:8-401(2) should be extended to cover losses resulting from the failure to take timely action with respect to instructions to transfer, pledge or release uncertificated securities.

Your Committee, upon further consideration, has amended the bill in accordance with the amendments proposed by the Division.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2845-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2845-86, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 486-86

Consumer Protection and Commerce on H.B. No. 2062-86

The purpose of this bill is to amend Chapter 431 and 433, Hawaii Revised Statutes, to provide a one-time benefit for outpatient expenses arising from in vitro fertilization procedures performed on an insured or on the insured's dependent spouse.

Your Committee heard testimony from the Department of Obstetrics and Gynecology of the John A. Burns School of Medicine, the Pacific In Vitro Fertilization Institute, and a number of individuals in support of the bill. Your Committee also heard testimony from the Hawaii Medical Service Association in opposition to the bill.

Your Committee, upon further consideration, has amended the bill to provide that the requirements of the new sections shall apply to all policies delivered or issued for delivery in the State after the effective date of the sections.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2062-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2062-86, H.D. 2.

Signed by all members of the Committee.

SCRep. 487-86

Consumer Protection and Commerce on H.B. No. 1767-86

The purpose of this bill is to amend Chapters 453 and 663, Hawaii Revised Statutes, to strengthen and improve the medical licensing process and the process for reporting disciplinary problems to the Department of Commerce and Consumer Affairs.

Briefly, this bill would provide the following changes and additions to current statutory provisions:

1. Requires applicants and licensees to update information contained in statements submitted to the Board of Medical Examiners (Board).
2. Provides for an inactive licenses category and creates a process for re-activation of the licenses.
3. Provides a way for physicians to formally retire their licenses.
4. Provides strong authority for the Board to communicate with other agencies about licensees and applicants for licenses.
5. Provides a strong immunity provision for those who communicate information to or conduct investigations for government agencies, health care facilities, or health care providers.
6. Clarifies that the applicant bears the burden of proving qualification for licensure and the Board may take the necessary steps, including an interview, to assure itself of those qualifications.
7. Provides a procedure for early consideration of potentially serious cases in order to either dismiss them or to pursue them promptly.
8. Improves the peer review reporting process by specifying what information must be provided to the Department and by including hospital quality assurance committees in the process.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs, the Board of Medical Examiners, Department of Health, Hawaii Medical Service Association, Hawaii Federation of Physicians & Dentists, Hospital Association of Hawaii, and Hawaii Medical Association.

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

1. Subsection 453-7.5(b) which required that the Department of Commerce and Consumer Affairs issue an order to a physician upon whom a judgment award or settlement in excess of \$50,000 has been made to show cause why the physician's

license should not be subject to disciplinary proceedings has been deleted because present law requires that physicians report all settlements and judgments to the Department.

2. "Hospital quality assurance committee" has been added to the title of Section 663-1.7 and a clarification of the "final" peer review committee has been added.

3. Technical, nonsubstantive amendments have been made for clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1767-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1767-86, H.D. 2.

Signed by all members of the Committee.

SCRep. 488-86

Judiciary and Consumer Protection and Commerce on H.B.
No. 2178-86

The purpose of this bill is to correct technical errors appearing in various portions of the Hawaii Revised Statutes (hereafter "H.R.S.") which have resulted in inconsistencies, redundancies, unnecessary repetition, and lack of clarity.

This bill proposes the amendment of eighty-two separate sections of the H.R.S. The proposals originate from the legislative directive contained in section 23G-20, H.R.S., which mandates the revisor of statutes to conduct a continual review of the laws of the State for the purpose of removing inconsistencies, redundancies, unnecessary repetition, and to improve their clarity.

Section 1 amends section 121-15, H.R.S., to delete the word "as" to clarify that the reference to paragraph (5) or (6) refers to the officers reporting before the board. L 1967, Act 196, amended and reenacted the chapter relating to the militia and the national guard (chapter 121, H.R.S.). Section 121-15(7) permits discharge of an officer for refusing or neglecting to report before the board as provided in paragraph (5) or (6). Section 121-15(7), as enacted, is ambiguous since it is not clear whether the reference to paragraph (5) or (6) relates to the officer reporting before the board during the board investigation or to the report of the board of its findings to the Governor.

Section 2 amends the section heading of section 121-40, H.R.S., to conform to the text of the section. Section 121-40, H.R.S., pertains to pay and allowances of enlisted personnel of the army and air national guard while on active duty. Section 121-40 is entitled "Pay of enlisted men while on active duty." For consistency, the section heading for section 121-40 should be amended to conform to the text of the section by changing the word "men" to "personnel".

Section 3 amends section 128-6, H.R.S., to change a reference to chapter 28 to chapter 846. L 1983, Act 78, section 2, repealed chapter 28, H.R.S., part III, pertaining to civil identification. L 1983, Act 78, section 3, added a new part to chapter 846 concerning civil identification. Section 128-6(4), H.R.S., which contains a reference to chapter 28, should be amended to refer to the current provisions in chapter 846. Your Committees have amended section 30 of this bill by deleting a reference to chapter 846, part III and substituting a reference to chapter 846, part II to correct a typographical error in the bill.

Section 4 amends section 128-8, H.R.S., to delete an obsolete reference to section 325-31, H.R.S. L 1974, Act 6, section 1, repealed section 325-31, H.R.S.

Section 5 amends section 128-23, H.R.S., to delete an obsolete reference to section 657-16. L 1976, Act 200, Article VIII, section 8-102(50), repealed section 657-16, H.R.S.

Section 6 amends section 134-7(c), H.R.S., to delete reference to sections 333-27, 333-35, and 333-35.5, H.R.S., and to substitute references to the correct sections. L 1982, Act 113, changed the method of admitting mentally retarded persons to Waimano Training School and Hospital under chapter 333, H.R.S., by repealing part III, sections 333-21 to 333-37, and adding a new part IIIA, subsequently designated as sections 333-41 to 333-46.5, H.R.S.

Section 7 amends section 141-7, H.R.S., by changing an obsolete reference from chapter 151 to the current reference chapter 149A to conform to section 141-1 as amended in 1982. Section 141-7, H.R.S., contains an obsolete reference to chapters 149 and 151, H.R.S., which were repealed by L 1972, Act 58. L 1972, Act 58, section 1, added a new chapter 149A relating to licensing, sale, and use of pesticides.

Section 8 amends section 149A-18, H.R.S., by deleting brackets around the word "permit". L 1975, Act 126, amended chapter 149A, H.R.S. One of the amendments added a new section 149A-18, relating to the procedures for denying, suspending, or revoking a permit to sell a restricted pesticide. There was an inherent inconsistency in the wording of this section and both the words "license" and "permit" were used regarding sale of a restricted pesticide. Another section, 149A-14 provided for the refusal, cancellation, or suspension of a license of a pesticide. Accordingly, the revisor of statutes, pursuant to statutory authority, corrected the reference to "license" in section 149A-18 to "permit". The revisor indicated the change by the use of brackets around "permit" and a revision note. Section 149A-18 should be amended to officially enact this correction.

Section 9 amends section 149A-31, H.R.S., by changing the word "banned" to the phrase "suspended, canceled, or restricted" for consistency with the language of section 149A-32.5, H.R.S. L 1985, Act 131, repealed section 149A-32, H.R.S., pertaining to the banning of pesticides and amended chapter 149A, by adding a new section entitled "Cancellation or suspension of pesticide uses", which was subsequently designated as section 149A-32.5, H.R.S. Section 149A-31, H.R.S., contains a reference to section 149A-32 which should be amended to refer to the new section 149A-32.5.

Section 10 amends section 183-21, H.R.S., by changing the language "as defined in section 183-19" to "as referred to in section 183-19". Section 183-21, H.R.S., refers to a definition of "forest reservations" in section 183-19. Section 183-21 should be amended to change the phrase "as defined in section 183-19" because there is no definition of "forest reservations" contained in section 183-19, H.R.S., to read "referred to in section 183-19".

Section 11 amends section 188-34, H.R.S., to replace a reference to chapter 187 with a current reference to chapter 187A. L 1985, Act 94, repealed chapter 187, H.R.S., "Aquatic Resources and Wildlife", and enacted a new chapter entitled "Aquatic Resources", subsequently designated as chapter 187A, H.R.S. The legislative history of the Act shows that the purpose of enacting this new chapter is to implement the reorganization of aquatic resources and wildlife functions of the department of land and natural resources and to consolidate certain sections of Title 12, H.R.S., to specifically reflect aquatic resources.

Section 12 similarly amends section 188-45, H.R.S., to replace the reference to chapter 187 with the reference to chapter 187A for the same reason as stated in section 11 of the bill.

Section 13 amends section 207-15, H.R.S., to delete the reference to section 431-52. L 1971, Act 211, section 2, repealed section 431-52, H.R.S.

Section 14 amends section 209-17, H.R.S., to delete the reference to chapter 358. L 1978, Act 141, section 6, repealed chapter 358, H.R.S.

Section 15 amends section 220-1, H.R.S., to correct a misspelling of the word "aquaculturalist" to conform to section 219-2(3) which defines the term.

Section 16 amends section 222-2, H.R.S., to change the reference to the advisory commission on "manpower and full employment" to the advisory commission on "employment and human resources". L 1985, Act 252, changed the name of the advisory commission on "manpower and full employment" to the advisory commission on "employment and human resources" in chapter 202, H.R.S.

Section 17 amends section 232-13, H.R.S., by substituting a reference to section 232-16, H.R.S., for the reference to section 232-8, H.R.S. Section 232-13, H.R.S., provides for a hearing de novo before the tax appeal court. This section states in relevant part, "The court shall, in the manner provided in section 232-8, determine all questions of fact and all questions of law, including constitutional questions, involved in the appeal." Section 232-8 relates to the designation of judges of the tax appeal court. The statutory authority governing appeal to tax appeal court is section 232-16, H.R.S., which states in relevant

part, "An appeal to the tax appeal court shall bring up for review all questions of fact and all questions of law, including constitutional questions..."

Section 18 amends section 235-12, H.R.S., to correct a clerical error regarding the date December 12, 1974. L 1985, Act 232, amended section 235-12, H.R.S., pertaining to income tax credit for solar or wind devices and heat pumps. Section 235-12(a), as amended by Act 232, contains a reference to "service after December 12, 1974, but before December 31, 1992". The reference to December 12, 1974, was not underscored in Act 232 indicating an amendment. Section 235-12, as amended prior to Act 232, referred to December 31, 1974. The reference to December 12, 1974 appears to be a clerical error.

Section 19 amends section 241-6, H.R.S., to delete a reference to section 235-91. L 1978, Act 173, section 16, repealed section 235-91, H.R.S., relating to accounting basis.

Section 20 amends section 246-12, H.R.S., to delete "[tax]" from the text of subsection (c). L 1975, Act 157, section 5, amended section 246-12(c), H.R.S., by deleting the word "tax" in paragraph (1). Through an apparent clerical error, the word "tax" was left in the text of the section with the brackets used to make the deletion.

Section 21 amends section 246-53, H.R.S., to delete an incorrect reference. Section 246-53, H.R.S., should be amended by deleting the reference to section 101-35, since 101-35 does not authorize taxes to be remitted as indicated by the reference in section 246-53 but pertains to the tax official as a party in an eminent domain proceeding.

Section 22 amends section 246-55, H.R.S., by deleting a reference to section 634-28, H.R.S. The reference in section 246-55, H.R.S., to service "...in the manner provided by sections 634-23 to 634-28..." is erroneous because section 634-28 pertains to "form of judgment".

Section 23 amends section 246-63, H.R.S., by deleting the reference to section 634-28, H.R.S., for the same reasons as the change made to another H.R.S. section in section 22 of this bill.

Section 24 amends section 261-7, H.R.S., to subdivide subsection (a) and make other stylistic changes. Section 261-7(a), H.R.S., contains multiple numbered paragraphs within the same subsection and is of considerable length. For stylistic reasons, section 261-7(a) should be subdivided and the rest of the section amended accordingly.

Section 25 amends section 261-33, H.R.S., to delete references to sections 261-31, 261-34, 261-35, and 261-36 and to delete brackets. L 1970, Act 165, section 2, contained the language in the section which was subsequently numbered as section 261-33, H.R.S., "In addition to amounts otherwise authorized by this Part...." The revisor of statutes, pursuant to statutory authority, substituted the reference to this Part with a reference to "sections 261-31 to 261-36". Sections 261-32 and 261-33, H.R.S., provide authorizations for payment of amounts. Sections 261-31, 261-34, 261-35, and 261-36 do not authorize any amounts. Section 261-31 is a definition section, section 261-34 provides that payments received are not treated as income, section 261-35 pertains to decision of the director and section 261-36 pertains to rules and regulations. Section 261-33 should be amended to refer to only those sections authorizing amounts and to delete the Revisor's brackets.

Section 26 for the same reasons set forth in section 25 amends section 261-34, H.R.S., by deleting references to sections 261-31, 261-34, 261-35, and 261-36.

Section 27 amends section 264-32, H.R.S., to delete references to sections 264-32 and 264-34, H.R.S. Section 264-32, H.R.S., provides for a definition of the term "'utility facility" wherever used in sections 264-32 to 264-34". The reference to sections 264-32 to 264-34 is erroneous because the term utility facility is not used, but defined in section 264-32, and the term is not used in section 264-34. Section 264-32 should be amended to refer only to section 264-33, H.R.S., where the term is used.

Section 28 amends section 271G-3, H.R.S., to delete references to sections 269-4 and 269-11, H.R.S. L 1976, Act 165, section 3, repealed section 269-4,

H.R.S. L 1983, Act 98, section 3, repealed section 269-11, H.R.S. Section 271G-3 contains a reference to sections 269-4 and 269-11 by providing that these sections shall not apply to the regulation of water carriers.

Section 29 amends section 281-37, H.R.S., to delete the word "a" before the wording "pharmaceutical and other purposes" to correct a clerical and grammatical error. Section 281-37, H.R.S., provides in the second paragraph for issuance of a permit to purchase liquor to any person who in the opinion of the commission requires the use of alcohol for "a pharmaceutical or other purposes". The use of the word "a" with the word "purposes" is grammatically incorrect. This statutory provision as codified in R.L. 1945, Act 137, section 7238, did not contain the word "a" in that phrase. Due to an apparent clerical error, the word "a" was added in the statutory provision as codified in R.L.H. 1955, section 159-36.

Section 30 amends section 286-56, H.R.S., to delete incorrect references to sections 105-1 to 105-5 and 105-10, H.R.S., and to substitute the correct reference. Section 286-56, H.R.S., requires that motor vehicles owned by the State or by any of its municipal subdivisions must bear the inscription "provided for in sections 105-1 to 105-10". The reference to sections 105-1 to 105-10 is erroneous because the inscription provisions are in sections 105-6 to 105-9, H.R.S.

Section 31 amends section 286-65, H.R.S., to delete an incorrect reference to section 249-8, H.R.S. Section 286-65, H.R.S., requires that upon transfer of ownership of a motor vehicle or upon the expiration or revocation of an amateur radio station license, the holder of the special plates must surrender them to the county civil defense department, and regulation number plates must be fastened to the motor vehicle as provided in sections 249-7 and 249-8. Section 249-7 pertains to number plates. The reference to section 248-9 is incorrect because that section pertains to the procedure for replacing lost or damaged plates.

Section 32 amends section 286-68, H.R.S., to correct an incorrect reference to "regulations number plates" to "regulation number plate" to conform to the language of L 1955, Act 67, section 7. Section 286-68, H.R.S., refers to "regulations number plates". L 1955, Act 67, section 7, enacting section 286-68, however, referred to the plates as "regulation number plates".

Section 33 conforms section 287-35, H.R.S., to the new language of section 287-1 by amending subsection (a). L 1982, Act 210, section 1, amended section 287-1, H.R.S., by deleting specified dollar amounts required to be shown from the definition of "proof of financial responsibility", and referring instead to section 294-10(a) for the specific amounts. Section 287-35, H.R.S., pertaining to bond as proof of financial responsibility contains a reference to the "amounts specified in section 287-1".

Section 34 repeals section 292-11, H.R.S. Section 292-11, H.R.S., established an odometer enforcement revolving fund. All revenues generated from assessment of a verification fee for odometer system accuracy for each motor vehicle is deposited in this fund, to be expended for costs of enforcing chapter 292, H.R.S. Section 292-11 provides that these funds revert to the general fund on July 1, 1981. Due to the reversion of these funds, the odometer enforcement revolving fund is without a purpose and is functus.

Section 35 amends section 296-1, H.R.S., by deleting the reference to chapter 302, H.R.S. L 1985, Act 57, section 1, repealed chapter 302, H.R.S.

Section 36 amends section 296-60, H.R.S., to correct subsection designations by substituting paragraph designations. Section 296-60, H.R.S., has subsection designations which should have been designated as paragraphs.

Section 37 amends section 305A-4, H.R.S., to conform to the new terminology of chapter 202, H.R.S. See section 16 relating to the amendment of section 222-2, H.R.S., for justification supporting the amendment of section 305A-4, H.R.S.

Section 38 amends section 306-16, H.R.S., by deleting the obsolete reference to Article VI, section 3, and by substituting the new reference to Article VII, sections 12 and 13. The 1978 Constitutional Convention amended Article VI, section 3, of the Constitution of the State of Hawaii pertaining to bonds and debt limitations by substituting Article VII, section 12, entitled "Definitions; Issuance of Indebtedness" and section 13, entitled "Debt Limit; Exclusions".

Section 39 amends section 321-175, H.R.S., by amending subsection (a) by

changing the reference to "emotion-disturbed" to "emotionally disturbed". The term "emotion-disturbed" in section 321-175(a), H.R.S., is misspelled and grammatically incorrect.

Section 40 amends section 323D-2, H.R.S., to conform to the new language of chapters 459, 461J, and 465, H.R.S. L 1983, Act 95, amended the law on psychologists and provided that they are licensed instead of certified. L 1985, Act 224, amended the law on optometrists and provided that they are licensed instead of registered. L 1985, Act 276, removed physical therapists from licensure and regulation by the State Department of Health under chapter 321, H.R.S. The Act placed the responsibility for licensure and regulation of physical therapists under a board of physical therapy by establishing a new chapter 461J, H.R.S. Section 323D-2, H.R.S., contains a reference in the definition of "health care provider" to "optometrist registered under chapter 459", "psychologist certified under chapter 465", and "physical therapist licensed under chapter 321". That definition in section 323D-2 should be amended to refer to licensure under chapters 459 and 465 and chapter 461J which provides for the licensure and regulation of physical therapists.

Section 41 amends section 328-9, H.R.S., to change the reference to section 328-13(1) to section 328-13(a), and to make other stylistic and grammatical changes. Section 328-9, H.R.S., pertaining to circumstances when foods are deemed to be adulterated, has a reference to section 328-13(1), H.R.S. There is no paragraph (1) in section 328-13. L 1967, Act 152, correctly referenced 328-13(a) and it appears that a clerical error was made when Act 152 was codified.

Section 42 similarly amends section 333-52, H.R.S., by changing the reference to part III to part IIIA for the same reasons as the change made in section 6 of this bill.

Section 43 amends section 334-1, H.R.S., to delete the reference to section 604-1, H.R.S., and substitute a reference to section 604-2, H.R.S., providing authority for appointment of both per diem and family court judges. L 1979, Act 16, section 2, amended sections 604-1 and 604-2, H.R.S., pertaining to district court judges. One of the amendments transferred the authority for the chief justice to appoint per diem court judges from section 604-1, relating to judicial, circuit, district court judges, and sessions to section 604-2. Section 604-2 pertains to the appointment, tenure, and removal of district court judges. Section 334-1, H.R.S., contains a definition of "judge" which refers to any judge of the family court or per diem judge appointed by the chief justice "as provided in section 604-1".

Section 44 amends section 334-123, H.R.S., to clarify references to "criteria numbered (1) through (4) and criteria numbered (5) and (6)" by incorporating a complete reference to section 334-121, H.R.S. Section 334-123(a), H.R.S., contains two references to "criteria numbered (1) through (4)" and a reference to "criteria (5) and (6)". The criteria referred to in this section appear in section 334-121, H.R.S.

Section 45 amends section 338-17.5, H.R.S., to delete an incorrect reference to section 338-15, H.R.S., and to insert a correct reference to section 338-16, H.R.S. Section 338-17.5, H.R.S., contains a reference to rejection of a delayed certificate of birth under section 338-15, H.R.S. Section 338-15 provides generally for delayed or altered certificates, but does not provide for rejection of a delayed certificate. The procedure for rejection of a delayed certificate of birth appears to fall under section 338-16, H.R.S.

Section 46 amends section 353-6, H.R.S., to conform to the terminology of section 26-14, H.R.S. Section 26-14, H.R.S., provides for the Department of Social Services and Housing to be headed by a single executive known as the "Director of Social Services". Section 353-6, H.R.S., refers to the "Director of Social Services and Housing".

Sections 47 through 50 amend the respective H.R.S. sections listed below by changing references to the Director of Social Services and Housing to the Director of Social Services. See section 46 relating to section 353-6, H.R.S. for the justification supporting these amendments.

Section 47 - section 353-6.5, H.R.S.

Section 48 - section 353-7, H.R.S.

Section 49 - section 353-25, H.R.S.

Section 50 - section 353-48, H.R.S.

Section 50 also amends section 353-48, H.R.S., to delete the phrase "grade C felony" and to insert the correct phrase "class C felony". Section 353-48 states in pertinent part, "Unauthorized communications, passing of documents or visiting is a grade C felony within the meaning of title 37. Section 701-107, H.R.S., provides that crimes are of three "grades": felonies, misdemeanors, and petty misdemeanors; and that felonies are of three "classes: class A, class B, and class C". The phrase "grade C felony appears to have been a technical error made when this statutory provision was amended by L 1973, Act 179, following the adoption of title 37, the Penal Code. Before L 1973, Act 179, any violation of this provision was subject to a fine, and this Act amended the provision to make a violation of this provision a class C felony.

Section 51 amends section 359-7, H.R.S., to change a reference to chapter 358 to a reference to the current chapter 356 providing for the authority of the governmental bodies regarding housing. L 1978, Act 141, section 6, repealed chapter 358, H.R.S. The legislative history of the Act shows that the intent was to recodify the Hawaii housing laws and to transfer the provisions of chapter 358 to chapter 356, H.R.S. Section 359-7, H.R.S., contains a reference to the authority of the State, its political subdivisions, and agencies under chapter 358.

Sections 52 through 55 amend the respective H.R.S. sections listed below by changing references to chapter 358 to chapter 356, for the same reasons as the change made to section 359-7, H.R.S., in section 51 of this bill.

Section 52 - section 359-34, H.R.S.

Section 53 - section 359-35, H.R.S.

Section 54 - section 359-41, H.R.S.

Section 55 - section 359-61, H.R.S.

Section 56 amends section 359-89, H.R.S., to delete the reference to section 356-3, H.R.S. and to add a reference to section 356-2, H.R.S. where housing project is currently defined. L 1978, Act 141, section 2(3), repealed section 356-3, H.R.S., which defined the terms "housing project" or "project", "community facilities", and "bonds". The Act transferred the definitions of these terms to section 356-2, H.R.S. Section 359-89, H.R.S., contains references to housing projects defined in section 356-3.

Section 57 amends section 359G-10.5, H.R.S., by amending subsection (c) to delete the reference to paragraphs (1), (2), and (3) of section 359G-4.1, H.R.S., and to cite the full section. L 1981, Act 76, section 1, subdivided section 359G-4.1 into subsections (a) and (b). Section 359G-10.5(c), H.R.S., contains a reference to procedures in section 359G-4.1(1), (2), and (3). The procedure referenced in section 359G-10.5 appears to be set forth in the full section 359G-4.1.

Section 58 amends section 359G-18, H.R.S., to correct a technical error of designating certain paragraphs as subsections. Section 359G-18, H.R.S., contains a list of conditions upon downpayment loans made to qualified borrowers by the Hawaii Housing Authority. The conditions listed under this section have been designated as subsections but should have been designated as paragraphs.

Section 59 amends section 359G-32, H.R.S., by amending subsection (a) to change the reference to subsection (h)(1) to subsection (h). Section 359G-32(a), H.R.S., contains a reference to loans not in excess of "...\$3,500 as prescribed by subsection (h)(1)...." Subsection (h)(1) relates to the submittal of plans and specifications to the Hawaii Housing Authority. Subsection (h) contains the prescription for the "loan not exceeding \$3,500".

Section 60 amends section 360-33, H.R.S., by changing a reference to chapter 358 to chapter 356, for the same reasons as the change made in section 51 of this bill.

Section 61 amends section 392-65, H.R.S., to delete an obsolete reference to chapter 384, H.R.S. L 1982, Act 20, section 4, repealed chapter 384, H.R.S.

The legislative history of the Act shows that the agricultural employers under chapter 384 were transferred to coverage under chapter 383, H.R.S., and that chapter 384 was no longer necessary. Section 392-65, H.R.S., contains reference to benefits claimed and payable under chapter 384.

Section 62 similarly amends section 392-66, H.R.S., by deleting a reference to chapter 384, H.R.S., for the same reasons as the change made in section 61 of this bill.

Section 63 amends section 394-5, H.R.S., to conform to the new terminology of chapter 202, for the same reasons as the change made in section 16 of this bill.

Section 64 amends section 408A-9, H.R.S., by amending subsection (a) to change the reference to chapter 553 to chapter 553A. L 1985, Act 91, section 2, repealed chapter 553, H.R.S., entitled "Uniform Gifts to Minors Act". The Act enacted a new chapter 553A entitled "Uniform Transfers to Minors Act". Legislative history indicates that the Uniform Transfers to Minors Act is to be substituted for the Hawaii Uniform Gifts to Minors Act (House Standing Committee Report No. 939 on Senate Bill No. 1158, Thirteenth Legislature, 1985, State of Hawaii).

Section 65 amends section 415-2, H.R.S., to change a reference to the "bank examiner" in the definition of "offeree company" to "commissioner of financial institutions" to conform to the new terminology of Title 22. L 1985, Act 269, made extensive amendments to Title 22, "Banks and Financial Institutions". One of the changes made throughout Title 22 was to substitute the title of "commissioner of financial institutions" for the title of "bank examiner".

Section 66 amends section 415-3, H.R.S., to delete the reference to chapter 416 and to substitute a reference to 415A. L 1985, Act 259, section 2, repealed chapter 416, part VIII, H.R.S. The legislative history of the Act shows that a new chapter 415A, H.R.S., entitled "Professional Corporation Act" was intended to replace part VIII of chapter 416, which pertained to professional corporations.

Section 67 amends section 415B-43, H.R.S., to change a reference to "candidate's vote" to "member's vote". Section 415B-43, H.R.S., contains a reference to "candidate's vote" due to a technical error in desexing the language "his vote" from the Model Nonprofit Corporation Act. The appropriate reference should have been "member's vote".

Section 68 amends section 416-29, H.R.S., to delete the reference to section 416-26(17), H.R.S., and substitute references to section 416-26(16), H.R.S. L 1977, Act 71, section 3, amended section 416-26, H.R.S., relating to the powers of a corporation created in the State. One of the amendments changed the authority for the power of a corporation to pay pensions and establish pension plans and other incentive plans from 416-26(17) to 416-26(16). Section 416-29, H.R.S., contains a reference to the power "to pay pensions and establish pension plans and incentive plans as set forth in sections 416-26(14) and 416-26(17)".

Section 69 amends section 417-2, H.R.S., by deleting the references to sections 417-3 to 417-4 and substituting the correct reference to sections 417-3 to 417-14. Section 417-2, H.R.S., pertaining to merger and consolidation of domestic corporations, contains a reference to "sections 417-3 to 417-4". R.L.H. 1955, section 173-2, shows that the reference was to sections 417-3 to 417-14, and it appears that a clerical error was made when R.L.H. 1955, section 173-2, was recodified as section 417-2, H.R.S.

Section 70 amends section 417-25, H.R.S., to correct an error in the phrase "any dissenting stockholders is entitled to relief..." This phrase is grammatically incorrect and appears to have been a clerical error. R.L.H. 1955, section 173-25, recodified as section 417-25, shows that the phrase previously used the singular term "stockholder".

Section 71 amends section 417-42, H.R.S., by changing certain references to "subsidiary corporations" to "subsidiary corporation" to correct clerical errors. L 1965, Act 117, section 1, established a new part to the chapter relating to consolidation and merger of corporations. This new part pertained to merger of subsidiary corporations. Section 173-32 of this new part related to merger of parent corporation and subsidiary. There were certain references in this section to "subsidiary corporations". Section 173-32 was subsequently codified as section 417-42, H.R.S. Due to apparent clerical errors, some of the plural references to

"subsidiary corporations" were changed to singular references, "subsidiary corporation".

Section 72 amends section 418-2, H.R.S., to change the word "name" to "names" in the phrase "The name and addresses of its officers and directors, if any", to correct apparent clerical and grammatical errors. Section 418-2, H.R.S., requires that a foreign nonprofit corporation provide a sworn statement in the declaration filed with the department of commerce and consumer affairs as to "The name and addresses of its officers and directors, if any." The word "name" appears to be grammatically incorrect. A review of L 1957, Act 315, section 2, shows that in previous versions of this section the word "name" was plural "names".

Section 73 amends section 421C-31, H.R.S., to delete the reference to chapter 417, part I, and to add a reference to "the general corporation laws". L 1983, Act 167, section 17, substituted the phrase "the general corporation laws" for the phrase "chapter 417, part I" in various sections of the H.R.S. Section 421C-31, H.R.S., contains a reference to chapter 417, part I, but was not included in L 1983, Act 167.

Section 74 amends section 441-24.5, H.R.S., to correct the reference to the "commissioner of financial institutions" to "director". L 1985, Act 101, amended section 441-24.5, H.R.S., pertaining to pre-need trusts and perpetual care funds to substitute the "director" for the "bank examiner" as the governmental authority authorized to receive the audited financial statements required from cemetery authorities operating perpetual care cemeteries or engaging in pre-need sales. L 1985, Act 269, also amended section 441-24.5 to inadvertently substitute the "commissioner of financial institutions" for the "director".

Section 75 amends section 448-12, H.R.S., by deleting the reference to "leprosy patients" and substituting the term "Hansen's disease sufferers." L 1981, Act 185, substituted the term "leprosy patient" with the term "Hansen's disease sufferer" wherever they appeared in chapter 326, H.R.S. Legislative history reflects the Legislature's intention that the change of term be uniform throughout the H.R.S., as the Legislature found that the continued use of the term "leprosy" and "leper" created undeserved and unnecessary negative connotations to those afflicted with Hansen's disease (Senate Standing Committee Report No. 825 on H.B. No. 506, H.D. 1, Eleventh Legislature, 1981, State of Hawaii).

Section 76 amends section 468K-5, H.R.S., by amending subsection (e) by substituting notice to the trustees for notice to the director to conform to section 468K-5(a), as amended by L 1985, Act 46. L 1985, Act 46, replaced the director of commerce and consumer affairs as trustee in charge of the travel agency recovery fund with three trustees selected and appointed by the director. Section 468K-5(e), H.R.S., contains the language "For purposes of this chapter, any written notification to the director as required by subsection (a)...." Subsection (a) was amended by the Act to provide for notification to the trustees rather than to the director.

Section 77 amends section 480-10, H.R.S., to change the reference to the Hawaii employment relations board to the Hawaii labor relations board. L 1985, Act 251, abolished the Hawaii employment relations board and transferred its functions to the Hawaii public employment relations board which was renamed the "Hawaii labor relations board".

Section 78 amends section 486H-3, H.R.S., to delete the reference to the division of weights and measures and add the reference to the division of measurement standards. L 1977, Act 58, changed the title of the "division of weights and measures" to the "division of measurement standards".

Section 79 amends section 710-1022, H.R.S., by amending subsection (2) to change a reference to section 712-1240(1) to (3) and (5) to (7) to designate the items defined in the paragraphs referenced. To facilitate future amendments, the definitions in section 712-1240, H.R.S., were rearranged in 1984 in alphabetical order and without numeric paragraph designations. Section 710-1022(2), H.R.S., in defining "drug" contains a reference to items listed in section 712-1240(1) to (3) and (5) to (7).

Section 80 amends L 1983, Act 167, by changing all references to July 1, 1986 to July 1, 1987, the new effective date. L 1985, Act 270, amended section 24 of Act 167, Session Laws of Hawaii 1983, entitled the "Hawaii Business Corporation

Act" to change its effective date from July 1, 1986, to July 1, 1987.

Section 81 amends L 1985, Act 270, section 6, to change the effective date to ensure that Act 270 will become effective on the same date as L 1983, Act 167. L 1985, Act 270, replaced the existing statutes governing nonprofit corporations with a new chapter referred to as the "Hawaii Nonprofit Corporation Act". The Act was a companion to L 1983, Act 167, entitled the "Hawaii Business Corporation Act". The legislative history of Act 270 shows that an extension until July 1, 1987, was required to incorporate the Hawaii Business Corporation Act and that Act 270 amended the effective date of Act 167. Act 270 contains an effective date of July 1, 1987, and should be amended to provide that the Act becomes effective on July 1, 1987, provided that the change in the effective date for Act 167 becomes effective upon approval to ensure that both the Hawaii Business Corporation Act and the Hawaii Nonprofit Corporation Act become effective on the same date.

Section 82 amends L 1985, Act 293, to change the effective date from upon approval to July 1, 1985. L 1985, Act 293, provides for an appropriation from the general revenues of the State to the Legislative Reference Bureau for the publication of the 1985 Replacement volumes to the H.R.S. The Act was to take effect upon its approval. The editing and preparation for the publication of the 1985 Replacement volumes began for the fiscal year 1985-1986.

Your Committees on Judiciary and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 2178-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2178-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 489-86

Judiciary on H.B. No. 2158-86

The purpose of this bill is to correct obsolete references to sections of the old Hawaii criminal law which have been repealed contained in various portions of the Hawaii Revised Statutes (hereafter H.R.S.).

The bill proposes the amendment of three separate sections of the H.R.S. These proposals arose from the preparation of the revision bill (H.B. No. 2178-86) for the 1986 Regular Session and are changes required to correct obsolete references not of the kind usually placed in the revision bill.

Section 2 amends section 353-9, H.R.S., to delete the reference to embezzlement, as provided by section 739-4, and to substitute a reference to theft, as provided by section 708-830, H.R.S. L 1972, Act 9, adopted the Hawaii Penal Code, codified as Title 37, H.R.S. In adopting the Hawaii Penal Code, the Act also repealed chapter 739, H.R.S., which related to the crime of embezzlement. The Hawaii Penal Code followed the Model Penal Code and consolidated under a single offense of theft the traditionally distinct common law crimes of larceny, embezzlement, obtaining by false pretenses, obtaining by trick or device, fraudulent conversion, cheating, extortion, and blackmail. The section pertaining to theft is section 708-830, H.R.S.

Section 3 amends section 409-32, H.R.S., to delete the references to subornation of perjury and to punishment provided in section 756-5, H.R.S., and to substitute references to sections 705-510 to 705-512 relating to solicitation and to sections 710-1060 to 710-1068, H.R.S., relating to perjury and related offenses. L 1972, Act 9, repealed chapter 756, H.R.S., pertaining to perjury and subornation in enacting the Hawaii Penal Code, Title 37, H.R.S. Sections 710-1060 to 710-1068, H.R.S., relate to perjury and related offenses. There is no provision in the Hawaii Penal Code relating to the crime of subornation of perjury because the Hawaii Penal Code follows the Model Penal Code which includes the crime of subornation of perjury within the sections relating to solicitation. The sections relating to solicitation are sections 705-510 to 705-512, H.R.S. Sections 710-1060 to 710-1068 and 705-510 to 705-512, H.R.S., do not contain specific provisions relating to punishment for perjury or solicitation but provide for the grades of the crime or class of the felony.

Section 4 amends section 666-3, H.R.S., by deleting the reference to section 727-1 and by substituting the language of the definition of common nuisance as it existed in section 727-1. L 1972, Act 9, repealed section 727-1, H.R.S. Section

666-3, H.R.S., pertaining to forfeiture of certain tenancies where the tenant creates or causes a common nuisance, refers to section 727-1 for the definition of a common nuisance.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2158-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 490-86 Judiciary on H.B. No. 2373-86

The purpose of this bill is to prohibit an accused from using self-induced intoxication as a defense to committing a crime.

Your Committee received testimony in favor of this bill from the Hawaii PTSA, Kathi Smith, a Registered Nurse, Sandi Brown, nursing supervisor at Castle Medical Center, and the Department of the Prosecuting Attorney.

The Hawaii PTSA testified that a crime committed by an intoxicated person is still a crime. Their testimony further indicated that this bill is a step in the right direction in finding a solution to this problem.

Your Committee believes that when an individual chooses to use an intoxicant, that individual should be held responsible for his or her actions.

Your Committee further believes that criminal acts committed while a person is voluntarily intoxicated should not be excused by the application of a defense which would negate the offender's state of mind.

Your Committee adopted the suggested language of the Prosecutor's Office to clarify section 1 of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2373-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2373-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep 491-86 Judiciary on H.B. No. 1728-86

The purpose of this bill is to incorporate credit card offenses under chapter 851, Hawaii Revised Statutes into the penal code under chapter 708.

Presently, credit card offenses are set forth under chapter 851, Hawaii Revised Statutes.

Your Committee heard testimony in support of the bill from the Honolulu Prosecuting Attorney, the Honolulu Police Department (HPD), American Savings, and the Hawaii Banker's Association. HPD testified that in 1985, they investigated 410 credit card offenses.

Your Committee finds that the offenses relating to credit cards are essentially types of fraud, theft, or forgery and can be handled through the penal code. In addition, the trend in society indicates the increasing use of credit cards for transactions and therefore, it is important that laws relating to credit cards are properly drafted to discourage misuse of the cards.

Your Committee amended the bill by adding a new part to Chapter 708 entitled "Credit Card Offenses". Your Committee felt it was easier to create a new part within Chapter 708 "Offenses Against Property Rights" rather than attempting to incorporate the credit card offenses within the theft offenses.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1728-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1728-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 492-86

Ocean and Marine Resources and Water, Land Use,
Development and Hawaiian Affairs on H.R. No. 15

The purpose of this resolution is to support the new owners of the Hawaiian Tuna Packers Cannery.

The Department of Planning and Economic Development testified in support of this measure on the basis that reestablishment of the Tuna Packers operations is vital to the survival of Hawaii's tuna fishing industry.

Your Committees find that the low import tariffs on tuna canned in water, coupled with the low wage scales of foreign tuna processing operations has in effect brought the American Tuna industry to its knees as witnessed by the widespread closing of virtually all major American domestic tuna processing operations.

Further, the West Coast tuna fishers have expressed great concern over the earlier closings of Hawaiian Tuna Packers thereby seriously threatening those fishers who utilize Hawaii as a transshipment center as well as an outlet for processed tuna. A Hawaii based tuna processing operation is inextricably linked to the needs of West Coast fishers who present important opportunities for Hawaii tuna fishers to "piggy back" export sales of their surplus catch to domestic and foreign markets otherwise inaccessible to them.

Your Committees also find that the new owners of Tuna Packers may find it extremely difficult to maintain a financially viable operation if solely dependent on tuna processing given the competitive advantages enjoyed by foreign tuna processors and may require the establishment of other revenue producing activities to help offset operational costs.

Your Committees amend this resolution by encouraging the Department of Transportation to expedite its lease negotiations with the new owners of the Hawaiian Tuna Packers cannery and to accommodate and encourage ancillary revenue producing activities at that site.

Your Committees on Ocean and Marine Resources and Water, Land Use, Development and Hawaiian Affairs concur with the intent and purpose of H.R. No. 15, as amended herein, and recommend its adoption in the form attached hereto as H.R. No. 15, H.D. 1.

Signed by all members of the Committees.

SCRep. 493-86

Ocean and Marine Resources and Water, Land Use,
Development and Hawaiian Affairs on H.C.R. No. 14

The purpose of this concurrent resolution is to support the new owners of the Hawaiian Tuna Packers Cannery.

The Department of Planning and Economic Development testified in support of this measure on the basis that reestablishment of the Tuna Packers operations is vital to the survival of Hawaii's tuna fishing industry.

Your Committees find that the low import tariffs on tuna canned in water, coupled with the low wage scales of foreign tuna processing operations has in effect brought the American Tuna industry to its knees as witnessed by the widespread closing of virtually all major American domestic tuna processing operations.

Further, the West Coast tuna fishers have expressed great concern over the earlier closings of Hawaiian Tuna Packers thereby seriously threatening those fishers who utilize Hawaii as a transshipment center as well as an outlet for processed tuna. A Hawaii based tuna processing operation is inextricably linked to the needs of West Coast fishers who present important opportunities for Hawaii tuna fishers to "piggy back" export sales of their surplus catch to domestic and foreign markets otherwise inaccessible to them.

Your Committees also find that the new owners of Tuna Packers may find it extremely difficult to maintain a financially viable operation if solely dependent on tuna processing given the competitive advantages enjoyed by foreign tuna processors and may require the establishment of other revenue producing activities to

help offset operational costs.

Your Committees amend this concurrent resolution by encouraging the Department of Transportation to expedite its lease negotiations with the new owners of the Hawaiian Tuna Packers cannery and to accommodate and encourage ancillary revenue producing activities at that site.

Your Committees on Ocean and Marine Resources and Water, Land Use, Development and Hawaiian Affairs concur with the intent and purpose of H.C.R. No. 14, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 14, H.D. 1.

Signed by all members of the Committees.

SCRep. 494-86

Consumer Protection and Commerce on H.B. No. 2844-86

The purpose of this bill is to amend Section 449-1, Hawaii Revised Statutes, to add definitions for an "Escrow Account", "Financial Institution", and "Item"; to amend Section 449-4 to provide that no licensee shall be liable for a violation of Section 449-16 if the violation was unintentional or resulted from a bona fide error, such as clerical miscalculations, computer malfunction, printing errors and computer programming errors; and to amend Section 449-16 to provide that escrow companies shall not disburse funds deposited in escrow without having obtained adequate assurance that the funds they receive for the same have been properly collected to prevent possible defaults by escrow companies or the commingling of funds in order to cover such disbursements.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs, the Escrow Association of Hawaii, Title Guaranty Escrow Services, Inc. and First American Title Company of Hawaii, Inc. in support of the bill.

Your Committee finds that a practice has arisen among some mortgage companies, of presenting to escrow depositories checks, drafts or other items drawn on institutions outside Hawaii. Parties to escrows also make deposits by personal or corporate checks. These items take several days to clear after they are deposited, yet the parties to the transaction expect escrow to close as soon as the items are tendered. Escrow depositories are thereby subjected to pressure to advance their own funds or commingle other deposits to cover the period between the disbursement of funds from escrow and final settlement of the deposited items.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2844-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2844-86, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 495-86

Housing and Consumer Protection and Commerce on H.B.
No. 1802-86

The purpose of this bill is to permit a landlord to recover any costs incurred in enforcing the provisions of the Residential Landlord-Tenant Code and to remove the existing limit on attorney's fees in lawsuits to recover unpaid rent.

Under the current law, a rental agreement may provide for the payment by the tenant of the costs of a lawsuit, for unpaid rent, and reasonable attorney's fees not in excess of twenty-five per cent of the unpaid rent.

The Hawaii Association of Realtors testified in favor of this bill, citing instances in which the landlord needs to take action against the tenant for violation of the Landlord-Tenant Code other than for unpaid rent and expressing a need for the landlord to be able to recover the costs incurred in pursuit of resolving the violations.

However, the Office of Consumer Protection expressed several concerns. The Office of Consumer Protection recommended that the tenant also be permitted to recover costs and attorney's fees in actions to enforce the Code. In addition, they recommended that the twenty-five per cent cap be retained to require that a

reasonable relationship be maintained between the amount of allowable attorney's fees and the amount of the unpaid rent sought by the landlord.

Upon further consideration, your Committees have amended the bill by retaining the twenty-five per cent cap and permitting a prevailing party to be awarded costs and attorney's fees in all other matters arising under the landlord tenant code.

Your Committees on Housing and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 1802-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1802-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Kiyabu and Leong.

SCRep. 496-86 Housing and Consumer Protection and Commerce on H.B.
No. 1291

The purpose of the bill is to allow for an extension of time to refund security deposits under limited circumstances.

Currently, a landlord must return the security deposit to the tenant within fourteen days after the termination of the rental agreement. This bill provides that this time limitation shall be tolled for not more than forty-five days when the landlord is absent from the circuit in which the dwelling is situated, the landlord is physically or mentally disabled, or the landlord dies.

Your Committees find that there may be circumstances whereby the landlord is unable to return the security deposit to the tenant within the current statutory time limit and that the landlord should be given an additional forty-five day grace period in those circumstances.

Your Committees on Housing and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 1291 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Kiyabu, Leong and Liu.

SCRep. 497-86 Housing on H.B. No. 2762-86 (Majority)

The purpose of this bill is to require that upon the termination of the lease or the expiration of the lease terms that the lessor shall compensate the lessee for the current fair market value of offsite improvements paid for by the lessee.

Under the current law, the lessor is required to compensate the lessee for the fair market value of all onsite improvements left on the property at the termination of the lease.

Your Committee recognizes that lessees should also be compensated for offsite improvements at the termination of the lease if the lessee paid for any part of those improvements. However, Kamehameha Schools/Bishop Estate testified against this measure, expressing concerns that this bill will adversely impact every pending land reform act cases.

Upon further consideration, your Committee has amended the bill to clarify that compensation shall be measured by the lessee's share of the fair market value of the offsite improvements, as depreciated, at the time of the termination of the lease, taking into consideration such factors as physical condition, obsolescence, age, and useful life remaining.

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

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 2762-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2762-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kihano, Kiyabu, Leong, Levin and Cavasso.
(Representative Liu did not concur.)

SCRep. 498-86 Finance on H.B. No. 2360-86

The purpose of this bill is to amend the schedule of court costs in section 607-5, Hawaii Revised Statutes, by including a fee of \$50 for cases remanded to district court after being transferred to circuit court from district court on demand for jury trial, where jury trial is waived and remand to district court is allowed.

At the present time, the circuit court does not charge a fee if a case is remanded to district court from circuit court.

The Judiciary testified in support of this measure, citing the amount of paper-work required to transfer cases and the need for a fee to recoup the processing costs.

Your Committee has made some nonsubstantive amendments to the bill to correct technical drafting errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2360-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2360-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 499-86 Finance on H.B. No. 2122-86

The purpose of this bill is to enable the Hawaii Housing Authority to issue capital appreciation bonds under the Hula Mae Program.

A capital appreciation bond is similar in concept to a savings bond, which is bought at a discounted price with a payoff of its full face value at maturity. During the period between its purchase at a discount and the maturity date, a capital appreciation bond accretes in value.

The principal of accretion is important, as a capital appreciation bond essentially increases in principal value rather than accruing interest. This has two ramifications: 1) such bonds are considered to bear no interest and 2) there are no regular payments on interest as is typical for bonds.

The value of capital appreciation bonds to the Authority is that they would enable the debt structure of a bond issue maturities to be weighted more heavily to the shorter, lower interest, serial bonds rather than the term bonds. This is accomplished by the fact that capital appreciation term bonds would enable a bond issues' cash flow to support additional shorter term serial bonds.

The benefit of the use of capital appreciation bonds to an eligible borrower under the Program is that there would be a savings in the borrower's mortgage rate of up to 0.25%. This improvement in yield over a conventional serial/term bond structure is achieved by issuing capital appreciation term bonds in a discounted amount equal to 7% to 10% of the total amount of bonds issued.

Hawaii Housing Authority is presently precluded by State statutes from utilizing capital appreciation bonds for such purposes as the Hula Mae Program.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2122-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2122-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 500-86 Finance on H.B. No. 2144-86

The purpose of this bill is to appropriate \$1,500,000 for fiscal year 1986-87 to supplement federal funds received under the federal Job Training Program. The funds are to be used to provide training to any resident of the State who is economically disadvantaged or unemployed, a dislocated worker, a senior citizen age 55 or older, and such other purposes as the Director of Labor and Industrial Relations finds will carry out the purpose of this program.

Your Committee has amended this bill to provide that \$1.00 be appropriated to supplement the federal Job Training Program.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2144-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2144-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 501-86 Finance on H.B. No. 2201-86

The purpose of this bill is to provide funding to the Department of Health to continue development of the groundwater protection program and for the development of a systematic groundwater monitoring strategy.

Your Committee believes that a strong monitoring and enforcement program, as well as a risk assessment program, is needed to assure non-contamination in Hawaii's groundwater.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2201-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2201-86, H.D. 1

Signed by all members of the Committee except Representative Leong.

SCRep. 502-86 Finance on H.B. No. 2223-86

The purpose of this bill is to provide supplemental funding for the office of community services.

The office of community services is funded through the Community Services Block Grant (CSBG). However, in light of the Balanced Budget and Emergency Deficit Control Act, it is expected that funding will be reduced or completely eliminated in the coming months.

Your Committee has amended this bill to provide that the sum of \$1.00 be appropriated to supplement the office of community services programs.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2223-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2223-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 503-86 Finance on H.B. No. 1764-86

The purpose of this bill is to exempt from the general excise tax law amounts received for services rendered and from prescription drugs sold by hospitals, medical clinics, and health care professionals.

The cost of health care has been skyrocketing, and there is great concern among the public about the high cost of keeping healthy. Health care is a necessity and whether the cost for such care should be incurred is usually not controllable by the individual needing it; thus, any reduction in health care cost should be of benefit to the general public.

Your Committee has amended this bill to exempt from the excise tax only amounts received from prescription drugs and prosthetic devices sold by hospitals, medical clinics, and health care professionals. Your Committee defined "prosthetic device" to mean any auditory, prosthetic, opthalmic, or ocular device or appliance prescribed by a licensed practitioner of medicine, osteopathy, podiatry, or dentistry.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1764-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1764-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 504-86 Finance on H.B. No. 2110-86

The purpose of this bill is to amend Section 442-6, Hawaii Revised Statutes, to: (1) clarify the requirement that an applicant for a State chiropractic license must pass all parts of the National Board of Chiropractic Examiners' examination, (2) amend the examination grading system from per cent to points, (3) amend the credit received for work experience from per cent to points, (4) authorize the Board to contract for examination services with a testing agency, and (5) provide that the examination fee shall be paid directly to a contracted testing agency.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2110-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2110-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 505-86 Finance on H.B. No. 2042-86

The purpose of this bill is to amend chapter 463E, Hawaii Revised Statutes. This bill will: (1) add a requirement for a written test of clinical competency; (2) delete references to the amounts of fees and clarify the authority of the director of the department of commerce and consumer affairs to establish fees through rules; (3) make explicit the grounds for denial of licenses; (4) accelerate reporting requirements of disciplinary actions; (5) establish the limits for fines; (6) clarify that chapter 91, Hawaii Revised Statutes, relates to hearings for license denial; (7) clarify that remedies and penalties are cumulative; and (8) eliminate references to gender, update language and make other housekeeping changes.

Your Committee on Finance concurs with the findings of your Committee on Consumer Protection and Commerce in Stand. Com. Rep. No. 75-86.

Your Committee has made several nonsubstantive amendments to this bill to correct technical and grammatical errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2042-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2042-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 506-86 Finance on H.B. No. 2037-86

The purpose of this bill is to: (1) amend chapter 452, Hawaii Revised Statutes, by adding new sections to authorize the Board of Massage of the Department of Commerce and Consumer Affairs to take disciplinary actions and to establish a provision for cumulative remedies; (2) provide the Department the right to apply for an injunction; and (3) delete gender references and indefinite modifiers.

Your Committee has made several nonsubstantive amendments to this bill to correct technical and grammatical errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2037-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2037-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 507-86 Finance on H.B. No. 2045-86

The purpose of this bill is to amend Section 91-14, Hawaii Revised Statutes, to allow the Department of Commerce and Consumer Affairs and its boards and commissions, pursuant to subsection 91-14(b), Hawaii Revised Statutes, to pursue the collection of any fine imposed on a licensee in the same manner as a civil judgment can be pursued.

Your Committee received favorable testimony from the Department. The Department testified that the Department and its boards and commissions assess fines as one form of sanction in disciplinary cases. Also, these disciplinary cases are conducted pursuant to Chapter 91, Hawaii Revised Statutes, and respondents are given proper notification and an opportunity to be heard. Accordingly, fines which have been assessed as a penalty should be allowed to be fully enforced by the Department.

Your Committee has made several nonsubstantive amendments to this bill for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2045-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2045-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 508-86 Finance on H.B. No. 2035-86

The purpose of this bill is to amend chapter 461, Hawaii Revised Statutes, by: (1) adding three new sections providing the powers and duties of the Board of Pharmacy; (2) authorizing disciplinary actions by the Board; and (3) providing that remedies or penalties provided by chapter 461, Hawaii Revised Statutes, are cumulative to each other.

Your Committee has made several nonsubstantive amendments to this bill to correct technical and grammatical errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2035-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2035-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 509-86 Finance on H.B. No. 2209-86

The purpose of this bill is to appropriate \$50,000 in support of the Main Street Task Force.

The Main Street program, developed in 1977 by the National Trust for Historic Preservation and based on a private-public partnership, is a self-help program of town redevelopment. It emphasizes the creation of a positive, marketable identity for a town through unified design, management, and promotion by the town's own community leaders and residents. The Main Street Task Force is responsible for the implementation of the program's incremental development plans. Last year the legislature appropriated \$25,000 in support of the Task Force, and additional funds were received from private donors.

Your Committee has amended this bill to appropriate \$25,000 to support the Main Street Task Force, instead of \$50,000, as approved by the House Committee on Water, Land Use, Development and Hawaiian Affairs.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2209-86, H.D. 1, as amended herein, and recommends that it pass Third

Reading in the form attached hereto as H.B. No. 2209-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 510-86 Finance on H.B. No. 2275-86

The purpose of this bill is to support the research efforts of the Hawaiian ocean experiment (HOE) and the center for ocean resources technology (CORT) by appropriating funds to these projects.

HOE represents a comprehensive scientific study of Hawaii's ocean environment that will lead to the enhancement of our understanding and knowledge of its potentials and problems. CORT represents the technological counterpart of HOE. CORT will provide the technological research bridge to convert our ocean resources into industries for Hawaii by attracting and securing the active participation of interested scientists throughout the world. Additionally, the Pacific Congress on Marine Technology (PACON) is a significant partner to both projects as it provides the link between these two research projects and world-renown ocean scientists who are eager to contribute to these efforts.

Your Committee has amended this bill by appropriating the sum of \$200,000 to carry out the purposes of this Act, instead of \$395,000 as recommended by the House Committees on Ocean and Marine Resources and Higher Education and the Arts.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2275-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2275-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 511-86 Finance on H.B. No. 2276-86

The purpose of this bill is to appropriate funds for the promotion of fresh seafood from Hawaii.

Your Committee finds that there is a need to develop a promotional and marketing structure in Hawaii to stimulate national and international interest in underutilized fresh seafood produced or fished in Hawaii that might also serve as substitutes for more popular types of seafood used in homes, restaurants, and fish markets.

Your Committee has made a technical, nonsubstantive amendment to this bill for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2276-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2276-86, H.D.2.

Signed by all members of the Committee except Representative Leong.

SCRep. 512-86 Finance on H.B. No. 2280-86 (Majority)

The purpose of this bill is to amend Part I, Discriminatory Practices, of the Employment Practices Law, to include "mental handicap" as another factor of unlawful discriminatory practices in employment.

Presently, it is unlawful for any employer, labor organization, and employment agency to discriminate in employment against any individual because of race, sex, age, religion, color, ancestry, physical handicap, marital status, and arrest and court record. Other practices made unlawful under this part include discrimination in employment because of absence from work, because of emergency national guard call-up, or because of assignment of income for the purpose of child support obligations.

Your Committee has amended section 1 of this bill to provide that a "handicapped individual" is any person who (1) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment. This term does not include any individual who is an alcoholic or drug user whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.

Your Committee has also amended this bill to correct technical drafting errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2280-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2280-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.
(Representative Anderson did not concur.)

SCRep. 513-86 Finance on H.B. No. 2300-86

The purpose of this bill is to appropriate \$100,000 to be matched dollar-for-dollar by private contributions for the promotion of papayas.

The Department of Agriculture testified that, since utilizing the double-dip hot water fruit fly disinfection treatment, the papaya industry has encountered a variety of problems, ranging from a high cull rate of fruit to meet the quarantine treatment's ripeness requirement to "hard" fruit on the retail shelf. Moreover, the budgetary limitations, poor quality fruit in early 1985, and a general reluctance by the retailers to purchase and promote papaya forced the industry to cut back its 1985 promotional activities.

According to the Department of Agriculture, the industry must regain its market by attracting consumers to high quality fruit. The continual decline or loss of this industry would be detrimental to the economy of the State.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2300-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2300-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 514-86 Finance on H.B. No. 2337-86

The purpose of this bill is to amend Section 294-4, Hawaii Revised Statutes, to have the court require an offender to obtain appropriate treatment if the offender is assessed for alcohol abuse by a counselor.

Under the present law, an offender may be required by the court to obtain appropriate treatment if the offender is assessed by a counselor to have a dependence on alcohol.

The Department of Health testified in favor of this bill. The testimony indicated that establishing alcohol abuse in the assessment of offenders under this section will allow the identification of problem drinkers who may not be dependent on alcohol but who may benefit from early intervention.

Your Committee has made a technical, nonsubstantive amendment to this bill for the purpose of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2337-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2337-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 515-86 Finance on H.B. No. 1851-86

The purpose of this bill is to implement the findings of a feasibility study, as provided in Act 300, section 20, Session Laws of Hawaii 1985, to develop an air cargo transportation and distribution center at General Lyman Field in Hilo.

Act 300 authorized a study by the Department of Planning and Economic Development to determine the feasibility of developing an air cargo center. Your Committee is of the opinion that an air cargo center at General Lyman Field would be an essential facility in economic development of the Hilo area and its people.

Your Committee has amended section 2 of the bill by appropriating the sum of \$1.00 for purposes of implementing the findings of the aforementioned study.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1851-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1851-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 516-86 Finance on H.B. No. 2412-86

The purpose of this bill is to appropriate \$20,000 for expenses related to the participation of a Hawaiian voyaging canoe in the Tall Ship Celebration, July 1986, in the New York Harbor.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2412-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2412-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 517-86 Finance on H.B. No. 2446-86

The purpose of this bill is to appropriate \$127,000 for the planning and design of a statewide juvenile justice information system.

A statewide juvenile justice information system is needed to establish a system that links the police and prosecutors of the various counties, family courts, and the youth correctional facilities to better facilitate the exchange of timely and accurate information. The testimony also indicated that this system will allow the participating agencies to become more efficient and more effective. Further, a unified and integrated system such as this would provide continuity in the apprehension, prosecution, treatment, and punishment of juveniles who commit crimes.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2446-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2446-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 518-86 Finance on H.B. No. 2482-86

The purpose of this bill is to amend section 709-906, Hawaii Revised Statutes, to require the issuance of a written warning citation to all persons ordered to leave the premises due to evidence of recent abuse of a family or household members.

Under present law, no written warning citation is issued to a person ordered to leave the premises for a twelve-hour, cooling-off period. A written warning citation would provide proof to the police and courts of the exact time, date, and location that a person was ordered to leave. Issuance of this written citation

would help insure that the twelve-hour, cooling-off period was observed, thus preventing further abuse to the family or household members.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2482-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2482-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 519-86 Finance on H.B. No. 2540-86

The purpose of this bill is to appropriate \$60,000 for the Hawaii criminal justice commission to further its efforts to educate the public in crime, crime prevention, and the criminal justice system.

The Hawaii criminal justice commission testified that the funds would be used for production and television time costs for a series of videotaped 30-second public service announcements and one 30-minute television special designed to educate the public on various aspects of crime. Their testimony further indicated that television is the most efficient means of educating the greatest number of people and that videotapes are the most flexible and cost beneficial medium available.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2540-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2540-86, H.D.1.

Signed by all members of the Committee except Representative Leong.

SCRep. 520-86 Finance on H.B. No. 2624-86

The purpose of this bill is to assist in stimulating economic activity in Hawaii by providing "venture capital" and the organization through which the capital could be made available to entrepreneurs. The bill further creates a Hawaii industrial development corporation, lays out the duties and responsibilities of the corporation, specifies its powers, and creates a Hawaii venture capital revolving fund to receive and use moneys for the purpose specified in the bill.

The creation of the corporation should be a catalyst, a magnet, to have investors in addition to the corporation to join in making Hawaii an attractive society.

Your Committee has amended this bill by appropriating the sum of \$1.00 to be paid into the Hawaii venture capital revolving fund in section 2(a). Your Committee has also amended this bill by appropriating the sum of \$1.00 to staff and operate the Hawaii industrial development corporation in section 2(b).

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2624-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2624-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 521-86 Finance on H.B. No. 2661-86 (Majority)

As received by your Committee, the purpose of this bill was to have the University of Hawaii conduct studies for improving minority student access to local post-secondary education and to appropriate \$143,000 for this purpose.

Several programs already exist at the University which help minority students exclusively or as part of their assistance to the entire student body. While the appropriation herein will assist with the effort, it is hoped and expected that the University will organize its expenditures, and perhaps consolidate programs, so that duplication of unnecessary administrative expenses is avoided.

Your Committee has amended the bill as follows:

- (a) Sections 1 and 4 of the bill have been deleted.
- (b) Sections 2, 3, and 5 have been renumbered as Sections 1, 2, and 3, respectively.

The purpose of this bill, as amended, is to appropriate \$55,000 to provide academic support services for minority students at the University of Hawaii to help in their adjustment to university life.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2661-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2661-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.
(Representative Anderson did not concur.)

SCRep. 522-86 Finance on H.B. No. 2210-86

The purpose of this bill is to appropriate funds for fiscal year 1986-1987 for the reopening of the twelve manually operated State and local air monitoring stations (SLAMS), to be operated by the Department of Health.

Your Committee finds that air quality monitoring stations play an important role in managing the problem of air pollutants in the State.

Your Committee has amended this bill to correct spelling errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2210-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2210-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 523-86 Finance on H.B. No. 2011-86

The purpose of this bill is to expand the current non-charge provisions of the Hawaii employment security law to: (1) include situations in which an employer is without fault for a worker's unemployment; (2) increase the maximum contribution rate for all employers from 5.4 to 5.8 per cent only when the fund is below the adequate level to subsidize non-charging costs; and (3) include a higher fund solvency rate when the reserve fund is at a high adequate level.

Testimonies in favor of this bill were received from the Department of Labor and Industrial Relations and the National Federation of Independent Business. The increase in rates from 5.4 to 5.8 per cent would go into effect only when the funds dropped below the adequate reserve level. The adequate reserve is the amount of money necessary to pay benefits over a one-year period at the highest unemployment rate occurring over the past ten years. Despite the concern generated by the proposed rate increase, the merits of the bill and the fact that the increase is only triggered when the funds fall below the adequate reserve level lead the proponents to urge passage of this bill.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2011-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2011-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 524-86 Finance on H.B. No. 2023-86

The purpose of this bill is to broaden the scope of the high technology development corporation's existing research and development fund to permit the deposit and expenditure of revenues generated by the Hawaii Ocean Science and Technology (HOST) park and any other projects which the corporation may undertake in the future.

Under present law, Section 206M-15, Hawaii Revised Statutes, the corporation presently has a high technology research and development fund for the purpose of funding high technology research projects, such as the HOST park. However, the present law limits revenues to legislative appropriations and private contributions, and it is vague in determining expenditures for projects deemed economically viable and beneficial to the State.

Your Committee has amended this bill by deleting references to lease rents and fees received by the development corporation and providing that such lease rents and fees shall be deposited into the general fund of the State.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2023-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2023-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 525-86 Finance on H.B. No. 2026-86

The purpose of this bill is to amend Section 26-9, Hawaii Revised Statutes, to provide the Department of Commerce and Consumer Affairs with the authority to contract with professional testing services to prepare, administer, and grade examinations and tests for license applicants. The bill also provides the Department and its boards or commissions with the authority to provide by rule the flexibility to acquire alternative forms of security whenever comparable bond or insurance cannot be reasonably secured.

The Department testified that the State presently faces an insurance crisis. Accordingly, it is important that the Department be given the flexibility to respond to this problem. Further, the use of national testing agencies would provide the Department with superior examinations which would be beyond criticism.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2026-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2026-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 526-86 Finance on H.B. No. 2032-86

The purpose of this bill is to amend Chapter 448E, Hawaii Revised Statutes, by adding a new section to authorize the board of electricians and plumbers to examine applicants and to provide the option of contracting examination services with a testing agency if the board chooses to do so. The bill also adds new provisions relating to disciplinary sanctions that may be imposed by the board and the grounds for which disciplinary sanctions shall be imposed and establishes a minimum administrative penalty.

Your Committee on Finance concurs with the observations of your Committee on Consumer Protection and Commerce in Stand. Com. Rep. No. 72-86.

Your Committee has made several nonsubstantive amendments to this bill to

correct technical and grammatical errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2032-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2032-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 527-86 Finance on H.B. No. 2199-86

The purpose of this bill is to appropriate out of the general revenues of the State of Hawaii the sum of \$350,000, or so much thereof as may be necessary, to relocate Saint Francis Hospital's Maui renal dialysis facility.

Saint Francis Hospital is the only provider of dialysis treatment on the island of Maui. Its facility on Maui was opened in 1975, in a small, unused structure on the grounds of Maui Memorial Hospital. The facility is now overcrowded and has deficiencies which are not correctable. This bill would permit Saint Francis Hospital to relocate its facility to another location on the grounds of Maui Memorial Hospital. The location would be supplied by the State of Hawaii.

Your Committee believes that an appropriation out of the general fund rather than general obligation bond fund will expedite and facilitate the construction of the Saint Francis Hospital's renal dialysis facility on the grounds of the Maui Memorial Hospital. Your Committee has amended the bill accordingly.

Your Committee has also made technical, nonsubstantive amendments to this bill for purpose of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2199-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2199-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 528-86 Finance on H.B. No. 1737-86

The purpose of this bill is to authorize the issuance of up to \$3 million in special purpose revenue bonds to assist Cyanotech Corporation in its development of microalgae projects in the county of Hawaii.

Cyanotech's proposal will enhance the State's interest in encouraging the development of new industries thereby generating new tax revenues and employment. Cyanotech plans to construct a second microalgae facility in the Kau district of the Big Island; therefore, additional funds would be required to ensure its successful completion.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1737-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1737-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 529-86 Finance on H.B. No. 1710-86

The purpose of this bill is to test the feasibility of developing artificial habitats for Hawaii's bottomfish by appropriating funds for a pilot project utilizing land based boulders.

The Department of Land and Natural Resources indicated that, although it has been involved in nearshore (shallow) water artificial enhancement activities since the 1950's, it is presently undertaking a pilot project to enhance the habitat of deepwater bottomfish species due to increasing fishing pressures on the bottomfish population. Oahu suffers more acutely than the rest because of its higher concentration of fishing interest groups, both commercial and recreational.

Appropriately, the department's first efforts are directed to establishing a deepwater bottomfish artificial reef enhancement project offshore of Oahu.

As in other places which depend on ocean resources, Hawaii is beginning to feel the pressures of an increasing demand for and a diminishing supply of its bottomfish resources. As supply decreases, competition for limited sources heightens, promoting undesirable human reaction and behavior, which, if left unchecked or unresolved, leave their irreversible mark on our entire ecosystems.

Your Committee agrees with the Committee on Ocean and Marine Resources that the materials utilized to develop artificial habitats for Hawaii's bottomfish be limited to rock, stone, and concrete in order to minimize the possibility of debris that might add to the polluting of our ocean environment.

Your Committee has amended this bill by providing that the sum of \$30,000 be appropriated for purposes of this bill.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1710-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1710-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 530-86 Finance on H.B. No. 1706-86

The purpose of this bill is to appropriate \$180,000 for the continued development and implementation of the State's hazardous waste program.

The State's hazardous waste program, currently managed by the Department of Health, is an important program which is very active and is continually called upon to address questions regarding the handling, shipping and disposal of wastes which may or may not be hazardous. This bill will provide the necessary state matching funds to continue the State's Cooperative Agreement with Region IX of the U.S. Environmental Protection Agency and additional state funds to implement the Resource Conservation and Recovery Act Program. Your Committee finds that continued support towards these programs will enable the department of health to improve enforcement and inspection procedures in Hawaii and, in addition, improve the community's awareness and understanding of hazardous waste problems.

Your Committee has amended this bill to provide that the sum of \$100,000 be appropriated to continue the development and implementation of a state hazardous waste program.

Your Committee has made a technical nonsubstantive amendment to this bill for the purpose of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1706-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1706-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 531-86 Finance on H.B. No. 1666-86

The purpose of this bill is to establish a Teacher Incentive Program to provide loans to students at the University of Hawaii who agree to pursue a curriculum which would qualify them to teach in Hawaii's public schools.

Presently there is a predicted teacher shortage in the coming years. This bill addresses part of the teacher shortage by attracting students to pursue a teaching career.

Your Committee has amended this bill to state that interest on loans allowed under this bill shall not accrue while any waiver provision is being met and that, if the waiver provision is met, interest shall not accrue until the succeeding

school year. Further, under the waiver provisions of this bill, your Committee has defined "amount" to mean the original principal of the loan plus any accrued interest.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1666-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1666-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 532-86 Finance on H.B. No. 1665-86

The purpose of this bill is to: (1) raise the percentage of indirect overhead funds deposited into the University of Hawaii research and training revolving fund and (2) allow the Board of Regents flexibility in spending funds deposited into the revolving fund.

Daniel F. Yount, Vice President for Research and Graduate Education, testified that increasing the percentage of indirect overhead funds deposited in the University of Hawaii research and training revolving fund would allow the University to invest in new areas which have the potential of developing into major research programs. Therefore, increasing the statutory limit would enhance and support innovative research and training projects.

Your Committee has amended this bill to: (1) specify that the sum to be deposited into the University of Hawaii research and training revolving fund shall be fifty per cent of the total amount of indirect overhead funds generated by the University for research and training purposes in the prior fiscal year and (2) retain the original language of the third paragraph of Section 304-8.1(a), Hawaii Revised Statutes.

Your Committee has also amended this bill by making technical, nonsubstantive changes for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1665-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1665-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 533-86 Finance on H.B. No. 381

The purpose of this bill is to increase the compensation pay of jurors from \$20 to \$30 for each day actually in attendance at court.

Jury duty is a civic responsibility of all citizens. It is well known that many citizens do all that is possible to avoid serving. Yet, jurors are an integral part in the operation of our judicial system. Compensation of jurors should reflect more equitably the value of such service.

Your Committee has made technical, nonsubstantive amendments to the bill for purposes of style and clarity and to correct statutory errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 381, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 381, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 534-86 Finance on H.B. No. 2033-86

The purpose of this bill is to: (1) add a new section to provide for powers and duties of the Director of Commerce and Consumer Affairs to enforce and regulate mortgage and collection servicing agents; (2) clarify the registration exemptions provided in Section 454D-2, Hawaii Revised Statutes; (3) provide for automatic

termination of the registration of mortgage and servicing agents when a bond is not kept active; and (4) clarify the provision on cumulative penalties.

Your Committee has made several nonsubstantive amendments to this bill to correct grammatical and stylistic errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2033-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2033-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 535-86 Finance on H.B. No. 1927-86

The purpose of this bill is to create a master plan for the promotion and development of Hawaii as an international sports center.

Your Committee received testimony from the Department of Planning and Economic Development (DPED) and from the Athletic Department of the University of Hawaii. Both applauded the intent of the bill. DPED's testimony viewed the sports center as an attractive means for diversified economic development programs whereby Hawaii becomes a center in support of health-related sports industries, health-related restaurants and food stores, and other related businesses in tourism and transportation. DPED also presented data on economic benefits in other states where reputable sporting events have been held, generating significant cash flow into their economies.

Your Committee has amended the bill by inserting the word "infrastructure" after "for" on line 9, page 2, thereby providing that in the development of the master plan the provision of adequate and appropriate infrastructure be considered. It is the intent of your Committee that infrastructure include, not only roads and highways, but also beaches and waterways.

Further, your Committee has appropriated a sum of \$50,000 to carry out the purpose of this bill, instead of \$100,000, as approved by the House Committee on Water, Land Use, Development and Hawaiian Affairs.

Your Committee has also amended this bill by making technical, nonsubstantive changes for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1927-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1927-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 536-86 Finance on H.B. No. 1857-86

The purpose of this bill is to protect the interests, rights, and privileges of all individuals within the State with regard to access and use of public accommodations by prohibiting entry discrimination based on age, race, sex, color, religion, ancestry, or handicap.

Your Committee wishes to emphasize that, with respect to the physically handicapped, it is not the intention of this bill to require any public accommodation to construct or reconstruct any facility or part thereof.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1857-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1857-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 537-86 Finance on H.B. No. 55

The purpose of this bill is to exempt holders of individual housing accounts from a ten per cent tax liability being assessed to their account upon termination of their individual account, if they marry an individual who has had or currently has any interest in residential real property.

Presently, Section 235-5.5, HRS, allows a deduction from gross income, not to exceed \$5,000, paid in cash during the taxable year by an individual taxpayer to an individual housing account established for the purchase of the individual's first principal residence. Any present or prior interest in residential real property by the taxpayer or spouse makes the individual ineligible to establish such an account.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 55, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 55, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 538-86 Finance on H.B. No. 2013-86

The purpose of this bill is to increase the Fire Fighter's Contingency Fund from \$200,000 to \$300,000 a year.

Wildland fire suppression costs in recent years have increased, primarily due to increase in costs of labor and rental equipment such as helicopters, bulldozers, and water tankers for use in fire suppression. Your Committee agrees that an additional \$100,000 a year would help to alleviate any financial restrictions being experienced in meeting fire-fighting expenses each year.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2013-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2013-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 539-86 Finance on H.B. No. 1990-86

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

Your Committee has adopted the recommendations of the Attorney General by amending the bill to include a list of four additional claim settlements against the State.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1990-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1990-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 540-86 Finance on H.B. No. 1965-86

The purpose of this bill is to provide financial assistance to Molokai cattle ranchers for a one-year period following depopulation of cattle from that island to eradicate bovine tuberculosis.

Testimony reveals that hardships have resulted from the efforts of the State Department of Agriculture to eradicate bovine tuberculosis. While specific financial needs have not as yet been identified, the department's ongoing survey

and proposed public hearings will assist in properly identifying the ranchers' needs.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1965-86, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 541-86 Water, Land Use, Development and Hawaiian Affairs on
H.B. No. 2129-86

The purpose of this bill is to provide for the Department of Land and Natural Resources (DLNR) and other State agencies to dispose of personal property abandoned by tenants of State property or seized from trespassers as a result of their unauthorized use of, or encroachment on, State property.

Under present law, there is no provision to dispose of these personal properties abandoned or seized on State-owned property. According to testimony by DLNR and the Department of Transportation, a tenant on State-owned property may become delinquent in land lease rental payment, and the State is denied both income and new use of space occupied by the former tenant's personal property still remaining on the leased land. The State agency is therefore unable to return the land to beneficial use. In the case of personal property seized, because of unauthorized use of State-owned property, the personal property is placed under storage, and there is no method by which the agency may dispose of the seized property.

Your Committee is in agreement that this bill provides for clear procedures in disposing of personal property abandoned or seized on State land. However, your Committee has amended the bill by inserting the phrase "disposed of or sold as junk" between the terms "negotiation" and "kept by the department", on line 1, page 3, in concurrence with proposed language in paragraph (d), on line 11, page 2.

Your Committee is cognizant that the bill proposes a single method of disposal of two types of personal property. The first is personal property abandoned by former tenants on State land. The second is personal property seized from trespassers on, or encroachment on, State property.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of H. B. No. 2129-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2129-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hagino.

SCRep. 542-86 Planning, Energy and Environmental Protection on H.B. No.
2109-86

The purpose of this bill is to ensure that the Overall Theme, Goals, Objectives, Policies, and Priority Guidelines of the Hawaii State Plan continue to reflect current social, economic, and physical conditions and trends and remain responsive to the changing needs and desires of Hawaii's people.

Your Committee finds that Sections 226-54 and 226-56, Hawaii Revised Statutes, require the State Plan Policy Council to conduct periodic comprehensive reviews of the Overall Theme, Goals, Objectives, Policies, and Priority Guidelines of the Hawaii State Plan and to submit its findings and recommendations to the Legislature. These proposed amendments have been prepared in accordance with these requirements and are based on the findings of the State Plan Policy Council. These amendments are the result of an extensive two-year review program conducted by the Council involving detailed technical study, analysis, and widespread public input.

Your Committee finds that these revisions are reflective of the changes in conditions, public attitudes, and needs that have occurred since the enactment of the Hawaii State Plan.

Your Committee has made several amendments to this bill. Section 12 of this

bill relating to Section 226-13(b)(8), Hawaii Revised Statutes, has been amended to include reference to "visitors". Your Committee finds that this change will emphasize the importance of Hawaii's resources to its people as well as its visitors.

Section 14 of this bill relating to Section 226-15(b)(2), Hawaii Revised Statutes, has been amended by replacing the word "develop" with the word "employ". Your Committee finds that this amendment exhibits a stronger statewide commitment toward conservation.

In addition, the word "alternate" in reference to energy sources has been replaced with the word "renewable" in Section 17 of this bill relating to Section 226-18(c)(1), Hawaii Revised Statutes, and in Section 30 of this bill relating to Section 226-103(i)(1), Hawaii Revised Statutes. Your Committee finds that this amendment is in accord with the State's efforts to develop a renewable energy sources.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 2109-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2109-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Apo, Say, Tam, Tom and Pfeil.

SCRep. 543-86 Judiciary on H.B. No. 1985-86

The purpose of this bill is to amend section 142-74, Hawaii Revised Statutes, to make violations of this section subject to the penalties imposed under section 142-12, Hawaii Revised Statutes.

Under the present law, the owner of the dog pays trial costs together with a fine of ten dollars or imprisonment for thirty days if the fine is not paid.

The bill was recommitted to insert a phrase to clarify that the reference is to the owner of the dog.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1985-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1985-86, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 544-86 Housing on H.B. No. 2119-86

The purpose of the bill is to clarify the definition of development tract under the residential leasehold law. This bill provides for the inclusion of residential lots which may have been converted to fee simple and streets and roadways developed as an integral part of the tract in a development tract.

In response to an inquiry by the Hawaii Housing Authority regarding the clarification of the method in determining tract qualification, the Attorney General's Office expressed an opinion that tracts converted to fee simple or are nonresidential in nature, such as commercial properties, parks, and roadways, should not be considered when calculating the minimum five acre total of a development tract.

The expressed opinion affects lots which were previously converted to fee because it no longer considers these lots as qualifying for determination of the five acre tract.

This bill clarifies the statutes so that converted fee lots can be used to compute total acreage of a development tract. Nonresidential lots, such as streets and roads which were developed as an integral part of the subdivision, can also be included as part of a development tract.

Your Committee has amended the bill by amending the definition of "lot", 'houselot', 'residential lot', and 'residential houselot' under chapter 516, HRS, to

include other lots which provide access and are appurtenant to the residential houselots.

Your Committee has also made a grammatical correction to the bill.

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 2119-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2119-86, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 545-86 Housing on H.B. No. 1803-86

The purpose of this bill is to exclude from the application of the Residential Landlord-Tenant Code those situations in which a purchaser occupies a dwelling unit prior to the actual transfer of ownership to the purchaser.

Your Committee received testimony in support of this bill from the Hawaii Association of Realtors and the Office of Consumer Protection. The Hawaii Association of Realtors explained that the relationship between a seller and a prospective buyer who occupies a unit prior to the completion of the sale or transfer of property is unique and should be exempt from the Landlord-Tenant Code.

Upon further consideration, your Committee has adopted the recommendations of the Office of Consumer Protection to clarify the terminology used in the bill and has amended the bill by substituting the word "purchaser" for "buyer" and substituting the phrase "owner's rights" for the phrase "proposed seller's vested rights."

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 1803-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1803-86, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 546-86 Housing and Consumer Protection and Commerce on H.B.
No. 1801-86

The purpose of this bill is to shorten the time period in which a tenant is deemed to have wrongfully quit a dwelling unit.

Under the current Residential Landlord-Tenant Code, a tenant is considered to have wrongfully quit a dwelling unit if the tenant is continuously absent from the unit for thirty or more days without written notice to the landlord. This bill reduces the current statutory period to fifteen or more days of continuous absence from a dwelling unit without written notice to the landlord. It also provides that if rent is received by the landlord for the period of absence, the tenant cannot be considered to have wrongfully quit the dwelling unit.

The Hawaii Association of Realtors testified in favor of this bill, citing the need to minimize losses when a tenant wrongfully quits a unit. Under the current thirty day requirement, the landlord is unable to collect for damages to the unit since the landlord is not allowed to retain a security deposit which exceeds one month's rent. If the tenant is in default in the payment of rent prior to the wrongful quit, the losses to the landlord are even greater. The landlord must absorb costs of regaining possession of the unit and preparing it for re-rental. Your Committees find that reducing the continuous absence period will allow the landlord to have the unit available for rental sooner and thus minimize the losses.

Your Committees also received testimony from the Office of Consumer Protection that there might be circumstances, such as vacation, business trip, or emergency, where the tenants might be away from their dwelling units for more than fifteen days.

Your Committees have taken into consideration the testimony from the Consumer

Protection Office and amended the bill to twenty days of continuous absence.

Your Committees on Housing and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 1801-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1801-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Kiyabu and Leong.

SCRep. 547-86 Planning, Energy and Environmental Protection on H.B. No. 2436-86

The purpose of this bill is to amend Act 275, Session Laws of Hawaii, 1984, as amended by Act 127, Session Laws of Hawaii, 1985, by amending subsection (f) of section 1 to include a representative from the structural pest control industry in the membership of the Technical Advisory Committee on Pesticides (TACP).

Your Committee finds that the composition of the TACP was established with the intent that it reflect a broad range of interests and experience and that it maintain a balance between these interests.

Your Committee further finds that the structural pest control industry represents a major proportion of pesticide users throughout the State and that the inclusion of a representative from this industry would benefit the TACP by providing it with knowledge of how the industry uses pesticides, educates its clientele on health and environmental concerns, and interacts with agencies responsible for public health and environmental quality.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 2436-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Crozier, Tam, Kamali'i and Pfeil.

SCRep. 548-86 Planning, Energy and Environmental Protection and Transportation on H.B. No. 2312-86

The purpose of this bill is to provide for enforcement by the Department of Transportation of penalties for violations of pollutant discharge prohibitions by vessels in state waters.

Your Committees find that recent incidents of sewage discharge from certain interisland cruise vessels have revealed serious problems in the State's ability to properly respond to violations of water quality standards. Despite repeated violations, State agencies felt constrained by current law from appropriately penalizing the violators. Your Committees believe that these serious infractions must be dealt with quickly by appropriate administrative agencies, and that to do so it is necessary to give explicit agency authority to penalize those responsible for prohibited discharges from vessels. Your Committees find that explicit statutory provisions granting this authority are necessary in order to protect the State's waters and the health of its people from the disposal of sewage from vessels.

While in complete agreement with the intent of this bill, your Committees find that its purposes would be better served by granting this authority to the Department of Health rather than the Department of Transportation because the Department of Health is already responsible for water quality protection and performs the monitoring necessary for enforcement.

Your Committees have, therefore, provided an amendment to Section 342-33, HRS, explicitly including pollutant discharges from vessel sources among those prohibited. This provision is substituted for the original language of Section 1 which amended Section 266-25, HRS, to give the Department of Transportation the authority to impose penalties for violations of water quality standards under Section 342-11(e), HRS. Through this amendment, the Department of Health will clearly be authorized to assess the punitive fines of Section 342-11, HRS, (which range from \$2,500 to \$25,000) on unlawful discharges by vessels.

Your Committees have also amended this bill to provide a new section which requires reporting of unlawful discharges by violators. This provision adds a new section under Chapter 342, HRS, and mandates that persons who knowingly cause an unlawful discharge shall report the incident to the Department of Health within twenty four hours of the discharge. The section further specifies follow-up action to be taken by the Department of Health related to cleaning up pollutant discharges and establishes a fine of not more than \$15,000.00 for each day's violation of reporting or clean up requirements.

Your Committees find that an affirmative obligation to report an unlawful discharge of pollutants will allow for the expedient public warning by the Department of Health of potential hazards caused by the discharge. This obligation to report will also encourage greater cooperation, effort, and responsibility on the part of violators to correct their violations.

Your Committees on Planning, Energy and Environmental Protection and Transportation are in accord with the intent and purpose of H.B. No. 2312-86, as amended herein, and recommend that it pass Second Reading and be placed on the calendar for Third Reading in the form attached hereto as H.B. No. 2312-86, H.D. 1.

Signed by all members of the Committees except Representatives Blair, Manegdeg, Menor, Nakasato, Shon, Tam, Tungpalan, Anderson, Hemmings and Pfeil.

SCRep. 549-86 Planning, Energy and Environmental Protection; Health; and
Housing on H.B. No. 2513-86

The purpose of this bill is to allow multi-family dwelling units to utilize individual wastewater systems and to delete the lot size requirements of Act 282, SLH, 1985 in situations where a septic tank followed by a subsurface disposal field is used to dispose of domestic sewage.

Your Committees find that Act 282 added a new definition for "individual wastewater systems". This definition effectively eliminated the ability of the Hawaii Housing Authority to develop low-cost multi-family projects in certain rural areas of the State. Under the new definition, your Committee finds that the requirements established for these types of dwellings are prohibitive and unfeasible. This bill will allow affected parties to continue to utilize individual wastewater systems in the development of multi-family projects in rural areas where sewer treatment facilities are unavailable.

Your Committees further find that the deletion of the minimum lot size requirement cited in Section 3 of the bill will result in inadequate space to conform with the disposal field requirements of Act 282. Therefore, your Committee has amended this bill by substituting 10,000 square feet instead of a total deletion of the lot size requirement.

Your Committees on Planning, Energy and Environmental Protection; Health; and Housing are in accord with the intent and purpose of H.B. No. 2513-86, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2513-86, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Gaulty, Hirono, Leong, Levin, Shon, Tam, Cavasso, Jones, Liu and Pfeil.

SCRep. 550-86 Planning, Energy and Environmental Protection and Water,
Land Use, Development and Hawaiian Affairs on H.B. No.
1870-86

The purpose of this bill is to amend the Land Use Law and the Hawaii Coastal Zone Management (CZM) Law, Chapters 205 and 205A, Hawaii Revised Statutes, respectively, relating to the administration of the County special management area (SMA) permits by clarifying several provisions of the SMA permit requirements, transferring the shoreline setback provisions of Chapter 205 to Chapter 205A, and assigning the responsibility for shoreline determinations to the Board of Land and Natural Resources.

Your Committees find that in order to consider the potential implication of this bill on other State and County permits and approvals, the bill was discussed by the Governor's inter-governmental task force for permit simplification and especially by the Department of Planning and Economic Development, the lead agency for CZM, and the four County SMA administering agencies. As a result, your Committees find that the guidance defined in this bill can be achieved in a more effective manner consistent with its intent and purposes.

Accordingly, your Committees have incorporated the suggested amendments to this bill by:

- (1) Deleting Sections 1-3 relating to the SMA. It was felt that the original provisions would lead to greater arbitrariness in decision-making;
- (2) Amending the definition of shoreline, to further clarify the manner in which the shoreline is determined to protect the public's interest;
- (3) Amending rather than deleting Section 205-31 relating to the establishment of shoreline setbacks, to allow the Counties to amend their existing rules rather than adopting new ones; and
- (4) Deleting the December 31, 1986, deadline and establishing June 30, 1987 as the new deadline for the Board of Land and Natural Resources to adopt its rules. This reflects the concern that the adoption of administrative rules for shoreline determination and appeals may require more time than provided in the original bill.

Your Committees on Planning, Energy, and Environmental Protection and Water, Land Use, Development and Hawaiian Affairs are in accord with the intent and purpose of H.B. No. 1870-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1870-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Apo, Tam and Pfeil.

SCRep. 551-86 Housing on H.B. No. 2516-86

The purpose of this bill is to give recorded mortgage liens securing future advances priority over subsequently recorded liens.

Under current law, if the maximum amount of the future advances under the loan is stated in the mortgage and a lender is contractually obligated to make those future advances, the mortgage lien is superior to subsequently recorded liens. This is so even if the subsequent liens are recorded before the future advances are made. If, on the other hand, the lender is not contractually obligated to make future advances, subsequent liens would be superior to future advances made after the subsequent liens.

Due to current law, typical title insurance policies obtained by lenders do not cover losses based upon liens recorded prior to nonobligatory advances. Thus, if a borrower is in technical default (e.g., a few days late in making a payment) under a credit agreement which provides for future advances, advances made after the default would not be covered by the title policy since the lender is arguably no longer contractually obligated to make any advances.

This bill addresses the problem by deleting the requirement that a lender must be contractually obligated to make future advances before its recorded mortgage lien would have priority over subsequently recorded liens.

Your Committee on Housing is in accord with the intent and purpose of H.B. No. 2516-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kihano, Kiyabu, Leong, Levin and Cavasso.

SCRep. 552-86 Water, Land Use, Development and Hawaiian Affairs and
Agriculture on H.B. No. 2273-86

The purpose of this bill is to provide enabling legislation regarding agricultural parks by establishing broad authority within the Department of Agriculture to plan, develop, and manage these parks and for the Board of Agriculture to adopt rules governing the agricultural park program. Agricultural park lands would be acquired by the Department from the Board of Land and Natural Resources through the set-aside authority of the Governor of the State of Hawaii.

Last year H.R. No. 41, H.D. 1, requested the Department of Agriculture to prepare a review and update of the agricultural park program, including an appraisal of the agricultural parks law. The Department submitted its report in November, 1985, and its recommendations have been incorporated into H.B. No. 2273-86, H.D. 1. Your Committees are in agreement that the present bill addresses the concerns raised in H.R. No. 41, H.D. 1, and resolves the issues discussed in the Department's report.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Agriculture are in accord with the intent and purpose of H.B. No. 2273-86, H.D. 1, and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 553-86 Finance on H.B. No. 2506-86

The purpose of this bill is to provide for the following:

- 1) That the Department of Health (DOH) be given the authority to license "adult foster care homes" under Section 321-11, Hawaii Revised Statutes, for the period July 1, 1986 to June 30, 1987;
- 2) That the DOH use the rules for child foster boarding homes under authority of Section 346-17, Hawaii Revised Statutes, to license adult foster care homes until June 30, 1987;
- 3) That the Department of Social Services and Housing (DSSH) allow a developmentally disabled child to remain in his or her foster home if the child's eighteenth birthday occurs between the effective date of the Act and June 30, 1987;
- 4) That a child foster boarding home be authorized to operate as an adult foster care home until June 30, 1987;
- 5) That the DOH conduct a study on the scope of the problem, alternative solutions to the problem, the adequacy of the payments for developmentally disabled adults in adult foster home settings and the necessary legislation and rules to effectuate the regulation of adult foster care homes.

Your Committee has amended this bill as follows:

1. On page 6, section 2 was rewritten, to read: "A child foster boarding home approved by the Department of Social Services and Housing under section 346-17, Hawaii Revised Statutes, which provides foster care to a developmentally disabled child beyond the eighteenth birthday through June 30, 1987, shall be authorized to operate as an adult foster care home upon application to the Department of Health;"
2. On page 8, a new section 7 was added, to read: "Rate of payment for adult foster care to be determined on the same basis as domiciliary care homes as provided under section 346-53, Hawaii Revised Statutes, for the period July 1, 1986 through June 30, 1987;"
3. The present sections 7 and 8 were renumbered sections 8 and 9, respectively; and
4. The effective date of the Act was changed from "upon its approval" to July 1, 1986, to be consistent with the new section 7.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2506-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2506-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 554-86 Finance on H.B. No. 2428-86

The purpose of this bill is to fund a study to investigate the creation of a transportation improvement district.

Your Committee has amended section 2 of this bill to specify that the appropriation is for fiscal year 1986-1987.

Your Committee has also made other nonsubstantive amendments to this bill to correct stylistic and grammatical errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2428-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2428-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 555-86 Finance on H.B. No. 2549-86

The purpose of this bill is to allow for the formation of workers' compensation self-insured groups in the State of Hawaii. Group self-insurance permits individual insureds, with similar types of operations, to cooperatively provide insurance.

Your Committee agrees with the House Committees on Employment Opportunities and Labor Relations and Consumer Protection and Commerce that appropriations for additional staff positions are necessary to assist the insurance commissioner in evaluating self-insurance applicants pursuant to section 386-194(a) of the Act.

Your Committee has amended this bill by requiring that a proposed workers' compensation self-insurance group shall file with the insurance commissioner its application for a certificate of approval accompanied by a nonrefundable filing fee of \$300.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2549-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2549-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 556-86 Finance on H.B. No. 2221-86

The purpose of this bill is to amend the Child Protective Act, chapter 587, Hawaii Revised Statutes: (1) to facilitate permanency planning by enabling the department of social services and housing (DSSH) to initiate termination of parental rights and adoption proceedings at any point during the period of the service plan; (2) to provide for electronic recording of a child's statement; (3) to provide for the release of certain records; and (4) to make certain technical amendments.

The Child Protective Act was enacted in 1983 to provide prompt protection of children, for reunification of a child with the family, if practicable, and permanent planning to enable a child to develop and mature into responsible, self-sufficient, law-abiding citizens. During the three years since its enactment, many organizations have had a chance to work with the Act and as a result have made suggestions to strengthen the Act. This bill is a result of all these efforts.

The bill seeks to provide for timely permanent planning by incorporating in the Child Protective Act certain provisions of the termination of parental rights statute (chapter 571, part VI, Hawaii Revised Statutes), the adoption statute (chapter 578, Hawaii Revised Statutes), and the guardianship statute (chapter 560, part 4, Hawaii Revised Statutes). Under present law, the required use of these separate proceedings has resulted in confusion and unnecessary delays for

children and their families. The bill also provides for the admissibility of the electronic recording of a child's statement. With this procedure, further interviewing of the child may occur only upon court order. Under the bill, DSSH will have the authority to conduct criminal history record checks of an alleged perpetrator to determine the harm or potential harm to a child. DSSH will also be able to disclose without court order such information that is in the court records.

Your Committee has amended this bill by inserting the phrase ", except by such parties as are involved in criminal investigations and/or proceedings," between the words "court" and "and" on line 11 of page 65.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2221-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2221-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 557-86 Finance on H.B. No. 1991-86

The purpose of this bill is to convert the position of the Director of the Hawaii Criminal Justice Data Center, Department of the Attorney General, to civil service status.

Your Committee has amended this bill to provide an effective date of July 1, 1986.

Your Committee has also made a technical, nonsubstantive amendment to this bill for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1991-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1991-86, H.D.1.

Signed by all members of the Committee except Representative Leong.

SCRep. 558-86 Finance on H.B. No. 1934-86

The purpose of this bill is to appropriate \$32,000 in fiscal year 1986-1987 to be used by the Division of Financial Institutions (Division) of the Department of Commerce and Consumer Affairs for the purpose of providing training for its staff of examiners.

Your Committee received favorable testimony from the Division. The Division testified that the \$32,000 appropriation would reflect a "status quo" situation, in view of anticipated cuts in federal training subsidies. The Division further testified that even prior to the impending passage of the Gramm-Rudman bill, the Federal Home Loan Bank Board had advised all state regulatory agencies that federal subsidies for training state examiners would be severely restricted. Loss of these federal funds will have a serious impact on the continuing ability of the division's examiners to examine and monitor financial institutions, unless state funds can be obtained. The long-run solution to the problem of adequate training for state examiners lies in the State's ability to provide more funds for this purpose.

Your Committee has made a technical amendment to this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1934-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1934-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 559-86 Finance on H.B. No. 1898-86

The purpose of this bill is to conduct a unified State employment study leading

to the formulation of a human resources development policy.

Your Committee on Finance concurs with the findings of your Committee on Employment Opportunities and Labor Relations in Stand. Com. Rep. No. 225-86.

Your Committee has amended this bill to appropriate \$50,000 to carry out the purposes of this bill.

Your Committee also made nonsubstantive amendments to this bill to correct grammatical and typographical errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1898-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1898-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 560-86

Finance on H.B. No. 1878-86

The purpose of this bill is to establish a State Fire Council administrator to plan, coordinate, and manage the programs and activities of the Council. The administrator will be an employee of the Honolulu Fire Department (H.F.D.), which will provide clerical and other assistance necessary for the council to carry out its responsibilities. The State Fire Council remains within the Department of Labor and Industrial Relations for administrative purposes; however, the fire chief of the Honolulu Fire Department will serve as chairperson of the Council. Annual reimbursement by the state to the county is mandated to cover the Council's operating costs.

Your Committee amended the bill by providing that the provisions of Section 2 of the bill be included in section 132-16, Hawaii Revised Statutes. Other non-substantive amendments have also been made to the bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1878-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1878-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 561-86

Finance on H.B. No. 1392 (Majority)

The purpose of this bill is to give the Department of Transportation the flexibility to determine whether all of the concession contracts at the Honolulu International Airport should be let pursuant to competitive bidding or negotiation.

Under present law, certain concession contracts at the Honolulu International Airport are required to be let through the competitive bidding process, unless specifically exempted by section 102-2(b), Hawaii Revised Statutes. The bill would also allow the department of transportation to let in-bond merchandise concession contracts at the Honolulu International Airport pursuant to negotiation rather than competitive bidding.

Your Committee finds that significant revenues are produced for the airport special fund by the present in-bond merchandise concession. Your Committee has no objections to specifically limiting this bill to the in-bond merchandise concession.

Your Committee has amended this bill to make technical, nonsubstantive amendments for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1392, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1392, H.D.2.

Signed by all members of the Committee except Representative Leong.
(Representatives Crozier, Nakata and Isbell did not concur.)

SCRep. 562-86 Finance on H.B. No. 2008-86

The purpose of this bill is to establish a quarterly wage record system to be administered by the Department of Labor and Industrial Relations to comply with Public Law 98-369, the Deficit Reduction Act of 1984.

On July 18, 1984, Congress passed Public Law 98-369, Deficit Reduction Act of 1984, which included an amendment to Part A of Title XI of the Social Security Act to mandate all states to establish an income and eligibility verification system under which all employers are required, effective September 30, 1988, to make quarterly wage reports to a state agency. The Governor has designated the Department of Labor and Industrial Relations, Unemployment Insurance (UI) Division, as the agency to administer the quarterly wage record system.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2008-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2008-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 563-86 Finance on H.B. No. 2219-86

The purpose of this bill is to give the Department of Social Services and Housing and the State Judiciary the discretion to determine how often criminal history record checks need to be made. In addition, this bill proposes amendments to Section 346-152, Hawaii Revised Statutes, to change the exclusions to the statutes regulating child care facilities.

Under current law, individuals subject to a criminal history record check are required to submit to fingerprinting on an annual basis. These fingerprints, along with the individual's name, are submitted to the Federal Bureau of Investigation for a criminal history record check. Your Committee believes that annual FBI checks are unnecessary, unless the individual leaves the State. Your Committee has therefore amended the bill by requiring name checks on an annual basis and FBI checks where an individual has left the State for a period longer than thirty days.

Your Committee has amended sections 1, 2, 4, and 5 of the bill to clearly define the scope of a criminal history record check. Accordingly, the definition of "criminal history record check" in sections 346-16, 346-151, 352-1, and 571-2, Hawaii Revised Statutes, have been amended by deleting the phrase "and name inquiries into the state and national criminal history record files whenever the individual leaves the State for longer than thirty days" and substituting the phrase "for new hires and rehires".

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2219-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2219-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 564-86 Finance on H.B. No. 2468-86

The purpose of this bill is to provide native Hawaiian individuals and organizations the right to sue in the courts of the State of Hawaii to facilitate the administration of the Hawaiian Homes Commission Act under Article XII of the Hawaii State Constitution.

Your Committee on Finance concurs with the findings and observations of your Committees on Water, Land Use, Development and Hawaiian Affairs and on Judiciary in Stand. Com. Rep. No. 219-86.

Your Committee has amended this bill as follows:

1. Section 1(b) was rewritten to read: "The Legislature further finds that the Congress of the United States and the State of Hawaii, by ratifying section 4 of the Admission Act, agreed to the transfer of the Hawaiian Homes trust by a compact in the State Constitution, and further agreed that any amendment to increase the benefits to lessees of Hawaiian home lands may be made in the constitution, or in the manner required for State legislation."

2. Section 1(c) was rewritten to read: "The Legislature finds that the provisions of the Hawaiian Homes Commission Act, 1920, as amended, and section 4 of the Admission Act have been adopted and incorporated into the constitution of the State of Hawaii as Article XII, sections 1, 2, 3, and 4."

3. Section 1(e) was rewritten to read: "The Legislature further finds that section 5(f) of the Admission Act provides that the "lands, proceeds, and income shall be managed....in such manner as the constitution and laws of said State may provide..." thereby allowing for the creation of another native Hawaiian and Hawaiian trust and for the establishment of the Office of Hawaiian Affairs as duly provided for in Article XII, sections 5 and 6 of the State Constitution."

4. Section 1(f) was rewritten to read: "The Legislature therefore finds that implicit in the creation of the public trusts for native Hawaiians and Hawaiians, as defined in section 10-2 of the Hawaii Revised Statutes, is the right to enforce the public trusts by the beneficiary classes as a necessary and helpful means to administer the public trusts as intended by their creation and purposes. See Poafpybitty v. Skelly Oil Co., 390 U.S. 365 (1968)."

5. Section 1(g) was rewritten to read: "The purpose of this Act is to provide native Hawaiian individuals and organizations the right to sue in the courts of the State of Hawaii to facilitate the administration of the Hawaiian Homes Commission Act, and to conform to the compact between the State of Hawaii and the United States set forth in section 4 of the Admission Act and adopted by the State of Hawaii in Article XII, sections 1, 2, 3, and 4 of the Constitution of the State of Hawaii."

6. A new paragraph, "(h)," was added to section 1 to read: "(h) The purpose of this Act is also to provide native Hawaiians and Hawaiians, as defined in section 10-2 of the Hawaii Revised Statutes, the right to sue in the courts of the State of Hawaii to facilitate the administration of the public trust created by Article XII, sections 5 and 6 of the State Constitution."

7. The words "Hawaiian Homes trust." were inserted after the word "organization;" on line 13, page 3.

8. Lines 18 through 21 on page 4, and lines 1 and 2 on page 5 were deleted.

9. The following new statutory material was added and numbered section 3 of the bill: "§ - Suit by native Hawaiians and Hawaiians and native Hawaiian and Hawaiian organizations; Office of Hawaiian Affairs trust. (a) Native Hawaiians and Hawaiians and native Hawaiian and Hawaiian organizations shall have the right to bring an action in the circuit courts of the State to resolve any controversy relating to the native Hawaiian and Hawaiian public trust under Article XII, sections 4 and 5 of the State Constitution allowed under Section 5(f) of the Admission Act."

(b) As used in this section, "Native Hawaiian" and "Hawaiian" are the same as defined in section 10-2.

(c) "Native Hawaiian" and "Hawaiian organization" means a duly chartered organization registered in the State of Hawaii whose purpose is to promote and encourage the betterment of Hawaiians, and which organized body is controlled by Hawaiians and a majority of whose members receive or can receive benefits from the Office of Hawaiian Affairs."

10. The effective date of this Act was changed from "upon its approval" to "one year after the date of its approval."

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2468-86, H.D. 1, as amended herein, and recommends that it pass Third

Reading in the form attached hereto as H.B. No. 2468-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 565-86 Finance on H.B. No. 2157-86

The purpose of this bill is to create an office on handicapped persons to replace the present commission on the handicapped.

Your Committee on Finance concurs with the findings and conclusions of your Committee on Human Services in Stand. Com. Rep. No. 186-86.

Your Committee has amended section 1, page 8, line 9 of this bill by deleting the reference to chapter 91.

Your Committee has also amended section 6 of this bill to appropriate \$10,000, rather than \$3,480, to carry out the purposes of this Act.

Finally, your Committee has made several nonsubstantive amendments to this bill to correct technical and stylistic errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2157-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2157-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 566-86 Finance on H.B. No. 2472-86

The purpose of this bill is to provide that allowances for incidental expenses of legislators shall be payable prior to the opening of each regular legislative session.

Under present law the incidental expenses and the amount connected with legislative duties are payable in a manner prescribed by the rules of the House of Representatives.

Your Committee is in agreement with the intent to amend section 24-1, HRS, to add specific language relative to the time of payment.

Your Committee has amended this bill to change the added language to read "on or before the 3rd day of January prior to the opening of each regular legislative session".

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2472-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2472-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 567-86 Finance on H.B. No. 2532-86

The purpose of the bill is to provide funding for the expenses of presenting the play "Hear Me, O My People".

Favorable testimony was received by your Committee from Marlene Sai who performs this one-actress play. This is the story of the last reigning monarch of Hawaii, Queen Liliuokalani. The story portrays the Queen's tenderness, determination, strength of character, and courage in fostering the cause of her people. It was suggested that the play would be a valuable way of bringing attention of the authorities in Washington, D.C., to the plight of the Hawaiian people.

Your Committee has amended this bill by appropriating the sum of \$30,000 for the expense of presenting the play "Hear Me, O My People" in Washington, D.C.

Your Committee has also made a technical, nonsubstantive amendment to the bill for the purpose of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2532-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2532-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 568-86 Finance on H.B. No. 2580-86

The purpose of this bill is to provide for an exception to the state excise tax for purchases made with food coupons to allow the State to continue to participate in the Food Stamp Program.

The Food Security Act of 1985 prohibits states from participating in the Food Stamp Program if there is a state or local sales tax on purchases made with food coupons. The Department of Social Services and Housing has requested the United States Department of Agriculture to rule whether the state excise tax is a sales tax for the purposes of the Food Security Act.

This bill would exempt purchases made with food coupons from the state excise tax in the event that the United States Department of Agriculture rules against the State.

Your Committee has also amended this bill to make a technical change for purposes of clarity.

Your Committee has amended this bill to allow for the pending determination from the Secretary of Agriculture as to whether the general excise tax is a "sales tax" by substituting the following language in lines 18-22 on page 7 and lines 1 and 2 on page 8:

"Amounts received for purchases made with United States Department of Agriculture food coupons if the United States Secretary of Agriculture determines under Public Law 99-198 that the tax imposed by this chapter will disqualify the State of Hawaii from participation in the federal food stamp program. If such a determination is made, and upon being so informed by the United States Secretary of Agriculture, the Director of Taxation shall immediately inform the general public by public notice of the exempt status."

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2580-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2580-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 569-86 Finance on H.B. No. 2430-86

The purpose of this bill is to provide funding to study the creation of high occupancy vehicle (HOV) lanes on the state highway system to mitigate the traffic impacts of future developments in Central and Leeward Oahu.

Your Committee finds that there is a need to study future transportation problems in the Central and Leeward Oahu areas. Among the problems discovered are:

1. The cumulative effects of the traffic generated by all of these developments could seriously affect driving conditions along the State's highway system.
2. The construction of any new highways to handle these traffic problems would probably encounter opposition because of high costs, scarcity of available land and significant social, economic, and environmental impacts.
3. Further widening of existing highways to handle these traffic problems will run into the same kind of opposition and problems described for new highways.

In order to handle these traffic problems with minimal expenditures and to maximize use of existing facilities, especially during the peak traffic periods, the Department of Transportation is advocating use of HOV lanes which are capable of carrying more persons per hour than conventional highway lanes.

Your Committee is in agreement that the \$100,000 to be appropriated out of the general obligation bond funds with debt service costs to be paid out of the state highway fund is sufficient to conduct the study. The study will include:

1. All advantages of HOV Lanes.
2. All disadvantages of HOV Lanes.
3. Specific recommendations on how the HOV concept can be implemented.
4. Kinds of physical improvements that will be necessary.

Your Committee has amended this bill to make nonsubstantive changes for purposes of clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2430-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2430-86, H.D.1.

Signed by all members of the Committee except Representative Leong.

SCRep. 570-86 Finance on H.B. No. 2626-86

The purpose of this bill is to provide a new formula for computing the maximum gross vehicular weight allowable on any public road other than interstate highways, and to specify limits on the overall gross weight of vehicles traveling on such roads and highways.

Your Committee has made a few nonsubstantive amendments to this bill to correct stylistic and typographical errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2626-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2626-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 571-86 Finance on H.B. No. 2254-86

The purpose of this bill is to establish an innovative program which seeks to provide an opportunity for physicians to serve with the State and ease the difficulty of the Department of Health and Department of Social Services and Housing in recruiting physicians.

The Department of Social Services and Housing and the Department of Health testified in support of this bill.

This bill provides that the School of Medicine of the University of Hawaii shall recommend that two positions within the University of Hawaii medical residency program be filled each year commencing in 1987, in accordance with this Act, by persons who have the necessary qualifications, other than the qualification of residency training, to take the examination for licensure as physicians under chapter 453, Hawaii Revised Statutes, and who agrees to:

(1) Participate in the residency program for the minimum period required to qualify for the licensure examination under chapter 453, Hawaii Revised Statutes;

(2) Agrees to obtain a permanent license to practice medicine under chapter 453, Hawaii Revised Statutes, as soon as possible following termination of participation in the residency program;

(3) Serve for two years as:

(A) An officer or employee of the Department of Social Services and Housing who is based in a correctional facility and whose normal course of duty requires medical treatment of inmates of the facility, another correctional facility, or both; or

(B) An officer or employee of the Department of Health who is employed

to provide primary medical care to residents of and be based in a rural community with a shortage of physicians; and

(4) Commence fulfilling the requirement under paragraph (3) immediately following the termination of participation in the residency program and licensure.

It is the intent of this bill to assist in recruiting physicians to work in rural communities and in correctional facilities. This pilot program of physician residency under the auspices of the University of Hawaii School of Medicine, offers the practitioner a challenging position with considerable exposure to a variety of cases and situations which add to the practitioner's experience and could serve as a springboard to greater endeavors. Moreover, the opportunity to improve and enhance the delivery of medical care and health services to the less fortunate should bring satisfaction to the practitioner to the highest degree.

Your Committee has made a technical, nonsubstantive amendment to this bill for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2254-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2254-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 572-86

Finance on H.B. No. 2618-86

The purpose of this bill is to convert the position in charge of the International Services Branch (ISB), Business and Industry Development Division, Department of Planning and Economic Development (DPED) from exempt to civil service status. This bill further proposes that the incumbent be retained without necessity of examination and receive all rights, benefits and privileges of seniority, prior service credit, and vacation and sick leave credit.

Your Committee has amended Section 3 of this bill to make its effective date July 1, 1986.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2618-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2618-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 573-86

Finance on H.B. No. 2608-86

The purpose of this bill is to waive tuition fees for any Hawaii veteran who is an undergraduate student working towards a degree on any campus of the University of Hawaii.

Your Committee has amended this bill by limiting the application of the tuition waiver to veterans who: (1) served in Vietnam, Laos, or Cambodia during the Vietnam conflict and (2) carry a minimum of six semester credits. Further, your Committee has specified that the tuition waiver may be granted up to a maximum of six academic years.

Your Committee has deleted the first sentence from page 2 of the bill and has made technical, nonsubstantive amendments for purposes of clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2608-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2608-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 574-86

Finance on H.B. No. 2381-86

The purpose of this bill is to seek an appropriation to fund the operational expenses of the commission established to coordinate and plan activities and projects commemorating the 200th anniversary of the arrival of the Chinese in Hawaii.

Your Committee recognizes the significance of the anniversary and has amended the bill to appropriate the sum of \$100,000.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2381-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2381-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 575-86

Finance on H.B. No. 2495-86

The purpose of this bill is to amend Chapter 239, Hawaii Revised Statutes, to allow a telephone public utility a credit equal to the lifeline telephone rate costs incurred by the utility to be applied against the utility's public service company tax liability. This bill also amends Chapter 269, Hawaii Revised Statutes, to specifically authorize the Public Utilities Commission to allow telephone public utilities to offer lifeline telephone service to eligible residential customers and to prescribe criteria for eligibility for lifeline telephone service and a means for funding such lifeline telephone services.

Your Committee received testimony in support of the general lifeline concept from Hawaiian Telephone Company, the Public Utilities Commission (PUC), Department of Budget and Finance, the Department of Commerce and Consumer Affairs, the Executive Office on Aging, the Commission on the Handicapped, Hawaii Centers for Independent Living, Maui Economic Opportunity, Honolulu Community Action Program, Inc., the Kokua Council of Senior Citizens, Hawaii Centers for Independent Living, and the Maui Economic Opportunity, Inc.

Your Committee has also received testimony in opposition to this bill from the Department of Taxation and the Tax Foundation of Hawaii.

The PUC testified, however, that any legislation for lifeline rates should be limited to a definition of lifeline rates and the method of funding. Further, the details of specifying the target groups, such as the elderly, the handicapped, and other groups of subscribers who qualify for lifeline rates, should be assigned to the PUC because conditions may change which may make it more appropriate for changes by administrative rules rather than by legislative acts.

Your Committee has amended the bill by:

(1) deleting the comma between the words "elderly" and "the" on page 2, line 17, and substituting the phrase "with limited income and"; and

(2) deleting the phrase ", and persons" on page 2, line 18.

The purpose of these amendments is to make it clear that the income limitation as designated by the Public Utilities Commission shall apply to both the elderly and the handicapped.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2495-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2495-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 576-86

Finance on H.B. No. 2501-86

The purpose of this bill is to allow the Hawaii Housing Authority to establish a taxable mortgage securities program to assist in the provision of affordable housing for qualified participants.

Testimony from the Hawaii Housing Authority (HHA) indicates that, despite efforts to keep the Hula Mae Program alive, its future appears at best tenuous as Congress is currently considering a tax reform measure that will severely restrict tax-exempt revenue bond programs. Moreover, one of the key provisions contained in this congressional measure may substantially limit Hawaii's tax-exempt bond issuance allotment which is used to finance single-family home mortgages.

The State must now begin to look for alternatives to finance lower interest rate mortgage loans for first-time homebuyers. HHA authorization to issue taxable mortgage securities would be one such alternative.

Under the proposed bill, the HHA will issue and sell taxable securities, the proceeds of which will be applied towards home mortgage loans to be made available to first-time homebuyers vis-a-vis private lending institutions. In short, the role of HHA will be that of a conduit between the lenders who will originate the loans and the national capital markets who will provide the funds to the HHA for purchase of the new loans.

Your Committee has made technical, nonsubstantive amendments to this bill for the purpose of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2501-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2501-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 577-86

Finance on H.B. No. 2284-86

The purpose of this bill is to allow for the establishment of State standards to protect Hawaii's ground and surface water resources from contamination as the result of leaking underground storage tanks. This bill requires the adoption of standards that are at least as stringent as those adopted by federal rules promulgated under Title VI of the Hazardous and Solid Waste Amendments of 1984.

The Federal Hazardous and Solid Waste Amendments of 1984 established new requirements for the regulation of underground storage tanks. Included among the newly established requirements are directives for the development of a notification program; regulations and performance standards for new tanks; and standards for leak detection, leak prevention and corrective actions. The deadlines set for the development of State standards and regulatory requirements for the underground storage of petroleum and hazardous chemicals are February 1987 and August 1987, respectively.

Beginning in May of 1987, states are allowed to apply to the Federal Environmental Protection Agency for the authorization to operate an underground storage tank program. Your Committee finds that the early adoption of this bill will allow for the timely development of rules by the Department of Health, thereby easing the establishment and inevitable transition of this program toward the benefit of the State and its business community.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2284-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2284-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 578-86

Finance on H.B. No. 2349-86

The purpose of this bill is to establish a State Coordinating Council on Deafness

and appropriate moneys for the operations of the council. The bill also establishes a program to coordinate interpreter services and gives the council authority to: (1) assess fees on private organizations when interpreter services are used; and (2) establish criteria for the qualifications of interpreters.

A State Coordinating Council on Deafness, established by House Resolution 194-80, currently exists within the Department of Social Services and Housing. The current council operates without any funds or staff. By providing for funding and staff, this bill would allow the council to more fully coordinate interpreter services and serve the needs of the hearing-impaired. State agencies that use the interpreter services would also benefit because they would be able to provide services to the hearing-impaired, as required by Public Law 93-112, in a cost-effective manner.

Your Committee has amended this bill by changing the title of the new Chapter to "STATE COORDINATING COUNCIL ON DEAFNESS" from "INTERPRETER SERVICES FOR THE HEARING-IMPAIRED" and by changing the word "were" to "are" on page 5, line 1.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2349-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2349-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 579-86

Finance on H.B. No. 2429-86

The purpose of this bill is to provide funding to study the creation of a ride-sharing authority.

This bill provides a ridesharing authority be created to encourage commuting to and from work by means other than a motor vehicle occupied by one person. Your Committee is in agreement that the \$30,000 to be appropriated out of the general obligation bond funds with debt service costs to be paid out of the state highway fund is sufficient to conduct the study. Your Committee recommends that the study include the following items:

- (1) Advantages of ridesharing.
- (2) Disadvantage of ridesharing.
- (3) Organization and duties of the Ridesharing Authority.
- (4) Methods to increase participation in ridesharing.
- (5) Infrastructure needed for a successful ridesharing program.
- (6) Conflicts with other programs or laws and the changes needed to implement a successful ridesharing program.
- (7) Costs of a successful ridesharing program (including a benefit-cost analysis) and how costs would be best funded.
- (8) A program of action with specific recommendations on how the concept of ridesharing can be promoted in the community.
- (9) Preparation of proposed legislation needed to create a Ridesharing Authority and to provide a program for ridesharing with incentives for participation and disincentives for nonparticipation.

Your Committee on Finance has amended this bill to make technical, nonsubstantive changes for purposes of clarity.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2429-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2429-86, H.D. 1.

Signed by all members of the Committee.

SCRep. 580-86

Finance on H.B. No. 2800-86

The purpose of this bill is to amend the Hawaii Revised Statutes by providing a contingency plan to be instituted by the insurance commission upon the unavailability of liability insurance by certain businesses or professions in this State.

Liability insurance is a necessary item in the operation of many businesses and professions in Hawaii. Such insurance allows a business to be financially responsible for the risks created in operating the business. Certain businesses and professions today, however, are having a difficult time in obtaining liability insurance--such as architects, day care centers, and other human services providers. It would be unfortunate to have such businesses and professions operate without liability insurance because of the consequences that may result therefrom if an accident should occur.

Your Committee has amended this bill to repeal Chapter 435C, which provides for a contingency plan that was to be triggered upon the unavailability of medical malpractice insurance in the State. It is the intent of your Committee that the provisions of this bill cover physicians and other health care providers as determined by the insurance commissioner, and the purpose section of the bill has been amended to reflect this intent.

Further, your Committee has amended this bill to delete the sentence providing that the insurance commissioner serve as one of the directors of the plan. Accordingly, the total number of directors has been reduced from eleven to ten members.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2800-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2800-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 581-86

Finance on H.B. No. 2698-86

The purpose of this bill is to amend Chapter 6E, Hawaii Revised Statutes, relating to preservation and disposal of native Hawaiian burial sites and battle areas. The bill also provides for a permit system for examination of prehistoric and historic sites and for the adoption of rules by the Department of Land and Natural Resources (DLNR) relating to the proposed amendments.

Chapter 6E established the Historic Preservation Program in 1966. Since 1966, new situations affecting historic preservation have developed or been recognized, which Chapter 6E does not properly address.

Your Committee has made the following amendments to this bill:

- (1) Deleted the phrase "Taken care of by an accredited depository" on page 1, line 12, and substituted the phrase "Archaeologically investigated on site, and curated by an accredited depository";
- (2) Deleted lines 3 through 20 on page 2;
- (3) Deleted lines 1 through 3 on page 3; and
- (4) Amended page 8, line 14, by deleting the word "or" after the word "history" and adding the words "or related field" after the word "architecture".

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2698-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2698-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 582-86 Finance on H.B. No. 2705-86

The purpose of this bill is to provide funds to maintain the current statewide system of substance abuse services.

Your Committee has amended this bill to appropriate \$50,000, rather than \$278,000, to carry out the purposes of this Act.

Your Committee has also made some nonsubstantive amendments to this bill to correct grammatical errors.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2705-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2705-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 583-86 Finance on H.B. No. 2694-86

The purpose of this bill is to appropriate \$25,000 to the Music Performance Trust Fund to provide musical events for the people of Hawaii free of charge.

Your Committee was informed by the Musicians' Association of Hawaii that the music industry in the United States and Canada established the Music Performance Trust Fund (MPTF) to promote live musical productions in participatory states. That representative noted that in the past Hawaii was allotted a considerable sum of money from the trust fund, but the drastic slump in the recording industry resulted in a reduction of available funds and a requirement that MPTF funds be matched with funds from other sources.

Your Committee finds that, in addition to music enrichment, the bill would produce positive results, as it would provide additional employment for local musicians and could be integrated in a school's music appreciation program. Your Committee urges the continuation of discussions between the Musicians Union and the department of education that have been initiated to have performances offered at public schools statewide with performers sharing their artistic knowledge and musical experiences with students before and after the scheduled performances.

Your Committee agrees that private matching funds should be sought to provide at least a portion of the MPTF.

Your Committee has amended this bill to designate that the Department of Accounting and General Services be the responsible State expending agency. The bill is further rewritten to conform to state accounting procedure for expenditure and lapsing of funds. Nonsubstantive amendments are also made by your Committee.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2694-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2694-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 584-86 Finance on H.B. No. 2752-86

The purpose of this bill is to appropriate \$45,000 to be expended by the Hawaii Bar Association to institute a "Dial Law" program which would provide the public with access to free and informal legal information.

It is your Committee's wish that the funds appropriated be used for equipment, advertising and other necessary program production costs.

Your Committee finds that the "Dial Law" program would in all probability assist legal service agencies by providing additional legal information to the public, especially persons in the poverty level population.

Your Committee has amended this bill to provide that the sum appropriated be expended by the Judiciary.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2752-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2752-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 585-86 Finance on H.B. No. 2536-86 (Majority)

The purpose of this bill is to authorize the issuance of special purpose revenue bonds in a total amount not to exceed \$15,000,000 to assist Hanalei Power Company in acquiring and constructing a hydroelectric power plant and related facilities on the Hanalei River on Kauai.

The residents of Kauai are dependent primarily on oil-fired generation of energy supplied by Kauai Electric. Further, general State plans encourage the goal of energy self-sufficiency through alternate energy resource development projects in order to reduce dependence on petroleum-based imports. Your Committee is of the opinion that the proposed Hanalei hydroelectric development project could help Kauai and its people to move toward the goal of energy self-sufficiency.

Your Committee has amended this bill to specify that the total amount of special purpose revenue bonds to be issued for the purposes of this bill shall not exceed \$12,000,000.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2536-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2536-86, H.D. 1.

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

SCRep. 586-86 Finance on H.B. No. 2805-86

The purpose of this bill is to:

(1) Amend Section 237-20, Hawaii Revised Statutes, by: (a) repealing the provision clarifying the grossing-up of income of taxpayers furnishing tours or travel services whereby only that income received by the provider of such services shall be deemed to be income and subject to the 4 per cent tax and (b) amending the provision relating to reimbursements to provide that when a reimbursement is made together with additional monetary consideration for the making of an advance, then such reimbursement shall not be exempt from the general excise tax;

(2) Amend Section 237-18, Hawaii Revised Statutes, by adding a new subsection (g) to provide that where tourism related services are furnished through arrangements made by a travel agent or tour packager, the tax on the provider of the services will be measured by the income of the business without a deduction for fees, commissions or other emoluments paid to the travel agent or tour packager; and

(3) Provide that where the gross income of the business cannot be determined, the provider of the services shall use a percentage of the gross receipts received by the provider as the amount of the fees retained by the travel agent or packager. This percentage figure is to be determined by the Director of Taxation and is to be reasonably related to the fee, commission, or other emolument received by the travel agent or tour packager for arrangements made in connection with the tour service provider.

The issues addressed by this measure were considered by the 1985 session of the Thirteenth Legislature which enacted Act 303, Session Laws of Hawaii 1985. There are two problems which Act 303 attempted to resolve: (1) situations where the provider of tourism related services had no control over individual sales of the services made through a travel agent where the agent had purchased such services in bulk and at a discount from the usual retail price; and (2) situations where a reimbursement of costs and advances were made and an additional consideration was also given to the person or entity making the advance.

Your Committee has amended H.B. No. 2805-86, H.D. 1 as follows:

(1) The provision in Section 237-20, Hawaii Revised Statutes, clarifying the grossing-up of income of taxpayers furnishing tours and travel services whereby only that income received by the provider of such services shall be deemed to be income has been retained;

(2) The proposed amendments to Section 237-18, Hawaii Revised Statutes, have been deleted;

(3) The provisions in section 3 of the bill has been deleted;

(4) Section 237-13(6), Hawaii Revised Statutes, has been amended to provide that upon every person engaging or continuing within the State in any service business or calling which involves the actual furnishing of transient accommodations for consideration shall be levied an annual tax equal to nine per cent of the gross income derived from the furnishing of such transient accommodations. "Transient accommodations" has been defined to mean a room, apartment, suite, or the like which is occupied for less than one hundred eighty consecutive days. The taxes levied at a rate above four per cent shall not apply to persons acting as intermediaries between the transient occupying the accommodation and the person engaged in a service business which involves the furnishing of transient accommodations;

(5) Sections 237-16(a),(b), and (e), Hawaii Revised Statutes, are amended to provide that upon persons within the State engaging in the retail furnishing of transient accommodations shall be levied an annual tax equal to nine per cent of the gross proceeds of sale or gross income received. Transient accommodations has been defined in this section as a room, apartment, suite, or the like which is occupied for one hundred eighty consecutive days;

(6) A section indicating that the provisions in the bill are severable has been added;

(7) Sections of the bill have been renumbered; and

(8) The provisions of amended sections 1 and 2 have been determined to take effect on January 1, 1987; and the provisions of amended section 3 have been determined to take effect on July 1, 1986.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2805-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2805-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 587-86

Finance on H.B. No. 1856-86

The purpose of this bill is to authorize the issuance of general obligation bonds and to declare findings that the total amount of principal and interest estimated for such bonds and all bonds authorized but unissued and calculated for all bonds issued and outstanding will not cause the debt limit to be exceeded at the time of issuance.

This bill is intended to meet the requirement of Article VII, Section 13, of the Constitution of the State of Hawaii. This constitutional provision requires the legislature to include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the debt limit will not be exceeded upon the issuance of bonds authorized by the law and in the past.

Your Committee has reported this bill out in incomplete form to expedite required legislative process.

Amounts in the bill and the proper bill references have been left incomplete since the precise data or best estimates are not known at this time. It is the intent of your Committee that such amounts will be inserted at a later time when they become known.

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

No. 1856-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 588-86 Finance on H.B. No. 2595-86

The purpose of this bill is to amend the definition of "gross income," in section 239-2(6), Hawaii Revised Statutes, to add a new paragraph which provides that funds paid by a customer or the customer's agent to an agent of a public service company for services which are not transmitted to the public service company who furnishes the services shall not be presumed to be part of the gross income received or accrued by the public service company. The presumption may be rebutted by showing an agreement to the contrary.

This measure proposes to incorporate into the public service company tax the provision that was added to the general excise tax law as the situation addressed would also be applicable to taxpayers subject to the public service company tax.

The situation this provision addresses involves the payment for services of a service provider through a third party agent. The agent of the service provider may purchase the service from the provider on a discounted basis because of volume or some other reason. The agent in turn markets the service, adding a service charge or fee for himself. If the procedure argued under the general excise tax law is followed by the Department of Taxation, the provider would be responsible for a 4 per cent public service company tax on the gross receipts the agent received from the sale of the provider's service.

Your Committee has amended this bill to require that each party pay the 4 per cent public service company tax on their respective portions and no more. Further, "tourism related services" has been defined to mean motor carriers of passengers regulated by the Public Utilities Commission.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2595-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2595-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 589-86 Finance on H.B. No. 307 (Majority)

The purpose of this bill is to establish a State lottery administered by a State lottery commission. Revenues derived from the sale of lottery tickets, less administrative expenses and prizes, are to be deposited into the State lottery fund and periodically transferred into the general fund to the benefit of the State.

Your Committee has amended this bill by inserting "\$1" for money amounts left blank.

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

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 307, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 307, H.D. 2.

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

SCRep. 590-86 Judiciary on H.B. No. 1982-86

The purpose of this bill is to delete glanders and farcy from section 142-13, HRS, and to increase the penalties for failure to promptly report any contagious or infectious disease occurring in one's own or other's animals.

Your Committee received testimony from the Department of Health and the Board of Agriculture in support of the bill.

Your Committee finds that the diseases glanders and farcy should be deleted from section 142-13, HRS, since they are non-existent in Hawaii.

Your Committee further finds that increasing the penalties for violations of this section would emphasize the importance of disease reporting and will aid in the prevention of spreading such diseases.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1982-86, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 591-86 Judiciary on H.B. No. 1855-86

The purpose of this bill is to: (1) require that licensed slaughterhouses and any person slaughtering animals at any place other than a licensed slaughterhouse report in greater detail the brands of animals slaughtered; (2) require that obliterated or felonious brands on animals be reported to the appropriate law enforcement agency; and (3) amend section 146-24, HRS, by including violations of section 146-22, HRS.

Your Committee received testimony from the Board of Agriculture, the College of Tropical Agriculture and Human Resources at the University of Hawaii, the Honolulu Police Department, and Carl Carlson of the Hawaii Cattlemen's Association in support of this bill.

Your Committee finds that adopting the amendments in this bill would aid in curbing the number of thefts involving livestock. Your Committee further finds that rustling is a major problem that causes substantial economic losses for the livestock industry.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1855-86, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 592-86 Judiciary on H.B. No. 1954-86

The purpose of this bill is to propose an amendment to Article III, Section 10, of the Constitution of the State of Hawaii to allow the legislative recess or recesses to occur anytime after the deadline for bill introduction and to require that the recess or recesses be determined by a majority vote of the members of each house.

The Constitution requires a mandatory recess of not less than five days at some period between the twentieth and fortieth days of the regular session.

Currently, the recess is called shortly after the deadline for bill introduction. The recess allows everyone time to review all bill that were introduced and their committee referrals before any deadlines for the movement of bills have passed.

Your Committee heard testimony in support of the bill from Mr. Sam Caldwell, a member of the third oldest profession, lobbying.

Your Committee finds that the present five day recess is too long a pause in the legislative process. Your Committee believes that holding hearings during the recess may be contrary to the intent of the legislative recess, however, with a limited period of time to hold hearings, it has been customary to hold hearings in order to move bills along.

Your Committee further finds that a recess would be appropriate after the "crossover" deadline since the deadline effectively separates the bills that have a chance of passing from those that will not pass.

Your Committee further finds that the proposed amendment will give the Legislature the flexibility to divide the five day recess to better serve the needs of the public and the drafters of the recess provision.

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

No. 1954-86 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 593-86 Judiciary on H.B. No. 2299-86

The purpose of this bill is to amend chapter 165, HRS, to include processing and aquaculture operations within the protection from nuisance lawsuits afforded by the Hawaii Right to Farm Act.

This bill also amends the definition of "nuisance" to include all claims that meet the definition even though a complainant may designate the claim as other than nuisance claim; clarifies the process of assessing the established date of operation for expansions of farming operation; adds a definition of "expansion" to clarify what should be considered expansion; and amends the conditions under which a farming operation can be declared a nuisance.

Your Committee heard testimony in support of the bill from the Board of Agriculture, College of Tropical Agriculture and Human Resources, Hawaii Sugar Planter's Association, and the Hawaii Farm Bureau Federation.

Your Committee finds that the Hawaii Right to Farm Act has not provided the protection from nuisance suits intended by previous Legislatures because processing operations essential to farming operations have not been expressly granted protection.

In addition, your Committee finds that aquaculture operations conducted on nonagriculturally zoned land should be protected from nuisance suits; that the expanded definition of "nuisance" will protect farmers from nuisance lawsuits; that clarifying the definition of established date of operation will protect the expanding farm without limiting the rights of potential claimants; and that the difficulty for a farmer to establish a defense will be reduced without substantially affecting the plaintiff's rights.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2299-86, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 594-86 Judiciary on H.B. No. 2700-86

The purpose of this bill is to provide for direct and exclusive appeal to the Hawaii Supreme Court of contested case decisions or orders related to Special Management Area (SMA) permits under the coastal zone management program. The bill also provides that these appeals will receive priority over all other civil cases.

Your Committee finds the appeal process to the circuit court is an inequitable approach to conflict resolution because the time consuming process causes costly delays and unnecessarily discourages development.

Your Committee received testimony opposed to the bill from Joyce Kainoa and Jim McCarthy, both private citizens.

Your Committee received testimony from the Office of the Lieutenant Governor, the Department of Planning and Economic Development, Hawaii Resort Developers Conference the Land Use Research Foundation of Hawaii, and Construction Industry Legislative Organization, Inc. in support of the bill.

Your Committee finds that this bill will eliminate as much as eighteen months of unnecessary delay in the completion of the judicial review. Furthermore, expedited decision-making and the avoidance of a lengthy and costly delay in the legal process would be of benefit to both parties in any dispute concerning our vital coastal zone.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2700-86, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 595-86 Judiciary on H.B. No. 2125-86 (Majority)

The purpose of this bill is to give the Family Court discretion to require, by order of decree, the posting of security to assure the payment of child support. The bill also assures that the rights to due process are provided to obligors.

Your Committee received testimony from the Family Court, the Department of Social Services and Housing, the Department of Corporation Counsel, and The Commission on Child Support Enforcement in support of this bill.

The testimony of the Family Court indicated that the amendments proposed in this bill will bring Hawaii law in compliance with the federal mandate of Public Law No. 98-378, The Child Support Enforcement Act Amendments of 1984.

Your Committee finds that passage of this bill will enhance the enforcement of child support orders and the collection of delinquent child support payments.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2125-86, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 596-86 Judiciary on H.B. No. 2126-86 (Majority)

The purpose of this bill is to amend section 571-52.2, HRS, to provide for automatic assignment of future wages from absent parents who are at least one month delinquent in child support payments and in spousal support when written in a court order for child support.

The bill also imposes a forty-five day deadline for the rendering of decisions in contested cases on automatic wage assignments and limits an obligor's defense to mistakes of fact.

Your Committee received testimony from the Family Court and the Commission on Child Support Enforcement in support of the bill.

Your Committee finds that the amendments in the bill are needed to bring Hawaii law into compliance with the federal mandates under Public Law No. 98-378.

Your Committee further finds that this bill is an important step in the enforcement of child support orders and in the collection of delinquent child support.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2126-86 and recommends that it pass Third Reading.

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

SCRep. 597-86 Judiciary on H.B. No. 2124-86 (Majority)

The purpose of this bill is to allow for the release of information concerning overdue child support payments in excess of \$1,000 to consumer reporting agencies. The bill is also intended to bring Hawaii into compliance with recent federal mandates contained in P.L. 98-378.

The bill also provides the obligor an opportunity to contest the accuracy of such information. This bill further provides that any overdue child support under the amount of \$1,000 can be made available at the option of the State.

Your Committee received testimony from the Family Court, the Department of Social Services and Housing, the Commission on Child Support Enforcement, and the Department of the Corporation Counsel.

Your Committee finds that this bill is an important step in the enforcement of child support orders and in the collection of delinquent child support.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2124-86, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 598-86 Finance on H.B. No. 2166-86

The purpose of this bill is to: (1) permit the blind and visually handicapped to continue to operate the vending machine concessions in secondary public schools; and (2) allow revenue-sharing arrangements for the benefit of school-related organizations to be considered in the award of the concessions.

Since 1973, visually handicapped persons have operated the vending machine concessions in the public school system. In 1981, Act 131 was enacted to secure sites for visually handicapped concessionaires at the Honolulu International Airport and other State facilities. Act 131, SLH 1981, exempted the Department of Education from its requirements because it had an existing visually handicapped concession program. The Act, however, had the unexpected effect of requiring the DOE to terminate its program upon the expiration of the existing contracts. This bill would permit the DOE to continue its visually handicapped concession program in secondary public schools.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2166-86, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 599-86 Finance on H.B. No. 2121-86

The purpose of this bill is to amend section 346-29, Hawaii Revised Statutes, to provide standardization of the amount of household assets which is to be disregarded in determining the eligibility of applicants and recipients for financial assistance and Medicaid benefits.

Under current law, the financial assistance asset disregard limit is computed on a graduated scale based on family size ranging from \$445 to \$1,000. Federal regulations allow states to standardize the limit at \$1,000. Standardizing the limit would provide equitable treatment to all families regardless of size and would improve the administration of the financial assistance program and prevent errors due to application of the multiple standards.

The bill would also amend the Medicaid resource limit, making it compatible with the limits of the federal Supplemental Security Income program. Currently, there is a discrepancy between the state standard and the one for SSI. Since Medicaid and SSI serve common recipients, it is reasonable that the two programs have the same limit.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2121-86 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 600-86 Finance on H.B. No. 2345-86

The purpose of this bill is to promote the adoption of children with special needs by enabling the State of Hawaii to join the Interstate Compact on Adoption and Medical Assistance.

Currently, the federal government provides partial reimbursement to states for adoption assistance to children with special needs under the Aid to Families with Dependent Children or Supplemental Security Income programs. Prior to the Adoption Assistance and Child Welfare Act of 1980, reimbursement was only available for children in foster care. As a result of the Act, benefits (which include a monthly subsistence payment and medical benefits) are available to the child and adoptive parents regardless of where the family resides within the United States. This mechanism assures prospective adoptive parents of children with special needs that they will receive the necessary assistance in adopting these children.

Many medical service providers in other states do not recognize a Medicaid card from Hawaii. By joining the ten other states that have already signed the Compact and the many others that have either passed enabling legislation or are expected to, Hawaii can more easily ensure that children with special needs will receive the medical benefits they require.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2345-86, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 601-86 Finance on H.B. No. 2619-86

The purpose of this bill is to sponsor a promotional tour by a delegation from Hawaii to England to commemorate the 100th anniversary of Queen Kapiolani's royal visit to England and her participation in Queen Victoria's Golden Jubilee.

The promotional tour would stimulate European awareness of and appreciation for Hawaii's cultural history and unique relationship with England. Your Committee is of the opinion that the tour would be in the best interest of the spirit of aloha and the people of Hawaii.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2619-86 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 602-86 Finance on H.B. No. 1823-86

The purpose of this bill is to compensate victims of certain crimes and providers of services under the Criminal Compensation Act and to provide appropriations to replenish the fund from which payment of awards have already been made.

Your Committee recognizes the value of this program which protects the State's residents and visitors at least in part, from the consequences of criminal acts. Since its inception, the program has awarded a total of \$4,539,637.09 to 3,821 persons whose claims have been approved.

However, the fund has limited monies for immediate disbursement and in 1985, as in many other years, all of this money was used to compensate eligible victims and providers. As a result, the appropriation contained in this bill replenishes the fund and provides funds for payment to eligible victims and providers.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1823-86 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 603-86 Finance on H.B. No. 2838-86

The purpose of this bill is to amend Section 2 of Act 145, Session Laws of Hawaii 1984, to allow the Department of Budget and Finance to issue special purpose revenue bonds for the purpose of assisting Kamakani Ikaika, Inc., or a partnership in which it is a general partner, in the generation of new capital for the establishment of a ten megawatt wind farm and related facilities.

Kamakani Ikaika, Inc. has formed a partnership known as the Kamaoa Wind Energy Partners with Imua Kamakani Corporation and has applied to the Department of Budget and Finance for not more than \$12 million in special purpose revenue bonds. Kamaoa Wind Energy Partners plans to apply for the bond proceeds to establish a ten megawatt wind energy farm. However, questions have been raised in regard to the interpretation of Act 145, Sessions Laws of Hawaii 1984, inasmuch as the Act refers to a five megawatt wind farm. This bill will allow for the issuance of bonds toward the construction of the proposed project.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2838-86, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 604-86 Finance on H.B. No. 2262-86 (Majority)

The purpose of this bill is to include psychologists in the definition of physicians under worker's compensation.

Under the current statute, only health care providers designated as physicians may serve as an injured employee's attending physician. The attending physician is responsible for an injured employee's treatment program. Psychologists are licensed in the State of Hawaii to practice independently. Federal insurance plans, such as CHAMPUS and the Federal Employees Health Benefit Plan recognize psychologists as independent providers of mental health services. Including psychologists in the definition of physicians under worker's compensation will allow patients under CHAMPUS, HMSA and other private insurance plans to obtain the services of psychologists without referral.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2262-86 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Leong.
(Representative Anderson did not concur.)

SCRep. 605-86 Finance on H.B. No. 1964-86

The purpose of this bill is to permit the State Department of Agriculture to reorganize the milk control program by removing all references to the milk commissioner and the division of milk control.

The administration of the milk control program, established in 1967, is now routine and the program can be readily administered by a Milk Control Branch under the Division of Marketing and Consumer Services at substantial savings to the State. Placement in this Division is desirable because of the homogeneity with the other programs within the Division.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1964-86 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 606-86 Finance on H.B. No. 2204-86

The purpose of this bill is to: (1) amend Section 846-29, Hawaii Revised Statutes, to secure information from an applicant for civil identification by requiring documentation, and (2) provide funding to register applicants for certificates of identification on the neighbor islands.

Under the present law, required information can only be secured from an applicant by personal interview.

The proposed change would authorize the Department of the Attorney General to require documentation of information to be presented by an applicant for civil identification.

Your Committee agrees with the House Committee on Judiciary that requiring the applicant to present documentation of required information, in addition to a personal interview, would ensure that the information is correct and accurate.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2204-86 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 607-86 Finance on H.B. No. 2681-86

The purpose of this bill is to appropriate \$10,000 for fiscal year 1986-1987 toward the administration of a Public Awareness Campaign by the Litter Control

Office.

Your Committee finds that much of the public is unaware of the State's ongoing anti-litter program and is unsure as to how they can participate. Further, in order for an anti-litter program to be truly effective, the public must be made aware, through an effective media campaign, of the many programs and laws regarding litter control. In this regard, your Committee fully concurs with the intent of this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2681-86 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 608-86 Finance on H.B. No. 2106-86

The purpose of this bill is to repeal Chapter 187, Hawaii Revised Statutes.

Your Committee finds that it is necessary to repeal Chapter 187, Hawaii Revised Statutes, in order to provide for the smooth follow-up of organizational changes that have occurred within the Department of Land and Natural Resources pursuant to Act 85, Session Laws of Hawaii 1981.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2106-86 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 609-86 Finance on H.B. No. 1763-86

The purpose of this bill is to amend Section 210-6, Hawaii Revised Statutes, to provide the Director of the Department of Planning and Economic Development (DPED) the option to defer interest payments on a loan under the Hawaii Capital Loan Program up to five years from the date of issuance of the loan.

The Hawaii Capital Loan Program, administered by DPED, has been very successful in providing loans to small businesses which cannot qualify for conventional financing. Under present law the DPED Director has authority to defer principal payments for up to five years.

However, according to testimony by the Department, deferral of interests payments for two years is sufficient, rather than five years, to provide flexibility in debt service payments to maximize the success of the borrower. By deferring interest payments for up to two years, when appropriate, the DPED Director may tailor the loan terms to fit the small-business applicant which maximizes pay-back over the long term. A five-year deferral of interest, coupled with a similar principal payment deferral, may begin to diminish flows to the revolving fund and curtail future lending.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1763-86, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 610-86 Finance on H.B. No. 2726-86

The purpose of this bill is to appropriate \$25,000 to conduct a program to develop agricultural leadership programs in the State.

Your Committee agrees with the Governor's Agricultural Coordinating Committee that Hawaii's agriculture future must include ventures into new crops and products. For these ventures to succeed, Hawaii must develop leaders who have been adequately prepared to accept the emerging challenges.

The participants selected for this program are involved in an intensive two-year leadership training program. Seminars are conducted on information and experiences centered around human relationships, communications, economics, fiscal and monetary policies, government and political processes, social/cultural under-

standings, environmental concerns, taxes, trades, and other issues having impact on agriculture. This training will strengthen and expand leadership within our agricultural community and heighten public awareness of agriculture in our State.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2726-86 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 611-86 Finance on H.B. No. 1754-86

The purpose of this bill is to appropriate \$50,000 through the State Department of Agriculture, for fiscal year 1986-1987, for promotion of the use of anthuriums in export markets provided that the anthurium industry matches dollar-for-dollar.

Your Committee heard testimony that the depressed European market for anthurium flowers, low-priced flowers from other countries, high tariffs, and high air freight rates are factors that have contributed to low market demands.

Your Committee finds that the promotion of anthuriums in the export market must keep pace with the anticipated production increase, otherwise a glut situation may arise and dumping of the excess production may occur.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1754-86 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 612-86 Finance on H.B. No. 1966-86

The purpose of this bill is to appropriate \$200,000 through the State Department of Agriculture to the Pineapple Growers Association of Hawaii, on a dollar-for-dollar matching basis, for the promotion of Hawaiian fresh pineapples.

Your Committee finds that the Hawaiian fresh pineapple promotion program financed by matching funds from the State and the pineapple industry has proven invaluable.

Your Committee also finds that, despite the success of the program thus far, there exists a significant potential for greater market penetration to the western states and western Canada. Continuation of this marketing effort is necessary to generate greater public awareness and to improve the stability of the pineapple industry.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1966-86 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 613-86 Finance on H.B. No. 1983-86

The purpose of this bill is to establish and assess fees to defray some of the costs associated with the enforcement Section 142, HRS.

Your Committee finds that all expenses, except for the cost of the initial inspection, associated with the enforcement of Section 142, HRS, and the rules to be adopted, should be borne by the user, owner, handler, or carrier.

Your Committee on Finance is in accord with the purpose and intent of H.B. No. 1983-86 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 614-86 Finance on H.B. No. 1891-86 (Majority)

The purpose of this bill is to authorize the issuance of special purpose revenue bonds by the Department of Budget and Finance in a total amount not to exceed

\$9,000,000 for the purpose of assisting Island Power Company, Inc., in the construction of a hydroelectric powerplant, including a diversion structure, a penstock, two Francis-type turbines and a 12 kv transmission line.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1891-86, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 615-86 Finance on H.B. No. 2000-86

The purpose of this bill is to clarify the definition of prevention and to change the name and composition of the child abuse and neglect secondary prevention advisory committee.

Your Committee concurs with the findings and recommendations of the House Committee on Human Services in Stand. Com. Rep. No. 169-86.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2000-86, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 616-86 Finance on H.B. No. 2056-86

The purpose of this bill is to broaden the population that can participate in the Department of Social Services and Housing's six-month guaranteed enrollment program in federally qualified health maintenance organizations (HMOs). By removing the limitation to AFDC families only, general assistance and aged, blind and disabled recipients will be eligible to participate.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2056-86 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 617-86 Finance on H.B. No. 2427-86

The purpose of this bill is to convert to permanent civil service status an exempt employee transferred by the Legislature, under Act 179, Session Laws of Hawaii 1975, to the Statewide Transportation Planning Office of the Department of Transportation from the Interdepartmental Transportation Control Commission, Office of the Governor.

Today the Statewide Transportation Planning Office is a permanent unit within the DOT, comprised of the Department's civil service employees together with the one exempt employee originally transferred from the Office of the Governor. There is, however, no sound rationale for the mixture of exempt and civil service employees, which has been detrimental to morale and operational efficiency.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 2427-86 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Leong.

SCRep. 618-86 Consumer Protection and Commerce on H.B. No. 1944-86

The purpose of this bill is to amend Chapter 406, Hawaii Revised Statutes, by adding a new section which would permit Hawaii state-chartered trust institutions, with prior approval of the Commissioner of Financial Institutions, to provide their clients with more ready and convenient access to funds in their trust and agency accounts, by means of drafts, checks, credit cards, or debit cards, just as Merrill Lynch, Dean Witter, and other security firms are currently doing with their case management accounts.

Your Committee heard testimony in favor of the bill from the Advisory Commit-

tee to the Commissioner of Financial Institutions and the Corporate Trustees Association of Hawaii. The Advisory Committee testified that during the past several years there has been an outflow of trust and financial service business from Hawaii's trust companies and trust departments to their mainland competitors, such as national banks, stockbrokers and insurance companies, due to the current statutory limitations applicable to Hawaii state-chartered trust companies and trust departments. Presently, Hawaii state-chartered trust companies and trust departments are not able to take advantage of sound business activities which are authorized to their competitors and desired by their trust and agency clients. This bill will enable our Hawaii trust companies and trust departments to compete more effectively with their mainland and other competitors.

Your Committee also heard testimony from the Hawaii Insurers Council and the Hawaii State Association of Life Underwriters, both of whom objected to subparagraph (2) of the bill, which authorized a trust company or bank authorized to engage in a trust business to provide insurance.

Your Committee, upon further consideration, has amended the bill by deleting subparagraph (2).

Your Committee concurs that the passage of this bill would be one step in the direction of allowing local trust institutions to compete more effectively by providing the same level of service as their competitors. By doing so, this bill will help to assure the continued existence and growth of local trust institutions. Passage will further insure the continued availability locally of responsive, personalized trust and financial services for Hawaii residents. The bill contains adequate protection for the public by requiring prior approval of the Hawaii Commissioner of Financial Institutions before any new services are provided.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1944-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1944-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 619-86 Consumer Protection and Commerce on H.B. No. 1903-86

The purpose of this bill to amend Section 462A-17, Hawaii Revised Statutes, by adding Barbers Point to the pilotage waters of the State.

Your Committee received favorable testimony from the Department of Commerce and Consumer Affairs (Department). The Department testified that under existing law, Section 462A-17, Hawaii Revised Statutes, the waters of six ports in the State are described as pilotage waters. Barbers Point would become the seventh.

Further, the description of the Barbers Point pilotage water was prepared by the Harbors Division of the Department of Transportation in conjunction with the Department, and has the concurrence of the United States Coast Guard, Captain of the Port, and the president of Hawaii Pilots.

Your Committee has amended Section 1 of the bill to correct a drafting error.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1903-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1903-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 620-86 Consumer Protection and Commerce on H.B. No. 2722-86

The purpose of this bill is: to amend Chapter 444, Hawaii Revised Statutes, to deny issuance of a contractor's license to a person who, for a period of up to six years prior to the date of application for a license, has failed to pay a debt incurred for operating as a contractor; to clarify that the provisions of Section 444-11(7) shall not apply to public works projects; to increase the minimum bond amount for specialty contractors from \$2,500 to \$5,000 as may be required by the Board; to clarify that the amount of the bond shall take into consideration the

size and price of construction projects to be undertaken; to allow other persons or entities entitled to wages besides employees of the contractor to bring an action against the bond; and to make it mandatory that the Board suspend, revoke, or refuse to renew a license for any cause listed under Section 444-17, including that of a contractor who fails to pay a debt incurred for services or materials rendered or purchased in connection with his operations as a contractor, or for failure to maintain a good reputation for honesty, truthfulness, financial integrity and fair dealing.

Your Committee received testimony from the Contractors License Board. The Board testified that it had no objection to the proposed amendments in Sections 444-11 and 444-16.5, Hawaii Revised Statutes. However, the Board is not in favor of the proposed amendments in Section 444-17 since the mere fact of a contractor owing a debt would be cause for disciplinary action or nonissuance of a license. The nature of the contracting business is one in which money is always owed either to suppliers or subcontractors. Although there may be a legal dispute over monies owed, the mere fact that there is a debt owed would cause a license to be suspended, revoked, or not issued at all.

Further, the deletion of the word "wilful" in subsection (15) eliminates justifiable non-payment of debts. As a result, it will be mandatory for all contractors to pay their debts, as well as make it mandatory for the Board to suspend, revoke, or deny issuance of a license if a contractor fails to do so. Accordingly, the Board should have the discretionary authority to revoke, suspend or refuse to renew a contractors license.

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

1. On page 1, subsection 444-11(2) has been amended by deleting the words, "does not possess a good reputation for honesty, truthfulness, financial integrity, and fair dealing;".
2. On page 5, line 4, the brackets around "may" have been removed and the word "shall" deleted.
3. On page 7, line 15, the brackets around the words "Wilful failure" have been removed and the word "failure" deleted.
4. On page 8, subsection 444-17(19) has been deleted.
5. Nonsubstantative drafting errors have also been corrected.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2722-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2722-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 621-86

Consumer Protection and Commerce on H.B. No. 2424-86

The purpose of this bill is to amend Chapter 294, Hawaii Revised Statutes, by adding new sections dealing with the adjustment and settlement of total loss motor vehicle insurance claims.

Your Committee received favorable testimony from the Insurance Division (Division) of the Department of Commerce and Consumer Affairs. The Division testified that there are no standard guidelines in the adjustment and settlement of total loss claims. Some claims are settled based on "blue book", whereas other claims may be settled based on price quotations from newspapers and car dealers. In regards to the latter method, there are no minimum or maximum number of price quotations an insurer may solicit in arriving at the fair market value. Therefore, depending on the insurer's own claims procedures, the method of establishing the fair market value for a given loss may vary. Accordingly, the Insurance Division believes that the proposed amendments can only serve to benefit both the insurer and policyholder in providing uniform standards in settling total loss claims.

Your Committee finds that the absence of a motor vehicle loss settlement stan-

dards is not in the best interest of consumers, contributes to increased operating expenses of an insurer and makes it extremely difficult for the Insurance Division to resolve disputes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2424-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 622-86

Consumer Protection and Commerce on H.B. No. 1946-86

The purpose of this bill is to amend Section 26H-4, Hawaii Revised Statutes, by deleting Chapter 438 (Board of Barbers) and Chapter 439 (Board of Cosmetology) from the sunset date of December 12, 1986, and by renaming Chapter 439 to the Board of Hairdressers and Cosmetologists. This bill would also amend Chapter 439 by adding new definitions, deleting the good moral character requirement, deleting the requirement for apprentice registration, changing the general educational and beauty training requirements, issuing operator licenses without examination based on six months of supervised practice, and placing the beauty shops under the jurisdiction of the Department of Health.

Your Committee received testimony from the Board of Cosmetology (Board) and from many practitioners of the profession.

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

1. Subsection 26H-4(a)(5) has been retained.
2. Subsection 26H-4(a)(6) has been deleted.
3. Subsection 26H-4(c) has been amended by adding Chapter 439 (Board of Cosmetology) to the list of chapters being repealed on December 31, 1988.
4. Proposed Subsection 26H-4(g) relating to the Board of Hairdressers and Cosmetologists has been deleted.
5. Section 439-14 has been amended to allow the Board to contract with a professional testing service to prepare and provide examinations for applicants and further amends the section by requiring every applicant to be examined by the Board to pay an examination fee.
6. All other amendments proposed in the bill have been deleted.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1946-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1946, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 623-86

Human Services on H.B. No. 2246-86 (Majority)

The purpose of the bill is to: (1) add a new chapter to Chapter 346, Hawaii Revised Statutes, entitled Medical Assistance Provider Fraud and Abuse; (2) define and distinguish between fraud and abuse; (3) clarify that preliminary investigations of fraud and/or abuse will be undertaken by the Department of Social Services and Housing without the assistance of the Medicaid Fraud Control Unit (MFCU); (4) limit the MFCU to the full investigations of suspected fraud cases only; (5) clarify that in obtaining access to records, that the request must be easily distinguished, clearly described, and relevant and material to the investigation; (6) codify, by tracking federal regulations, how a full investigation is to be resolved; (7) establish provider's rights during full investigation; (8) clarify that the authority of the MFCU to initiate, review and take complaints of physical, mental or emotional abuse of patients of health care facilities receiving Medicaid patients is not affected by this section; and (9) provide for the basis for suspension and termination decisions on providers.

Your Committee received testimony from the Hawaii Medical Association, the Hawaii Federation of Physicians and Dentists and ten individuals in support of the bill. Your Committee received testimony for five hours on this bill. Difficult issues involving due process and fair play were the focus of your Committee's deliberations. Many of those testifying had personal involvement with what was characterized as "gestapo-like tactics" employed by the MFCU.

Your Committee takes no sides on whether "gestapo-like tactics" have been in fact employed. Your Committee, however, believes that the rights of providers and the procedures to be employed, by the MFCU particularly, should be spelled out in statute to assure our citizens that in a free society, such as ours, the due process rights of individuals are and will be protected. Your Committee finds that the absence of a clear and unambiguous statute in this area is a fundamental source of unfairness.

Your Committee wishes to note that it has sought a response to the allegations of "gestapo-like" investigatory tactics and alleged violations of federal regulations by the MFCU from the Office of the Inspector General, U.S. Department of Health and Human Services. Despite a formal written request for a response during the October 1985 audit of the MFCU by the federal authorities and a second formal request in January 1986, no response was received by the Committee. Such conduct by the federal authorities is unfortunate and only serves to impair the federal-state relationship in this area.

Your Committee, after section-by-section decision-making on the bill, made the following amendments:

1) Deleted the prior notification of investigation requirement by the MFCU on page 3, lines 8, 9 and 10. Your Committee was concerned that this could enable providers to tamper with records before records were obtained;

2) Added language beginning on page 3, line 21, to ensure that "administrative" search warrants had to comply with the Fourth Amendment probable cause standards for searches and seizures. The U.S. District Court in Hawaii Psychiatric Society v. Ariyoshi had ruled that a Medicaid provider was not subject to warrantless searches. Your Committee further believes that search warrants for patient records do infringe on privacy rights and that therefore the use of Attorney General subpoenae should also not be employed. Your Committee believes that subpoenae should be obtained from the court so that determinations of whether there have been a showing of an articulable suspicion can be made;

3) Deleted the prior notification requirement for full investigations by the MFCU found on page 5, line 4, for the same reasons stated above;

4) Added language to section 4 of the bill to cover access to therapeutic devices, as well as diagnostic devices, on page 14, lines 3 and 8; and

5) Deleted language on page 14, lines 12 to 14, as the language confused rather than clarified matters in the bill.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2246-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2246-86, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Leong.
(Representative Kiyabu did not concur.)

SCRep. 624-86

Consumer Protection and Commerce on H.B. No. 2189-86

The purpose of this bill is to fill a gap in the present State law concerning changes of control of State-chartered stock savings and loans or State-chartered stock holding companies owning a State chartered savings and loan. It provides public disclosure of any acquisition or proposed acquisition and gives the State Commissioner of Financial Institutions greater authority to scrutinize the qualifications of in-State individuals or companies seeking to acquire control of State-chartered stock savings and loan associations or state chartered stock holding companies owning a State-chartered savings and loan. Generally, the bill prohibits a person or company from acquiring "control" of a savings and loan association without the prior approval of the Commissioner of Financial Institutions

of the Department of Commerce and Consumer Affairs. The Commissioner would be authorized to disallow those proposed acquisitions which might result in injury to a savings and loan association or its depositors.

Your Committee heard testimony from the Hawaii League of Savings Institutions that it has no objection to the bill as proposed.

Your Committee heard testimony from Mr. Sam Okinaga, president of MGS Hawaii Corporation and CTE Hawaii Corporation, and former chairman of the board of directors of the now defunct State Savings and Loan Association, who strongly supports the bill as a necessary measure to protect the public from parties wishing to purchase controlling shares of an existing association.

Your Committee also heard from Mr. Lionel Y. Tokioka of International Holding Capital Corp. and International Savings and Loan Association, Limited, who supports the bill because it fills a gap in the present State law concerning changes of control of State-chartered savings and loans or State-chartered holding companies owning a State-chartered savings and loan. According to Mr. Tokioka, at the present time, there is no State law which addresses this area. Thus, changes of control of State institutions may occur without any State regulatory review and approval. The bill fills this gap by providing the assurances that the party or parties in control have been reviewed and approved by the Commissioner of Financial Institutions as being qualified to deserve the confidence of the community they serve.

The Department of Commerce and Consumer Affairs testified that it supports the concept of the bill as a necessary part of its statutory responsibility to examine and supervise savings and loan associations; however, it recommended that the following two substantive changes be made to the bill:

First, the scope of the bill should be broadened to encompass changes in control involving all savings and loans subject to examination and supervision by the State. The reason for the amendment is that foreign associations or corporations operating pursuant to Section 407-22 and foreign holding companies should be subject to the change in control provisions, to the same extent as State-chartered savings and loan associations and in-State holding companies.

Your Committee recognizes that State regulation of State-chartered associations (or foreign associations which are doing business in the State) is a traditionally recognized extension of the State's police powers. Since such State regulated financial institutions have fiduciary obligations to depositors within the State, there is a compelling State interest in regulating changes of control which may affect depositors within the State. This regulation must encompass all methods of changes of control including changes of control of a State association effectuated through the change of control of a foreign holding company.

The scope of the bill should also be broadened to apply to: (1) an acquisition resulting from the issuance of stock or other securities; (2) a friendly or unfriendly acquisition; and (3) the acquisition of a savings and loan association or holding company, regardless of whether it has a class of voting stock registered pursuant to the Securities Exchange Act of 1934, as amended, listed on a national securities exchange, or traded over the counter.

Second, the bill should be amended to reflect that the Commissioner may disapprove any proposed acquisition if the Commissioner determines that one or more of the conditions set forth on pages 12-13 of the bill have not been satisfied.

Your Committee adopted the recommendation of the Department of Commerce and Consumer Affairs and amended the bill accordingly to embody all of the Department's concerns, thereby making the proposed act carry out more fully its intent of protecting the interests of the depositing public.

Your Committee finds that changes in control involving all savings and loans should be subject to public notice and disclosure so that the public would be informed and the depositors could be adequately protected.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2189-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2189-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Shito.

SCRep. 625-86

Consumer Protection and Commerce on H.B. No. 1940-86

As a result of numerous amendments over the past several years, Chapter 478, Hawaii Revised Statutes, has become a maze of exceptions, ambiguities, inconsistencies and contradictions confusing to both creditors and consumers. Despite the numerous amendments, Chapter 478 has failed to keep pace with the variety of credit transactions available in both the commercial and consumer credit markets. The result has been to make unavailable, or more costly, in Hawaii some types of credit which are freely available to consumers and businesses in other states. The purpose of this bill is to clarify and rationalize Hawaii's laws pertaining to interest and usury as set forth in Chapter 478, Hawaii Revised Statutes.

Your Committee heard testimony from the Advisory Committee to the Commissioner of Financial Institutions, the Hawaii League of Savings Institutions, the Hawaii Banker's Association, the Hawaii Financial Services Association and the Mortgage Bankers Association. Subsequent to the formal hearing on the bill, your Committee received written statements or further testimony from the Commissioner of Financial Institutions, the Advisory Committee and the other organizations, in support of the bill as revised by your Committee.

By way of brief summary, the bill: (1) deregulates, with one exception, commercial credit completely; (2) retains at 12 percent the annual rate of interest which may be established by written contract in consumer credit transactions; (3) retains at 18 percent the annual rate of interest which may be charged with respect to credit card agreements; (4) retains and clarifies the existing exemptions afforded first liens on real property; and (5) limits to consumer credit transactions only the present statutory restriction on the compounding of interest.

What follows is a section by section analysis of the bill, together with your Committee's amendments:

(1) Section 478-1 provides definitions applicable throughout the revised chapter. The definitions are consistent with those used in other chapters of the Hawaii Revised Statutes and are consistent with terminology which has become familiar to consumers and creditors over the past several years. These definitions clarify the application of subsequent sections of the chapter. Your Committee has made the following amendments:

(a) On page 1, line 11 and line 14, the figure "\$25,000" has been deleted and the figure "\$100,000" inserted in its place. Your Committee believes that exemption from regulation of all credit over \$25,000 would not afford sufficient protection to consumers. Increasing the amount to \$100,000 accomplishes the goal of deregulation while, at the same time, affording protection to consumers who may be less sophisticated in the proper use of credit.

(b) On page 2, lines 11-14, the second sentence of the definition has been altered to read as follows: "neither an agreement providing for an overdraft line of credit nor an agreement for a line of credit secured by equity in real property becomes a credit card agreement for the purposes of this chapter because a cardholder can access it through the use of a credit card".

The law presently provides that an overdraft line of credit does not become a credit card agreement merely because a consumer may access the line of credit by use of a credit card. Your Committee's amendment further clarifies that provision by giving equity lines of credit the same status as overdraft lines of credit.

(c) On page 2, at line 17, the following definitions have been added:

"Home business loan" means a credit transaction (a) in which the principal amount does not exceed \$100,000 or in which there is an express written commitment to extend credit in a principal amount not exceeding \$100,000, (b) which is not a consumer credit transaction, and (c) which is secured by a mortgage of the principal dwelling of any natural person who is a mortgagor named in the mortgage given as security in connection with the credit transaction.

"Real Property" includes stock in a cooperative housing cooperation and

personal property used or intended to be used as a consumer's residence."

The definition of "home business loan" is inserted to provide an exclusion from the exemption given by the chapter to commercial credit. While your Committee believes that the public interest is served by exempting commercial credit from the rate and other limitations contained in the chapter, your Committee also believes that some protection should be afforded the small business person who gives a mortgage of his or her home to an unregulated lender as part of business financing. By inserting this definition, the later exemption of commercial credit transactions from the chapter is limited to afford this protection.

The definition of "real property" is added to eliminate the need, in later sections, for an expansive description of what is covered by the term.

(2) Section 478-2 restates, without change, the existing Section 478-1 which provides for an interest rate of 10 percent per annum where there is no express written contract fixing a different rate of interest.

(3) Section 478-3 is a restatement, without change, of the existing Section 478-2 which allows an interest rate of 10 percent per annum on state court judgments.

(4) Section 478-4 revises existing Section 478-3. The section is altered to divide it into four subsections, as amended by your Committee. While the bill proposes to increase the rate of interest applicable to consumer credit transactions from 1 percent per month, or 12 percent per annum, to 1 1/2 percent per month, or 18 percent per annum, your Committee believes that such an increase is inappropriate and that the existing rate limitations applicable to consumer credit transactions and credit card agreements should be continued in effect. Your Committee also believes that home business loans made by lenders not authorized to lend under Chapter 408 and secured by junior mortgages of a dwelling should be subject to a 12 percent per annum rate limitation. This will provide a measure of protection against imprudent borrowing by a small business person, while maintaining for such persons the availability of credit through first mortgage loans and junior mortgage loans from lenders subject to the regulation of Chapter 408. Your Committee also believes it appropriate to clarify the application of the alternative permissible rate of interest provided for in paragraph (b) of this section by providing that the alternative permissible rate is applicable notwithstanding that the federal Truth in Lending Act may not apply to the transaction and that, for rate computation purposes, the creditor conclusively shall be presumed to have given all required disclosures. Therefore, your Committee has amended the bill as follows:

(a) On page 3, line 19, the words "or any" have been deleted and the words "except a" have been inserted in their place, and parenthesis have been inserted prior to the word "except" and subsequent to the word "agreement", and the words "and any home business loan" have been added.

(b) On page 3, line 22, the words "and one-half" have been deleted.

(c) On page 3, line 22, the words "provided the contract to that" has been deleted and the following language added:

"or twelve percent per annum, and it shall in no case be unlawful, with respect to any credit card agreement, to stipulate by written contract, signed by the party to be charged therewith, for any rate of simple interest not exceeding the greater of 1 1/2 percent per month, or 18 percent per year".

(d) On page 4, line 8, the word "eighteen" has been deleted and the word "twelve" inserted in its place.

(e) On page 4, line 11, the period at the end of that line has been deleted, a comma substituted therefor, and the following language added:

"and, with respect to any credit card agreement, to stipulate by written contract, signed by the party to be charged therewith, for the payment and receipt of a finance charge at an annual percentage rate not to exceed 18 percent, together with any other charges that are excluded or

excludable from the determination of finance charge under the Truth in Lending Act. The rates in this paragraph shall be available as alternative permissible rates for any of the credit transactions referred to, whether in fact or in law the Truth in Lending Act applies to the transaction, notwithstanding the advance, fixed, or variable manner in which interest or finance charge may be computed under the contract, and whether the contract uses the terms interest, annual percentage rate, finance charge or any combination of such terms. For rate computation purposes, with respect to any contract to which this paragraph may apply, the creditor conclusively shall be presumed to have given all disclosures in the manner, form and at the time contemplated by the Truth in Lending Act, including those necessary to include any charges from the finance charge."

(f) Your Committee has added a new subparagraph to this section making clear that the rate limitations provided for in Section 478-4 do not apply to those credit transactions covered by Chapters 408 and 476 of the Hawaii Revised Statutes. The following is the subparagraph added by your Committee:

"(d) The rate limitations contained in subsections (a) and (b) shall not apply to any credit transaction authorized by, and entered into in accordance with the provisions of Chapter 408 or 476."

(5) Section 478-5 is a modified restatement of the existing Section 478-4. The modifications made by the bill reflect the fact that the bill removes interest rate limitations with respect to commercial credit transactions and makes such other changes as are required to make this section consistent with other amended sections. Your Committee has amended this section to include home business loans among the credit transactions to which the section applies and your Committee has amended this section to include savings and loan associations with banks as having the authority to charge interest at the rate permitted by Chapter 408. Savings and loan associations presently have such authority under Section 407-92.5 and your Committee believes the amendment to Section 478-5 is appropriate to avoid any possible inconsistency between Chapter 407 and Chapter 478.

(6) The bill deletes Section 478-5, which provides that the acts of an agent in lending money bind the principal. The responsibility of a principal for the acts of an agent is a well settled principle of general agency law and your Committee deems it unnecessary to enunciate that general principle within Chapter 478. Your Committee does not intend, by the deletion of Section 478-5, to effect any change in the general principles of law which bind a principal to the acts of his or her agent.

(7) Section 478-6 is a modified restatement of the existing Section 478-6. The changes made by the bill are those necessary to conform Section 478-6 to other changes made to the chapter.

(8) Section 478-7 continues in effect the current prohibition against the recovery of compound interest, but limits the applicability of that prohibition to consumer credit transactions or credit card agreements. This is consistent with the deregulation of commercial credit effected by the bill. Home business loans are not included among the transactions as to which compounding of interest is prohibited. Your Committee believes the rate limitation imposed on such loans affords sufficient protection. Moreover, the availability of "negative amortization" type loans to home business loan borrowers may be of significant benefit to them in providing level payments with respect to such loans. In addition to containing a bar on the recovery of compound interest, the bill contained a bar to the charging of compound interest in any consumer credit transaction or credit card agreement. Your Committee believes that the prohibition on recovery of compound interest is sufficient and has worked well to protect consumers in the past. Your Committee believes that no greater benefit would be afforded consumers by the bar on the charging of compound interest and that unforeseen adverse consequences might result from the insertion of such a bar. Therefore, your Committee has amended the bill by deleting the words "No person shall charge interest on interest in any consumer credit transaction or on any credit card agreement."

(9) Section 478-8 is completely revised by the bill. Piecemeal amendment of this section over many years has resulted in a veritable maze of inconsistent, redundant and unnecessary exceptions, causing confusion to both lenders and consumers. The bill provides for deletion of many of the exemptions provided by

existing law. However, retention of the 12 percent general interest rate limitation requires that certain of the exemptions deleted by the bill be retained in order to continue the availability of credit to Hawaii residents.

Paragraph (a) of Section 478-8, which exempts from the defense of usury any loan the principal amount of which exceeds \$750,000, is unnecessary in view of the fact that the bill generally exempts commercial lending transactions from any interest rate limitation and is deleted.

Paragraph (b) of Section 478-8 is similarly unnecessary in view of the exemption afforded commercial credit transactions and is deleted.

Paragraph (c) of Section 478-8 is deleted by the bill. Your Committee believes this deletion is not appropriate. This paragraph provides for an exemption from the chapter of so-called FHA and VA loans. It is probable that federal law with respect to such loans would preempt state law in this area. Notwithstanding the possible preemption, your Committee believes that state law should expressly exempt such loans from Chapter 478 because the regulations promulgated by the federal authorities concerning such loans afford adequate protections to consumers. Therefore, your Committee has amended the bill by retaining paragraph (c).

The bill deletes paragraph (d) of Section 478-8. This paragraph pertains to alternative mortgage instruments approved by the Commissioner of Financial Institutions. In view of the alternative mortgage instrument authority contained in the Garn-St. Germain Depository Institutions Act of 1982, Pub. L. No. 97-320, 96 Stat. 1469, the exemption afforded by this paragraph is both unnecessary and redundant.

Paragraph (e) of the existing Section 478-8 is a "laundry list" of exemptions from the provisions of the chapter limiting interest rates. The bill redesignates this paragraph to paragraph (b) and eliminates certain of the exemptions as being unnecessary in view of the earlier exemption provided for commercial credit transactions. Your Committee is in accord with most of the changes proposed by the bill, but believes that further refinement of Section 478-8 would be beneficial to both creditors and consumers. The amendments proposed by your Committee are enumerated below in connection with the discussion of the various paragraphs of this section.

(a) Subparagraph (1) of this section continues in effect the present exemption afforded first mortgage liens on real property. Your Committee has amended this subparagraph by deleting the references to residential cooperative housing cooperations and wraparound mortgages because such references are unnecessary in view of the definition of "real property" inserted earlier in the chapter and the subsequent exemption afforded purchase money mortgages.

(b) Subparagraph (2) of this paragraph continues in effect the exemption for agreements of sale. In view of the exemption afforded commercial credit transactions by the bill, your Committee believes that a specific reference to consumer credit agreements of sale is necessary in order to avoid any implication of a limitation of the exemption in favor of commercial credit transactions. Your Committee also believes that a rearrangement and rewording of portions of this paragraph are appropriate because previous amendments of the paragraph have created the potential for confusion.

(c) Your Committee believes the exemption for purchase money mortgages should be continued and has amended the bill by retaining subparagraph (3).

(d) Your Committee has added a new subparagraph (4) to the bill to eliminate the need for the so-called "merchant exception" provided by Section 478-8(h) of the present law (which is being deleted). The present wording of the exemption is imprecise and potentially too broad in its scope.

(e) Subparagraph (f) of Section 478-8 has been redesignated subparagraph (c) and is amended in the same manner as Act 16 of the 1985 Session Laws amended Chapter 237 to afford a tax exemption to employee benefit plans.

(f) The bill proposes deletion of subparagraphs (g) and (h) of Section 478-8 and your Committee is in accord with those deletions.

(10) The bill deletes Sections 478-8.5, 478-11 and 478-13. Your Committee agrees that none of these sections is required to be retained because of the amendments effected by other provisions of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1940-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1940-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 626-86

Water, Land Use, Development and Hawaiian Affairs and
Ocean and Marine Resources on H.C.R. No. 34

The purpose of this concurrent resolution is to dispose of certain government submerged lands offshore and seaward of Kailua-Kona, Hawaii, to be established as a mooring anchor for an offshore fishing platform.

Under present law, Section 171-53, Hawaii Revised Statutes, the Board of Land and Natural Resources may lease, or grant easement over, submerged lands and lands beneath tidal waters. However, this disposition is made only with the prior approval of the Governor and the prior authorization of the Legislature by concurrent resolution.

According to testimony by the Board of Land and Natural Resources, the Governor has already granted approval of the proposed disposition of the easement, to be set up as a mooring anchor off Kailua-Kona. The purpose of the mooring is its use as a fishing platform. It will be a converted ocean-going barge which is planned, designed, and equipped to serve as a fish aggregating device, a marine research laboratory, a base for rearing mahimahi, and a pleasure site for local fishermen.

Your Committees are in agreement that the proposed disposition would encourage economic research and development in the area of marine resources and enable the State to receive income therefrom. Your Committees have also amended the SPECIFIC PURPOSE OF EASEMENT, on page 2, as recommended by the Board:

"Non-exclusive easement rights for a period of forty (40) years for a mooring anchor for an offshore fishing platform".

The proposed amendment is a correction of misstated purpose. Other technical, non-substantive amendments have been made to correct for style and clarity.

Your Committees are cognizant of statutory procedures through which the Board may grant final disposition of government submerged lands and lands beneath tidal waters. Authority is given to the Board, only after prior approval of the Governor and prior authorization of the Legislature by concurrent resolution. Neither the Board nor the applicant for land lease should presume that, without final passage of the concurrent resolution, development of the proposed easement may proceed.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Ocean and Marine Resources concur with the intent and purpose of H.C.R. No. 34, as amended herein, and recommend that it be referred to the Committee on Finance, in the form attached hereto as H.C.R. No. 34, H.D. 1.

Signed by all members of the Committees except Representative Hagino.

SCRep. 627-86

Agriculture on S.B. No. 1643-86

The purpose of this bill is to delete glanders and farcy from the statutes and to increase the penalties for failure to promptly report any contagious or infectious disease occurring in one's own or another's animals.

Your Committee finds that by increasing the penalties, the emphasis on the importance of timely and accurate disease reporting will increase and prevent

spreading of such diseases.

Your Committee also recommends the deletion of the diseases glanders and farcy from the statutes since they are non-existent in Hawaii.

Your Committee on Agriculture is in accord with the intent and the purpose of S.B. No. 1643-86 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 628-86 Finance on H.B. No. 1741-86

The purpose of this bill is to amend Act 300, Session Laws of Hawaii 1985, to provide supplemental appropriations for fiscal year 1986-1987.

The supplemental appropriations bill submitted by the executive branch for fiscal year 1986-87, totaled \$1.51 billion in general funds, a reduction of \$2.68 million from the funding provided in Act 300-85.

The capital improvements general obligation bond request for fiscal year 1986-87 amounted to \$549 million, \$74.8 million above the appropriation in Act 300-85.

This bill in its amended form provides \$1.5 billion in general funds in fiscal year 1986-87. It also increases the general obligation bond request for capital improvements by \$35 million over Act 300-85.

BUDGET DEVELOPMENT APPROACH

Conservative estimates for revenue projections through fiscal year 1991, the impact of the federal deficit and the uncertainty of the Gramm-Rudman-Hollings Act, the continuing demand for expanded public services, the commitment to quality education and a dynamic economy set the stage of the budget discussions this year. In its deliberations, your Committee remained committed to a funding approach that accounted for the need to limit spending in light of the revenue projections, while taking action to set the foundation for the future quality of life for all our citizens.

Recognizing the importance of the visitor industry as a cornerstone of our economy, your Committee developed a funding strategy which will begin to establish a fully supportive infrastructure to meet the physical demands of increasing numbers of visitors from all over the world. At the same time, your Committee provided substantial funding for tourism promotion and marketing in the Asia-Pacific region and the continental United States.

Diversified agriculture, alternative energy development, high technology, and business development concerns were met head on with additional assistance, administrative and financial support, and expanded programs. Your Committee feels that these areas represent future growth areas in an economy that is completing its transition from an agrarian based to an information, technology based society.

In education, the emphasis shifted to commitment which focused on program supplementation and in particular, to those programs which would foster the full opportunity for the development of the child-teacher relationship and provide quality to our educational process. This was reflected in the funding of specific programs in the Department of Education and support for the University of Hawaii.

In health and social services, your Committee was aware of the possible impact the Gramm-Rudman-Hollings Act upon the various social, health, and medical services programs. Within this context, your Committee met the immediate demands for services such as a child abuse and neglect informational system, and AIDS education and testing services.

A major challenge confronting your Committee was meeting the requirements of the consent decree issued against our correctional system. Funds have been provided in this area. However, your Committee feels that this funding merely meets the immediate problems of our prison system and that, in future appropria-

tions, a long range approach will be needed.

Through the budget, your Committee held the line on expenditures in programs which have achieved a level of stability, and reduced funding in programs which did not realize a demand for services as originally projected.

This committee report summarizes by major program area some of the budgetary decisions made and where appropriate, expresses program concerns and directions.

ECONOMIC DEVELOPMENT

With the transition from an agrarian to a technologically based society, Hawaii has the opportunity to design its economic future. In fulfilling its commitments to an economy-by-design, your Committee has provided funding to foster diversification.

Tourism. Your Committee has again provided \$5.1 million to the Hawaii Visitors Bureau for tourism promotion and marketing in 1986-87. The promotional activities are designed for the Asian, Pacific, and Western markets where the highest potential for visitors exists.

As revenue raising measures are being considered this session, an additional amount of \$2.0 million is being designated for tourism promotion for the Hawaii Visitors Bureau. For the counties, an additional \$10 million in grants-in-aid is included. This revenue-sharing is provided exclusively for the counties to strengthen tourist related activities such as, beautification and security of park facilities, easy accessibility and safety of public beaches, and an aesthetically pleasing environment.

Business Development. Almost eighty per cent of Hawaii's economy now consists of small businesses. This year, your Committee provided full funding for a small business information service (SBIS). This SBIS will offer entrepreneurs and small business owners pertinent information needed to establish a business in Hawaii, market feasibility data, and an assistance referral service. In addition, money was provided to establish a small business procurement assistance program, to assist local businesses to compete for federal, state, and county contracts. These contracts will provide additional jobs and revenue to the economy.

Film Industry. To encourage the development of a promising and multi-faceted industry, your Committee provided an additional \$50,000 for promoting Hawaii as a prime location for filming. In the past the film industry has not only provided employment and brought in millions of dollars to the State, but has also been one of the most effective promoters of tourism through the presentation of Hawaii as an exciting and exotic location.

High Technology. One of the key elements of Hawaii's future economic design is the development of a vital high technology industry. Specifically, your Committee feels that Hawaii's location in the Pacific makes it a logical place for the development of a telecommunications center. Therefore, your Committee has requested a master plan to establish teleports in Hawaii. A teleport is a ground station which transmits information by satellites for local and international users.

Agriculture. Your Committee continues to support the agricultural park program through administrative funding. Agricultural parks have been successful in four locations and two additional parks will be established by 1987.

Alternate Energy. Energy independence has been an on going commitment of your Committee. Additional funds for the management of the Natural Energy Laboratory of Hawaii (NELH) has been provided. The success of the geothermal laboratory in Puna and the operations of the NELH are vital to Hawaii's ability to supply its own energy.

Hawaiian Ocean Awareness Center. Your Committee recognizes the key role of an ocean center to promote awareness, understanding and appreciation of the ocean to Hawaii and its people. However, additional funding has been deferred until site options can be considered in greater detail. A portion of the funds appropriated for FY 1985-86 has been reallocated for this purpose.

EMPLOYMENT

Employee development and training. Despite the State's economic outlook, adequate funding for training programs has been maintained. Your Committee believes the development of our labor market is the key to meeting the employment challenges of the future. In addition, necessary funds were provided for certain employees requiring special technical skills and knowledge to obtain such training on the mainland.

In keeping with the State's approach of developing progressive and innovative undertakings to assure that the needy have equal employment access and opportunity, the Office of Community Services was established within the Department of Labor and Industrial Relations. Your Committee funded the transfer of the progressive neighborhoods program, Hawaii office of economic opportunity, refugee resettlement program, and State Immigration Service Center.

TRANSPORTATION

Overall support to improve the State's infrastructure is represented in the funding provided to transportation.

Airports. Your Committee provided funds for repair and maintenance projects at the major airports to continue compliance with FAA regulations and to ensure the safe inter-state and intra-state flow of people and goods.

Highways. The financial viability of the State highway fund has been restored affording the opportunity to maintain our highway system to support ground transportation of goods and services. However, your Committee remains aware of the tenuous nature of the highway fund and has reviewed operational costs to insure that revenues collected are appropriately spent.

Overall Support. General support services to enhance engineering, design, fiscal and administrative services in the Department of Transportation have been provided to three major divisions through the funding of the distributive information processing and information resource management system.

ENVIRONMENTAL PROTECTION

Pesticides and groundwater contamination monitoring. Your Committee has provided additional funds to monitor and analyze pesticide use and its impact on Hawaii's delicate ecological balance. This work is critical to ensure a safe and healthy environment for the people of our State. Efforts to minimize crop losses due to insect pests, weeds and diseases have been increased through additional funding.

HEALTH

Acquired Immune Deficiency Syndrome Services. Concerned over the recent incidents of AIDS across the nation, your Committee has provided funds for added personnel, medical and educational supplies, and contracts for educational services. Educating the general public will help to dispel the myths that can lead to erroneous conclusions and discrimination. Because the source and cure for this disease is not yet known, your Committee feels it is important to educate people of the necessary precautions to prevent and control the spread of the virus.

Deinstitutionalization of the mentally retarded and developmentally disabled. Your Committee has reemphasized its commitment to the deinstitutionalization of the mentally retarded and developmentally disabled. Expanded funding for group homes, day activity, and transitional living programs have been provided to accelerate the placement of individuals in such programs.

Additional funds to expand the intermediate care facility-MR program at Waimano Training School and Hospital have been provided. These funds will permit Waimano to obtain the federal matching funds and accelerate community placements.

Your Committee is disturbed by the fact that operational costs at Waimano continue to increase. Your Committee has requested that the institution submit a

report detailing its implementation plan for deinstitutionalization and providing cost reduction projections in the institution's operations as a result of the placement of patients in community settings.

County/State Hospitals. Your Committee has found that the County/State hospital system has failed to lapse excess amounts of special funds generated prior to July 1985. Substantial balances have accumulated from the prior year in the county/state hospital administration program, and a significant amount of the current balances are in excess of the program's requirements, including contingencies. Therefore, your Committee has again required through special provisions in this bill, that such fund balances lapse into the general fund.

Subsidies to Private Hospitals. Your Committee has provided funds for the Waianae coast comprehensive health center to expand services to a 24 hour, 365 days-a-year medical facility. Presently, Waianae residents are the only people on Oahu who are not within 30 minutes of a full service hospital. The upgrading of this facility will lead to better accessibility to quality medical services.

SOCIAL SERVICES

Child Protective Service. To complete the establishment of an effective child protective services system, your Committee provided additional funds for the computerized system for a more efficient identification of child history and family records allowing CPS workers to take effective and timely action in child abuse cases. In addition, money was provided to fill gaps in services in the child abuse and neglect crisis intervention system thus establishing a statewide network of services.

Public Welfare. Continued refinement of the public welfare system led your Committee to provide additional funds for the informational system designed to reduce errors in eligibility determination. In addition, funds to finalize a statewide computer system for tracking child support payments of welfare and non-welfare cases was provided. The State's ability to effectively monitor these payments is critical since it is a requirement for federal funding.

Hawaiian Home Lands. Over the last year, the Department of Hawaiian Home Lands has accelerated its program to develop and lease lands to native Hawaiians. Your Committee has provided additional funds to continue support for this program. In addition, development funds have been appropriated to allow for the department to expand development of its income producing lands.

FORMAL EDUCATION

LOWER EDUCATION. Your Committee has emphasized funding of an effective and stimulating educational environment in which learning and personal growth may be nurtured in a manner which will produce long term benefits for students and society.

Textbooks and classroom equipment. Funding for the expansion of basic statewide educational services through the purchase of equipment and textbooks for new classroom facilities has been provided by your Committee.

Early provisions for school success. Your Committee recognizes the value of early assessment of developmental skills and the need for a developmental curriculum for students with fundamental learning deficiencies. Therefore, funds have been provided to continue the early provisions for school success program.

Special education. Handicapped students have unique educational needs that must be met. Your Committee has provided funds for additional teachers and educational assistants to fulfill requirements of federal mandates, state statutes and departmental policies.

Counseling. Funds have been provided to implement a pilot elementary counseling program for the early prevention of juvenile delinquency. Your Committee recognizes the importance of early intervention in situations which adversely affect a child's life. By servicing children who exhibit emotional and mental problems, lifelong benefits may be realized.

Public libraries. Funds have been provided for public access catalog equipment

which will provide efficient and expedient processing of library materials. Funds have also been provided for added security and training to ensure swift and dependable security services.

HIGHER EDUCATION. A commitment to the quality of higher education in Hawaii guided your Committee's funding decisions in this area. As with its emphasis in lower education, additional funding support focused on instruction, academic support, and student services which directly affects the student-teacher environment.

PLATO computer based education system. Personnel and equipment were provided to expand this computer based education system. Your Committee believes that such a system would contribute significantly to achieving excellence in the University's mission to deliver quality higher education throughout the State.

Graduate assistantship program. Your Committee recognizes the importance of graduate assistants in undergraduate instruction. Funds have been provided to expand and maintain the quality of graduate assistants at the University of Hawaii.

West Hawaii programs. Increased demands for educational opportunities in West Hawaii has led your Committee to fund additional positions. These positions will further the development of a future campus in the University of Hawaii at Hilo system.

Student Information System. Your Committee recognizes the importance of computerization in achieving an efficient, cost-effective student registration system. Funds have been provided for additional software and equipment to implement the student information system which will greatly assist registration, enrollment, advising and other related student services functions.

Integrated educational opportunities. Your Committee is committed to expanding student accessibility to key learning centers and has funded an integrated library automation system which will enable UH-Hilo students to have access to library resources at all University campuses and will increase inter-library cooperation.

Funds have also been provided for the development and operation of the Maui Community College microwave system, which will extend educational opportunities to students in MCC's tri-island county through off-campus outreach programs. Your Committee is also aware of the system's future ability to tie in to the \$4.2 million state-funded Instructional Television Fixed Service system to be constructed by the Hawaii Public Broadcasting Authority.

CULTURE AND RECREATION

State park improvement. In an effort to provide leisure activity in the State, your Committee has appropriated funds to State parks to perform repair and maintenance projects to insure the safety and well being of park users. These projects will prevent potential liability suits and tort claims against the State as well as provide enriching recreational areas.

PUBLIC SAFETY

The overriding factor affecting the public safety program budget is the consent decree which was entered into by the American civil liberties union and the State of Hawaii. The consent decree was the result of a lawsuit against the State for overcrowded conditions in State prisons. To avoid any future unfavorable recourse, it is now incumbent on the State to provide improvements in our correctional facilities.

In an effort to comply with the consent decree, your Committee considered the wide range of needs faced by the corrections program. However, the constraints of anticipated fiscal resources of the State determined your Committee's funding priorities in this area. Finally, appropriations were provided to meet only the most pressing needs for improvement. Though the total cost impact of all improvements are unknown at this time, this year's funding will serve as a beginning step towards future program development.

Specific funding for new positions at Waiawa correctional facility and at Halawa

finance.

Comprehensive Net Income Tax (CNIT) system. Your Committee recognizes the critical need of the department of taxation in the processing and auditing of tax returns. The implementation of CNIT will facilitate these functions, but additional support staff will be required as a result of the increased amount of documentation generated by this system. In addition, technical support will be required for effective implementation. Funds have therefore been provided to assist in the implementation and operation of CNIT. Your Committee feels that effective utilization of this system will result in significant benefit to the state of Hawaii.

Legal services. Your Committee is aware of the continued administrative problems in the Office of the Attorney General, and feels that many of these problems could be resolved with the assistance of support personnel in the administrative services office of the Department. Funds have been provided for such staff, as well as for additional clerical support for deputy attorney generals to ensure a more efficient and effective legal services department.

Funds have been appropriated for litigation expenses, which are to be additional positions to assist workers' compensation activities. Funds for payment of workers' compensation claims were transferred to the Department of Personnel Services. Your Committee feels that such a transfer would provide for greater control of workers' compensation costs through the Department's ability to manage both claims and funds.

Your Committee feels it is the duty of public representatives to act responsibly in meeting the needs of the present while instilling a vision for the future. Your Committee maintained this approach throughout its deliberations and developed a budget that decisively addresses the present service demands while taking strategic action toward designing Hawaii's future.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1741-86, as amended herein, and recommends that it pass Second Reading and be placed on the calendar for Third Reading in the form attached hereto as H.B. No. 1741-86, H.D. 1.

Signed by all members of the Committee except Representative Leong.

SCRep. 629-86

Finance on H.B. No. 1961-86

The purpose of this bill is to provide for a supplemental appropriation to the judiciary for the 1986-87 fiscal year.

Numerous questions have been raised over the Judiciary Appropriation Act of 1985, which contains the appropriations for fiscal year 1985-86 and fiscal year 1986-87. The concerns expressed particularly relate to certain equipment and motor vehicle items allegedly included in the sheriff's office budget of the district courts (JUD 121) for this current fiscal year.

In reviewing the supplemental budget of the judiciary, your Committee carefully examined each question raised in light of budget preparation and budget execution processes based on the planning, programming and budgeting system of the State. Your Committee found that although the items were requested by the Sheriff's Office in the preparation of the Judiciary 1985-87 biennium budget, the actual budget request submitted to the Legislature by the Judiciary during the last session did not include all of the items and amounts requested by the Sheriff's Office.

Furthermore, your Committee learned that following the enactment of the Judiciary Appropriation Act of 1985 (Act 169, SLH 1985), the Judiciary developed an operational expenditure plan to execute the budget for fiscal year 1985-86. That plan includes deletion of some of the Sheriff's Office equipment and reduces the amount of funds for other equipment. These adjustments were necessary because the appropriation authorized by the Legislature reduced the biennium budget request of the Judiciary.

Accordingly, your Committee found that the concerns pertaining to the equipment and motor vehicle items of the Sheriff's Office are inaccurate. Therefore, your Committee is satisfied with the resolution of this issue.

Your Committee then examined each supplemental request of the Judiciary. Your Committee made the appropriate adjustments, which incorporate some of the recommendations suggested by the Committee on Judiciary. Essentially, your Committee: (1) added funds to cover the cost of anticipated increases in services to children and (2) added positions and funds for custodial services, and funds for repair and maintenance and utilities which were transferred from the Department of Accounting and General Services to the Judiciary.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1961-86, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1961-86, H.D. 2.

Signed by all members of the Committee except Representative Leong.

SCRep. 630-86 Employment Opportunities and Labor Relations on H.C.R.
No. 4 (Majority)

The purpose of this concurrent resolution is to request the Legislative Auditor to study the financing system of the Hawaii unemployment insurance compensation fund, ascertaining the minimum level of adequacy to keep the program solvent and at the same time keep as much capital in Hawaii as possible. Further, the Legislative Auditor is requested to include as part of the study, a review of a financing system that would allow automatic increases or decreases in employer contributions based on the level of fund balance and its impact upon the fund if such system was implemented.

Your Committee finds that the balance of the unemployment insurance compensation fund should be adequate to insure program solvency but not excessive since the bulk of the moneys of the unemployment insurance compensation fund are held on deposit in the United States Treasury and for all intents and purposes are a source of capital that is not accessible by our local economy.

Your Committee on Employment Opportunities and Labor Relations concurs with the intent and purpose of H.C.R. No. 4 and recommends that it be referred to the Committee on Finance.

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

SCRep. 631-86 Agriculture on S.B. No. 1629-86

The purpose of this bill is to amend Chapter 142, HRS, by adding a new section to require the owner of animals being sold or transported to complete a certificate declaring information on ownership, origin and destination of shipment, numbers, description, brands and consignee.

Your Committee received testimony from the Department of Agriculture that rustling causes substantial economic loss to the industry. Most western states require strict brand inspection prior to the sale or transportation of animals.

Your Committee also finds that it provides the opportunity to inspect livestock shipments destined for a licensed slaughterhouse. In addition, this law may resolve the insidious problem of theft and will strengthen the livestock disease control program.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1629-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 632-86 Agriculture on S.B. No. 1625-86

The purpose of this bill is to permit the State Department of Agriculture to reorganize the milk control program by removing all references to the milk commissioner and the division of milk control.

The administration of the milk control program, established in 1967, is now

routine and the program can be readily administered by a milk control branch under the division of marketing and consumer services at substantial savings to the State. Placement in this division is desirable because of the homogeneity with the other programs within the division.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1625-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 633-86 Agriculture on H.R. No. 13

The purpose of this resolution is to urge each wholesale produce dealer to voluntarily adopt a policy to maintain accurate records pertaining to the receipt and distribution of all fresh produce.

Your Committee finds that produce from farmer to wholesaler to retailer are often repacked or sorted making it difficult for the Department of Health to properly identify specific batches of produce when sampling for pesticide residues.

Your Committee also finds that the Department of Health may not be able to track down all produce from contaminated batches necessitating a recall of all units of a produce to protect the public health.

Your Committee further finds that it is vital to the interests of everyone in the production, marketing, and consumption chain that the source of the contamination can be located in order to prevent recurrence.

Your Committee on Agriculture concurs with the intent and purpose of H.R. No. 13 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 634-86 Agriculture on H.C.R. No. 12

The purpose of this concurrent resolution is to urge each wholesale produce dealer to voluntarily adopt a policy to maintain accurate records pertaining to the receipt and distribution of all fresh produce.

Your Committee finds that produce from farmer to wholesaler to retailer are often repacked or sorted making it difficult for the Department of Health to properly identify specific batches of produce when sampling for pesticide residues.

Your Committee also finds that the Department of Health may not be able to track down all produce from contaminated batches necessitating a recall of all units of a produce to protect the public health.

Your Committee further finds that it is vital to the interests of everyone in the production, marketing, and consumption chain that the source of the contamination can be located in order to prevent recurrence.

Your Committee on Agriculture concurs with the intent and purpose of H.C.R. No. 12 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 635-86 Agriculture on S.B. No. 1641-86

The purpose of this bill is to prohibit the breeding of any animal in quarantine and delete the penalty provision in lieu of a stronger penalty provision applicable to all violations of Part I, Chapter 142, HRS.

Your Committee on Agriculture finds that the current law specifies domestic animals and not exotic animals, and breeding of all animals while in quarantine should be prohibited in order to prevent the transmission of disease.

Your Committee also finds that the specific penalty of this section is unnecessary since it is provided in Section 142-12.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1641-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 636-86 Agriculture on S.B. No. 1648-86

The purpose of this bill is to update the name of the federal agency that the State Department of Agriculture cooperates with in its efforts to eradicate or control transmissible diseases in Hawaii.

Your Committee finds that the Federal Bureau of Animal Industry is an outdated name and the current federal agency is the United States Department of Agriculture.

Your Committee on Agriculture is in accord with the intent and the purpose of S.B. No. 1648-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 637-86 Agriculture on S.B. No. 1649-86

The purpose of this bill is to update the name of the federal agency that the State Department of Agriculture cooperates with in the enforcement of the meat inspection regulations.

Your Committee finds that the Federal Bureau of Animal Industry is an outdated name and the current federal agency is the United States Department of Agriculture.

Your Committee on Agriculture is in accord with the intent and the purpose of S.B. No. 1649-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 638-86 Agriculture on S.B. No. 1647-86

The purpose of this bill is to remove the penalty specific to Section 142-93 (Harboring Mongoose; Penalty), and make violations of this section subject to Section 142-12 (Penalties).

Your Committee finds that the detrimental effects of the mongoose far exceed the beneficial ones. Mongoose are a menace to ground-nesting birds, and poultry producers, and because of their ability to move about easily far and wide, also pose a potentially serious threat in the spread of diseases. Your Committee believes that the harboring of mongoose without a specific permit granted by the department should be prohibited and that the destruction of mongoose should be allowed.

Your Committee has made the following amendments to this bill:

(1) Added a new Section 1 to the bill establishing a new section within Chapter 142, H.R.S., entitled, "Mongoose; killing allowed."

(2) Added a new Section 2 to the bill amending Section 142-92, H.R.S., by including the island of Lanai as an area where mongoose may not be kept or bred even with a special permit.

(3) Technical, non-substantive changes for the purposes of style and format.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1647-86, as amended herein, and recommends that it pass Second Reading in

the form attached hereto as S.B. No. 1647-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 639-86 Water, Land Use, Development and Hawaiian Affairs on
H.C.R. No. 50

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources (DLNR) to exchange land between the State of Hawaii and Alexander and Baldwin, Inc., for the present 24-acre site of the Maui County Fairgrounds in Kahului.

According to testimony by DLNR, Alexander and Baldwin is lessee of State lands in Puunene for sugar cane cultivation, and also landowner of the county fairgrounds site in Kahului. Your Committee finds that the County of Maui is supportive of the proposed land exchange and is willing to assist in the exchange process.

Your Committee on Water, Land Use, Development and Hawaiian Affairs concurs with the intent and purpose of H.C.R. No. 50 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 640-86 Water, Land Use, Development and Hawaiian Affairs and
Higher Education and the Arts on H.R. No. 91 (Majority)

The purpose of this resolution is to express legislative support for the establishment of an aquatic recreation and education center on Sand Island, by calling upon appropriate State agencies to cooperate in developing a final and comprehensive ocean sports education and recreation plan which was begun in the early 1970s.

Your Committees find that a Sand Island State Park Master Plan has existed since June 1973. According to testimony by the Department of Land and Natural Resources (DLNR), approximately half of the master plan's proposed developmental activities have been finalized. Your Committees are in agreement that DLNR and the Department of Transportation should work with the University of Hawaii in developing a proposal, mutually agreeable, for the development of an aquatic and education center in the master plan. Your Committees are also of the opinion that the proposal should include considerations of liability insurance and joint uses of the park's facilities by the general public and by the University of Hawaii.

Your Committees have made technical, non-substantive amendments for the purpose of style and clarity.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Higher Education and the Arts concur with the intent and purpose of H.R. No. 91, as amended herein, and recommend its adoption in the form attached hereto as H.R. No. 91, H.D. 1.

Signed by all members of the Committees.
(Representative Nakasato did not concur.)

SCRep. 641-86 Water, Land Use, Development and Hawaiian Affairs and
Higher Education and the Arts on H.C.R. No. 55

The purpose of this concurrent resolution is to express legislative support for the establishment of an aquatic recreation and education center on Sand Island, by calling upon appropriate State agencies to cooperate in developing a final and comprehensive ocean sports education and recreation plan which was begun in the early 1970s.

Your Committees find that a Sand Island State Park Master Plan has existed since June 1973. According to testimony by the Department of Land and Natural Resources (DLNR), approximately half of the master plan's proposed developmental activities have been finalized. Your Committees are in agreement that DLNR

and the Department of Transportation should work with the University of Hawaii in developing a proposal, mutually agreeable, for the development of an aquatic and education center in the master plan. Your Committees are also of the opinion that the proposal should include considerations of liability insurance and joint uses of the park's facilities by the general public and by the University of Hawaii.

Your Committees have made technical, non-substantive amendments for the purpose of style and clarity.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Higher Education and the Arts concur with the intent and purpose of H.C.R. No. 55, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 55, H.D. 1.

Signed by all members of the Committees.

SCRep. 642-86 Water, Land Use, Development and Hawaiian Affairs and
Higher Education and the Arts on H.C.R. No. 28

The purpose of this concurrent resolution is to express legislative support for establishing a sister province-state relationship between the Province of Alberta, Canada, and the State of Hawaii.

The current ties between Alberta and Hawaii are embryonic and show much promise in growth. Your Committees are of the opinion that these ties should be strengthened. Your Committees are in agreement that the proposed sister province-state relationship between Alberta and Hawaii would encourage social and economic development for Hawaii and its people.

A few technical, non-substantive amendments have been made for the purpose of style and clarity.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Higher Education and the Arts concur with the intent and purpose of H.C.R. No. 28, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 28, H.D. 1.

Signed by all members of the Committees.

SCRep. 643-86 Water, Land Use, Development and Hawaiian Affairs on S.B.
No. 1684-86

The purpose of this bill is to broaden the scope of the high technology research and development fund by enabling the High Technology Development Corporation to accumulate revenues and pursuing other objectives for encouraging the growth of high technology industries in Hawaii. Specifically, the bill changes the name of the high technology research and development fund to the high technology development corporation special fund and authorizes deposits into the special fund of revenues generated by the Corporation's projects and expenditures for costs relating to such projects.

Your Committee notes that S.B. No. 1684-86 and H.B. No. 2023-86 are companion bills.

The Corporation will soon commence operation of the Hawaii Ocean Science and Technology (HOST) Park. The Park is expected to generate revenues through lease rentals. Your Committee is in agreement that these revenues, in the proposed special fund rather than the State's general fund, would allow the HOST Park to operate on a self-sufficiency basis to perform emergency repairs and maintenance and to pay for operating expenses.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 1684-86, 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 Tom.

SCRep. 644-86 Water, Land Use, Development and Hawaiian Affairs on S.B.
No. 1685-86

The purpose of this bill is to amend Section 206E-6, Hawaii Revised Statutes, to exempt the improvement district assessment bonds of the Hawaii Community Development Authority (HCDA) from certain State and County taxation.

Your Committee notes that S.B. No. 1685-86 and H.B. No. 2024-86 are companion bills.

Under present law, HCDA is authorized to establish a district-wide improvement program to develop needed public improvements in redevelopment districts such as Kakaako. The Authority is required to assess a portion of the improvement costs against those properties that benefit from the specific improvements. To mitigate the financial impact of the assessment amounts due, the Authority allows property owners to make installment payments, with interest, over a period of up to 20 years. Section 206E-6 provides for HCDA's authority to issue improvement district assessment bonds. However, Chapter 206E does not include specific language exempting these bonds from State and County taxation. Your Committee is therefore in agreement that the bill would place the Authority's bonds at parity with other revenue bonds of the State.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 1685-86, 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 Tom.

SCRep. 645-86 Water, Land Use, Development and Hawaiian Affairs and
Agriculture on S.B. No. 1908-86

The purpose of this bill is to amend the Hawaii Revised Statutes, by providing for legislative intent regarding agricultural parks, to establish broad authority of the Department of Agriculture to plan, develop, and manage agricultural parks; and to require the Board of Agriculture to adopt rules governing the agricultural park program. The bill further provides that agricultural park lands would be acquired by the Department from the Board of Land and Natural Resources, through the Governor's set-aside powers.

Your Committees note that S.B. No. 1908-86 and H.B. No. 2273-86 are companion bills.

Your Committees are in agreement that the Department of Agriculture has already been providing planning, leadership, and guidance for the agricultural park program, and that the Department should assume full responsibility and accountability for the program. Your Committees also received testimony from the Department which recommended the following amendments:

- (1) To add the phrase "pursuant to section -3" at the end of paragraph (2) on line 6, page 9;
- (2) To replace line 9, page 9, with the phrase "agricultural parks designated by the Department pursuant to section -3";
- (3) To replace the phrase "all moneys received or collected from a project...", on lines 15-16, page 9, with the following phrase "any other provision of law to the contrary notwithstanding, all moneys received or collected from an agricultural park project designated pursuant to section -3";
- (4) To add the phrase "upon its request" after the term "Department of Agriculture" on lines 11 and 19, page 10;
- (5) To create a new SECTION 7, following paragraph (5), page 17, to read: "SECTION 7. The balance of any funds remaining on June 30, 1986, in the agricultural park special fund created by section 171-116.5 shall be transferred to the agricultural park special fund created by section -10 as of the effective date of this Act."; and
- (6) To renumber SECTION 7 and SECTION 8, page 17, to read SECTION 8 and SECTION 9, respectively.

Your Committees are in agreement with these recommended amendments as a means to further refine and clarify the language of the bill in accordance with its intent and purpose.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Agriculture are in accord with the intent and purpose of S.B. No. 1908-86, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1908-86, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Tom.

SCRep. 646-86 Planning, Energy and Environmental Protection on S.B. No. 2471-86

The purpose of this bill is to provide a State income tax credit for ice storage systems that are specifically designed to shift air conditioning or commercial refrigeration loads to electric utilities' off-peak demand periods.

This tax credit is equivalent to the credit granted for solar, wind energy, and heat pump energy saving devices.

Presently, a number of alternate energy projects and programs are underway to reduce Hawaii's dependence upon imported oil. However, because of the variance in electric loads between daytime peak usage and early morning periods when electrical demand falls to forty percent of utility capacity, utilities find they may have to restrict delivery of alternate energy.

Ice storage systems would shift some of the daytime demand for electricity to the early morning hours when demand for electricity is low. This would not only allow utilities to shift demand to more efficient generating units, but would also allow them to meet some of the electrical load with alternate sources of energy during the early morning hours. Your Committee finds that this measure will benefit the State by reducing Hawaii's demand for and dependence upon imported oil as its primary source of energy.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of S.B. No. 2471-86, 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. 647-86 Planning, Energy and Environmental Protection on H.C.R. No. 46

The purpose of this Concurrent Resolution is to request the Legislative Auditor to conduct an audit of programs within the Environmental Protection and Health Services Division of the Department of Health. The purpose of the audit is to determine:

- (1) Whether the current programs are being implemented in accordance with State environmental policies and goals;
- (2) Whether current programs are effective in addressing environmental contamination problems;
- (3) Whether current programs are being managed efficiently;
- (4) Whether the structural organization of the Division promotes or hinders effective program implementation and management; and
- (5) What additional resources are needed and where they can be most effectively used.

Your Committee finds that the Legislative Reference Bureau's study on the feasibility of establishing a State level environmental protection agency reported a lack of commitment to pollution control, division-wide leadership, and communications. Your Committees further find that any improvement in the State's capability to protect the public health and the environment begins with positive changes

within the Division.

Your Committee find that a comprehensive assessment of the Division's programs is essential to the formulation of statutory changes.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.C.R. No. 46 and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 648-86 Planning, Energy and Environmental Protection on S.B. No. 2002-86

The purpose of this bill is to correct a situation whereby an unforeseen combination of federal and state tax credits for alternate energy devices may be overly generous to qualified taxpayers by ensuring against any increase in the state tax credit based on certain actions by the federal government.

Under current law, section 235-12(a), Hawaii Revised Statutes, provides that if federal energy tax credits for the installation of solar or wind energy devices or heat pumps are not extended beyond December 31, 1985, the state tax credit shall be increased from ten to fifteen per cent of the total cost from the time of expiration of the federal tax credit to December 31, 1992.

Your Committee finds that these federal tax credits expired on December 31, 1985, and no action has been taken by Congress to reenact such a federal tax credit. However, according to the Tax Foundation of Hawaii, it appears that Congress might reenact a federal energy credit, retroactively extend the old credit, or establish a new type of alternate energy credit. Such action could result in a combined federal and state tax credit that might be higher than had been anticipated. Accordingly, this bill provides that if Congress does enact legislation that would once again provide for a federal tax credit for alternate energy devices, the state tax credit would remain at ten per cent.

Your Committee received testimony in support of this bill from the Tax Foundation of Hawaii, the Department of Planning and Economic Development, the Department of Taxation, the Hawaii Solar Energy Association, and the Sierra Club, Hawaii Chapter.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of S.B. No. 2002-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 649-86 Corrections and Rehabilitation on S.B. No. 1762-86

The purpose of this bill is to promote the establishment and expansion of correctional industries by removing inhibiting statutory provisions, and by providing needed departmental flexibility.

Your Committee received testimony from the Department of Social Services and Housing which noted the following statutory provisions as limiting the expansion of the current correctional industries program:

- (1) the limit on production of \$350,000;
- (2) the requirement of a public hearing before the establishment of a new industrial enterprise exceeding \$25,000 gross annual production;
- (3) fund restrictions on monies in the correctional industries account; and
- (4) the limit on total purchases or acquisitions to \$100,000.

This bill would alleviate these restrictions by:

- (1) deleting the provision limiting production to \$350,000;

(2) deleting the public hearing requirement prior to the establishment of a new industrial enterprise;

(3) removing many of the use restrictions on funds from the correctional industries account; and

(3) raising the limit on total purchases or acquisitions from \$100,000 to \$500,000.

Your Committee finds that the current correctional industries program was established in 1963, and that the existing statutory constraints are no longer realistic in 1986 in view of the dramatically increased prison population the program serves. Promotion of prison industries will reduce idleness among inmates, and hopefully provide them with practical occupational skills to promote effective reintegration into society. To meet these goals, the correctional industries program must be given statutory flexibility to expand according to the needs of the correctional system.

Your Committee has amended the bill by removing an obsolete and unnecessary provision appropriating \$1.

Your Committee on Corrections and Rehabilitation is in accord with the intent and purpose of S.B. No. 1762-86, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1762-86, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 650-86

Health on S.B. No. 2295-86

The purpose of this bill is to protect members of a hospital's or clinic's quality assurance committee from civil liability in the same manner as peer review committee members are now protected.

Under currently existing practice, care provided by a hospital is monitored by two committees: the peer review committee, which deals primarily with the conduct of physicians, and the hospital quality assurance committee, which considers all aspects of patient care, employee performance, and safety. Peer review committees are protected from civil liability for acts done in furtherance of the purpose of the committee, but hospital and clinic quality assurance committees are not. This bill would extend the same protection to hospital quality assurance committees and to quality assurance committees of clinics.

Your Committee agrees with those who testified in support of this bill and finds that this measure would allow members of a hospital's or clinic's quality assurance committees to discharge their duties more effectively. It also would promote free and full discussions of quality assurance issues and trends within the institutions to the benefit of the medical profession and consumers alike.

This bill also provides that for purposes of reporting its decisions to the Department of Commerce and Consumer Affairs, the final peer review committee shall mean the final committee in the State. It further provides that hospital or clinic quality assurance committees shall report to the Department any information which results in disciplinary action unless such information is immediately transmitted to a peer review committee.

Your Committee, in considering the question of uniform treatment, found that while the proceedings and records of peer review committees are not subject to discovery under legal proceedings, the same does not apply to the proceedings and records of hospital and clinic quality assurance committees. Your Committee, therefore, has appropriately amended this bill to provide the same immunity from discovery with respect to the proceedings and records of hospital and clinic quality assurance committees.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2295-86, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2295-86, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 651-86

Consumer Protection and Commerce on S.B. No. 1695-86

The purpose of this bill is to amend Chapter 455, Hawaii Revised Statutes, to strengthen the law on the practice of naturopathic medicine, to define and clarify terminology, to delete obsolete educational requirements and establish new examination requirements, to provide additional grounds for denial, revocation and suspension of a license, to provide grounds to refuse to renew or to deny licensure, to clarify the appeal process, and to rearrange certain sections of the law.

Your Committee heard testimony in support of the bill from the Board of Examiners in Naturopathy (Board), the Hawaiian Society of Naturopathic Physicians and practicing naturopathic physicians.

Your Committee also heard testimony from the Board of Medical Examiners, the Department of Health and the Hawaii Medical Association in opposition to the bill. The Board of Medical Examiners and the Department of Health testified that the bill would expand the existing scope of naturopathy. The Department testified that the performance of any type of surgery should not be allowed until there is clear evidence and means of proving that training and skills are equal to the professions currently performing surgery, and that clear mechanisms are in place which hold the practitioner accountable.

The Department also cited the Attorney General's opinion dated March 4, 1986, which found that the bill would expand the existing scope of practice of naturopathy, that current laws do not permit the prescribing of drugs, and that current laws do not permit the practice of surgery by naturopaths.

Your Committee, upon further consideration, and in light of the Board of Medical Examiners' and the Department of Health's testimony, has amended the bill as follows:

1. On page 6, line 9, the definition of "Diagnosis" has been amended to delete x-ray and the taking of body fluids and tissues.
2. On page 6, starting on line 13, the definition of "minor surgery" has been deleted.
3. On page 7, line 3, the word "vegetable" has been substituted with the word "botanical" in the definition of "natural medicine".
4. On page 7, line 7, the practice of naturopathic medicine has been deleted from the definition of "naturopathic physician".
5. On page 7, starting on line 9, the definition of "naturopathy" has been amended by deleting the terms "naturopathic medicine" and "minor and official surgery". Also, the practice of naturopathy excludes surgery, application of x-rays and the prescribing or dispensing of prescription drugs.
6. On page 8, starting on line 3, the definition of "Official surgery" has been deleted.
7. On page 9, starting on line 9, Section 455-3 Qualifications of applicants, has been amended by stating that "Each applicant shall be a graduate of a school, university, or college of naturopathy which has received candidacy status with, or has been accredited by, a regional accrediting association of secondary schools and colleges and has been accredited by a national professional accrediting body approved by the board or the Commission on Accreditation of the Council of Naturopathic Medical Education, incorporated in Washington, D.C.".
8. On page 15, starting on line 5, Section 455-7 Examinations, has been amended to retain the requirement that the Board of Examiners in Naturopathy shall conduct examinations in the following subjects: anatomy, histology and embryology; chemistry and toxicology; physiology; bacteriology; hygiene and sanitation; pathology; diagnosis or analysis, including clinical, physical, x-ray, symptomatology, dermatology, and mental diseases; naturopathic theory and practice; obstetrics and gynecology; jurisprudence; clinical practice; biochemistry; therapeutics, including physiotherapy, hydrotherapy, electrotherapy, heliotherapy, phytotherapy, orthopedics; and such other subjects as the board may require.

Section 455-7 is also amended to delete the reference to supplemental oral

examinations and by demonstrations or other practical tests as the board may require.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1695-86, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1695-86, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 652-86

Consumer Protection and Commerce on S.B. No. 2072-86

The purpose of this bill is to amend Section 281-17, Hawaii Revised Statutes, by granting authority to the county liquor commissions to provide and support through license fees, programs related to enforcement of liquor laws, alcohol education and rehabilitation and prevention of crimes involving the use of alcohol.

Your Committee received favorable testimony from the Police Department of the County of Kauai and the Intergovernmental Relations Committee Chairman, County Council of Kauai.

Your Committee also received testimony in opposition from the Retail Liquor Dealers Association of Hawaii and the Hawaii Hotel Association (Association). The Association testified that it was their understanding that the original intent of the bill was to expend surplus funds on a one-time basis. Accordingly, the bill should be amended to reflect this intent. Further, in order to eliminate future build-up of funds, additional language should be added which would require liquor commissions to either return or credit excess funds to the accounts of liquor licensees.

Your Committee finds that it is no longer enough to directly control and regulate liquor sales as the means to prevent and alleviate the problems of alcohol abuse. Further, the educational and rehabilitation programs, which can effectively inform individuals on substance abuse and help them control their alcohol consumption, can complement and supplement the traditional functions of our liquor commissions. Accordingly, it appears fitting and proper that the monies from liquor license fees be made available to fund alcohol related county and non-profit programs.

Your Committee also finds that the expenditure of surplus funds to provide and support programs relating to the enforcement of liquor and liquor-related laws, alcohol education and rehabilitation and the prevention of crimes involving the use of alcohol should be on a one-time basis.

Your Committee further finds, notwithstanding the above stated one-time expenditure, that liquor fees should be specifically limited to liquor commission operations. Accordingly, in the future, if there is an excess of funds to run the liquor commission, these excess funds shall be returned or credited annually to existing licensees.

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

1. On page 5, line 14, the following language has been inserted between the words "may" and "also": "... prior to June 30, 1987,...";
2. On page 6, line 2, the word "such" has been bracketed;
3. On page 6, lines 2-7, the proposed language has been deleted except for the word "The";
4. On page 6, line 9, the following language has been added: "Effective July 1, 1987, any excess of funds to run liquor commissions shall be returned or credited annually to existing licensees.";
5. On page 6, line 9, the brackets around "...its operation and administration." have been removed; and
6. On page 6, line 9, the following proposed language has been deleted: "...the purposes mentioned in this subsection."

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2072, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2072-86, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Blair.

SCRep. 653-86 Consumer Protection and Commerce on S.B. No. 1572-86

The purpose of this bill is to amend Section 26H-4, Hawaii Revised Statutes, by extending Chapter 437B (Motor Vehicle Repair Industry Board) to December 31, 1992; amend Section 286-48 to require repair dealers rebuilding salvaged motor vehicles to certify their work and to insure that the rebuilt vehicle conforms to the vehicle manufacturer's specifications; and amend Section 437B-23 to have the Motor Vehicle Repair Industry Board (Board) contract with the University of Hawaii to develop and administer a certification program for motor vehicle mechanics.

Your Committee received favorable testimony from the Board, the Hawaii Automotive and Retail Gasoline Dealers Association and the Hawaii Business League.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1572-86, 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. 654-86 Consumer Protection and Commerce on S.B. No. 1998-86

The purpose of this bill is to include the African Insurance Bank and captive insurance companies with the International Bank for Reconstruction and Development, the Inter-American Development Bank and the Asian Development Bank with respect to the qualification of its securities for purchase by certain institutions regulated by the laws of this State.

Your Committee received favorable testimony from the Department of Commerce and Consumer Affairs, the Employees' Retirement System, the Hawaii Bankers Association and the African Development Bank.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1998-86, 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. 655-86 Human Services and Judiciary on S.B. No. 2277-86
(Majority)

The purpose of this bill is to establish a process by which the desirability or nondesirability of sterilization for an adult ward can be determined. The bill establishes a reproductive rights committee, to be appointed by the Governor, to review and make recommendations to the court on all petitions for sterilization.

Your Committees believe that adult wards at present are very vulnerable to abuse in the matter of reproductive rights. Additionally, even if sterilization were appropriate, there exists no legal authority for the State to authorize the procedure. This bill addresses both concerns and ensures that the ward is involved in the process. The reproductive rights committee is required to investigate and determine whether the ward is capable of giving informed assent and, if not, to determine whether sterilization is in the best interests of the ward.

Your Committees made several amendments to the bill as received:

(1) Inserted into page 1, line 8, for purposes of clarity, the following sentence: "Each ward under consideration, to the extent of the person's ability to comprehend, must be afforded the opportunity to discuss and agree or disagree to the sterilization procedure."

(2) Inserted into page 1, line 11, for purposes of clarity, the following sentence: "It is the intent of the legislature that because of the significance of this procedure, in no event shall wards be sterilized unless alternative contraceptive measures shall have been duly considered and deemed impractical or inappropriate."

(3) Deleted paragraph 5 (page 8, line 14) from the bill. The inclusion appears to have been a technical oversight as the Senate in Senate Standing Committee Report No. 499-86 indicated its desire to delete this paragraph from the bill. Your Committees agree that an adult ward's ability to care for a child has less bearing on the issue of whether sterilization is in the best interests of the ward than it has on the interests of others.

(4) Amended page 9, line 6, to substitute "state planning council for developmental disabilities" in place of "judicial council". Your Committees concur with the testimony of the Judiciary that the function of the judicial council is to advise the Chief Justice on administrative matters pertaining to the courts, rather than to serve as a nominating panel on matters involving ethics, law and morality.

Testimony in support of the bill was received from the Department of Health, the Judiciary, the John A. Burns School of Medicine's Department of Psychiatry, the University of Hawaii School of Public Health, the Commission on the Handicapped, the State Planning Council on Developmental Disabilities, the National Association of Social Workers, the Protection and Advocacy Agency of Hawaii, and a parent of a child with Down's Syndrome.

Your Committees on Human Services and Judiciary are in accord with the intent and purpose of S.B. No. 2277-86, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2277-86, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees.
(Representative Cavasso did not concur.)

SCRep. 656-86

Human Services on S.B. No. 1849-86

The purpose of this bill is to provide a mechanism to fund and develop child abuse and neglect prevention programs and to allow the State to obtain federal matching funds on a 1:3 ratio available through the Child Abuse Federal Challenge Grant for such prevention programs as proposed by this bill.

The Senate made technical, nonsubstantive amendments to the bill and provided a \$1 appropriation for budget flexibility.

Following the public hearing on the House version, where much favorable testimony was heard, your Committee made the following amendments, which have now been inserted into this bill. Your Committee believes that the House version is preferable and therefore:

(1) Deleted Section 4, which would have provided for a \$10 surcharge on marriage licenses, limiting the surcharge to birth certificates only;

(2) To carry out the purposes of the bill, appropriated \$162,000, basing the appropriation on the number of birth certificates issued in 1984. Effective July 1, 1986, proceeds from the surcharge would be deposited into the state general fund to replenish this recommended appropriation; and

(3) Cited the correct public law which appropriates federal funds to eligible states for the Child Abuse Prevention Federal Challenge Grant.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1849-86, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 1849-86, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kiyabu.

SCRep. 657-86

Human Services on S.B. No. 2173-86 (Majority)

The purpose of this bill is to include doctors of psychology among providers of medical care eligible to receive Medicaid reimbursement and to repeal the requirement for referral by a health care practitioner to a doctor of psychology for Medicaid reimbursement purposes.

Your Committee believes that the primary issue in this bill is one of access by Medicaid-eligible recipients to psychologists. Your Committee feels that the physician referral requirement is a restraint of trade and finds legal support for its position in the December 6, 1985 decision by the United States District Court for the District of Hawaii in U.S. v. Painter. In its decision, the Court ruled that the physician referral requirement violated the Fourteenth Amendment of the U.S. Constitution and that the referral requirement contained in the Hawaii Medicaid regulations was arbitrary and bore no reasonable relationship to any consideration of public health.

Your Committee therefore disagrees with the amendments made by the Senate to the bill, as originally submitted, and substituted language contained in House Standing Committee Report No. 198-86 and H.B. No. 2529-86, H.D. 1, which was previously heard by your Committee.

Your Committee further clarified that dentists, podiatrists, psychologists, osteopaths and optometrists are not doctors of medicine. Section 346-59(b) of the bill was therefore amended to allow for this correction.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 2173-86, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2173-86, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kiyabu.
(Representative Cavasso did not concur.)

SCRep. 658-86

Human Services on S.B. No. 2478-86

The purpose of this bill is to establish a child abuse and neglect discretionary emergency assistance program under the Department of Social Services and Housing. The program allows the Department to make emergency assistance grants to families when an emergency situation which may cause child abuse or neglect arises or is imminent. Emergency assistance grants are to be used to eliminate or alleviate the emergency situation so that child abuse or neglect does not occur or removal of the child from the family is not required.

This bill is a preventive measure. Child abuse and neglect may occur when stress is placed on a family because of a lack of financial resources in a certain situation. For example, insufficient money to buy food may cause a parent to vent the parent's frustration by abusing the child. In this instance, the abuse of the child may be prevented by the use of an emergency assistance grant to purchase food.

This bill also is cost-efficient. If an emergency assistance grant prevents the occurrence or removes the threat of child abuse or neglect, expenditures of public moneys to protect, care for, and take custody of the child and treat the family will not be required.

Your Committee amended the bill by including an appropriation of \$20,000 and amending the effective date of this bill to reflect July 1, 1986, rather than upon approval. Your Committee also made technical, nonsubstantive amendments to the bill for the purposes of style and clarity.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 2478-86, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2478-86, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Kiyabu.

SCRep. 659-86

Human Services on S.B. No. 2474-86

The purpose of this bill, as received, is to establish a children's advocacy program under the Department of Social Services and Housing (DSSH) to provide a more cooperative and coordinated and less traumatic approach to the investigation of child sexual abuse.

In Hawaii, as across the nation, sexual abuse reports have increased at a much greater rate than all other forms of child maltreatment. In FY 1980, the DSSH received a total of 92 sex abuse reports, but in FY 1985 a total of 575 reports were received, a 40 percent increase over the previous year.

Your Committee finds that there are three specific areas for improvement in the State's current handling of child sex abuse cases. First, the number of interviews, and therefore the revictimization of child sex abuse victims, must be held to an absolute minimum. Your Committee believes that unless better coordination is achieved, fewer parents and guardians will choose to go forward with prosecution of a case.

Secondly, the foundation of the State's effort to protect child sex abuse victims and prosecute child sex abuse cases lies in the training of skilled interviewers. The failure of the prosecution in State v. McKellar was attributed to a poor and legally deficient interview. Judge Michael Town, in his testimony on behalf of the Family Court, stated that judges have expressed a concern as to the viability of the interview process. Michael McGuigan, testifying on behalf of the Honolulu City Prosecuting Attorney, indicated that the quality of interviews at present is poor. The inexplicable assignment of a new CPS worker to conduct a child sex abuse interview was also revealed at the public hearing on this bill. Your Committee believes that unless additional resources are provided through the children's advocacy program to improve our capability in this critical area, the State's efforts are doomed to failure.

Thirdly, the need to encourage the flow of information between those responsible for criminal prosecution and those responsible for protective action in civil proceedings is extremely important. Successful treatment of the family dysfunction can be completely nullified by an ill-timed prosecutorial action and vice versa. Your Committee believes that keeping all parties abreast of both civil and criminal proceedings is necessary if the best interests of the child are to be maintained.

Your Committee made major amendments to the bill in order to address the identified weaknesses in our present system, as follows:

- (1) Established the children's advocacy program within the Judiciary, rather than the DSSH;

Your Committee believes that the direct service role of the DSSH will conflict with the program's primary role as coordinator of the various interagency and interprofessional, legal and therapeutic efforts in this area. Furthermore, the strong desire by the Judiciary to accept responsibility for the development of this program was highly persuasive.

- (2) Amended Section 1(b) of the bill to clarify and define more precisely the purposes of the program;

- (3) Deleted Section 4 of the bill which specified a center for the program;

Your Committee believes that interviews of child sex abuse victims should be conducted in a domestic environment. Due to fiscal constraints, however, your Committee believes that other appropriate facilities in the community should be used. Furthermore, private organizations may be in a position to assist in this area.

- (4) Amended the duties of the director of the program for clarity and precision; and

- (5) Amended Section 2 of the bill to provide an appropriation of \$100,000 for salary, fringe benefits, equipment, training and continuing education costs.

In addition, technical, nonsubstantive amendments were made for the purpose of style and clarity.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 2474-86, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2474-86, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Cavasso.

SCRep. 660-86 Human Services on S.B. No. 2322-86

The purpose of this bill is to allow Hawaii to comply with federal food stamp regulations by exempting amounts received from purchases made with federal food stamps from the general excise tax imposed by Chapter 237, Hawaii Revised Statutes.

This bill also amends Section 237-42 to exempt food stamp purchases if the U.S. Secretary of Agriculture determines that Hawaii's general excise tax is a "sales tax" that disqualifies the State from further participation in the federal food stamp program. In the event of such a determination, this bill also provides for immediate public notice of the exempt status by the Director of Taxation.

According to Public Law 99-198, the Food Security Act of 1985, states are barred from participating in the food stamp program if the U.S. Secretary of Agriculture determines that state or local state taxes are collected on food stamp purchases. Although Hawaii does not have a sales tax, the general excise tax is passed on to consumers and thus could be construed as a sales tax.

The Department of Social Services and Housing is awaiting an official response from the U.S. Secretary of Agriculture on whether Hawaii's excise tax is a sales tax. An exception for food stamp purchases to the state excise tax would be provided under the provisions of this bill if the determination is made that the excise tax is indeed a sales tax according to the federal definition.

Your Committee heard testimony in support of the bill from the DSSH, the Department of Taxation, the Tax Foundation of Hawaii, the Legal Aid Society of Hawaii and the Hawaii Food Industry Association.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 2322-86, 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. 661-86 Higher Education and the Arts and Public Employment and
Government Operations on S.B. No. 1779-86

The purpose of this bill is to establish a civil service system for the University of Hawaii under the jurisdiction of the Board of Regents, with the University having a status coequal with the executive branch of the State and the Judiciary. The bill also provides for Board of Regents' representation in collective bargaining.

The University currently has authority to establish personnel systems for its executive and managerial personnel, its faculty and graduate assistants, and its administrative, professional, and technical personnel, but not for civil service employees, who are currently administered through the Department of Personnel Services. This bill would grant that authority.

Your Committees believe that the University of Hawaii should be granted greater authority and responsibility over its internal management.

This bill is part of the administration's "flexibility package". Your Committees believe it is right for the State government, right for the University, and ultimately right for the people who look to the University for education, research, and leadership in many community endeavors. Failing to pass the package would risk great potential damage to the State's most important single institution. The University ought to have the administrative freedom and flexibility it needs to move toward its great potential for excellence.

At the same time, your Committees do not take lightly the great responsibility

which the Legislature can and should continue to have with respect to the University. The University administration recognizes this role of the Legislature, and has consistently stated that (1) it does not seek autonomy, only reasonable flexibility, and (2) it does not wish to avoid or impinge upon legislative prerogatives, but only desires to get out from under unnecessary bureaucratic burdens.

Your Committees find that granting the University flexibility in administering personnel matters would result in the elimination of certain unnecessary bureaucratic steps and thus increase the University's efficiency.

Your Committees received testimony in support of the bill from the Vice-President for Administration at the University of Hawaii, the University of Hawaii Professional Assembly, and the Hawaii Government Employees Association.

Your Committees have made the following amendments to the bill:

(a) In section 3 on page 3, exclusive bargaining unit representatives were included as consultants to the development of position classification plans, the formulation of personnel rules and regulations, and the administration of the personnel systems.

(b) In section 15 on page 12, four lines have been deleted, and accordingly on page 12, the words "negotiations for the" and "respective" have been deleted, in order to avoid change in the balance of power between the State and Counties. Your Committees do not believe that this was the intent of the bill.

(c) Section 19, on page 14, is amended to include administrative, professional and technical employees of the University who are members of Unit 08.

(d) Section 20, on page 15, is amended to read as follows: "... the University shall use the civil service classification and compensation plan and personnel rules and regulations of the executive branch's civil service system". The word "shall" replaces the word "may". Your Committees believe that the University should be mandated to use the civil service classification and compensation plan and personnel rules and regulations.

(e) On page 15, after the word "applicable", the words "collective bargaining agreements," were added to recognize collective bargaining agreements which maintain employees rights and benefits, in addition to laws, rules and regulations.

(f) Your Committees have also made a technical, non-substantive amendment.

Your Committees on Higher Education and the Arts and Public Employment and Government Operations are in accord with the intent and purpose of S.B. No. 1779-86, S.D.2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1779-86, S.D.2, H.D.1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Medeiros.

SCRep. 662-86

Higher Education and the Arts and Water, Land Use,
Development and Hawaiian Affairs on S.B. No. 2326-86

The purpose of this bill is to establish a revolving fund for the technology transfer program at the University of Hawaii.

Your Committees find that the establishment of a revolving fund is necessary for the orderly and systematic transfer of technology from the University's research laboratories to the private business sector. It is the understanding of your Committees that revenues for the proposed revolving fund will be derived from the University's share of the proceeds of any commercial exploitation of patents, royalties, copyrights, licenses and the acquisition of equity positions in businesses that market University developed inventions or intellectual property.

According to testimony received from the University, expenditures from this fund will be made to "promote the development of inventions and intellectual property generated by research and scholarship at the University, to support further research and scholarship, and to cover the cost of an Office whose function is the transfer of technology and the protection of the University's rights."

Your Committees on Higher Education and the Arts and Water, Land Use, Development, and Hawaiian Affairs are in accord with the intent and purpose of S.B. No. 2326-86, 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.

SCRep. 663-86 Higher Education and the Arts on S.B. No. 994

The purpose of this bill is to establish a revolving fund for an Interpretation and Translation Center at the University of Hawaii.

Your Committee received testimony in support of this bill, from the University of Hawaii.

Your Committee recognizes that "interpretation" which encompasses oral simultaneous representation of a language and "translation" which is the written aspect of the process is an area that will enhance future job opportunities for students and create an available pool of translators in the State.

Your Committee finds that there does not exist an Interpretation and Translation Center presently. Furthermore, your Committee finds that interpretation and translation services can be provided without such a center and has, therefore, changed the language to delete reference to the center. Your Committee also has made nonsubstantive amendments to the bill.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of S.B. No. 994, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 994, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 664-86 Higher Education and the Arts on S.B. No. 1778-86

The purpose of this bill is to provide resident status (for tuition purposes) for a student of the University of Hawaii whose nonresident parent claims the student as a dependent for tax purposes.

Under current law, a student whose parents are divorced or separated does not qualify for resident status if one parent is a nonresident and claims the student as a dependent for tax purposes under a child support agreement. The disqualification stands even if the student and other parent meet the twelve-month State residency requirement of current law. This bill intends to provide resident status for a student in such a situation.

Your Committee finds that unusual situations will invariably arise over time, which create compelling reasons for changes in the tuition residency/non-residency rules. Rather than attempt to amend the statute each time such a situation occurs, your Committee believes that the Board of Regents should be allowed to regulate tuition by rule. Moreover, according to testimony, a set of such rules is already in place.

Therefore your Committee has deleted all specific conditions from Hawaii Revised Statutes §304-4(c).

Your Committee has also changed the effective date of the Act.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of S.B. No. 1778-86, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1778-86, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 665-86 Higher Education and the Arts and Public Employment and
Government Operations on S.B. No. 1781-86

The purpose of this bill is to specifically provide the Board of Regents of the University of Hawaii with the authorization to approve certain exceptions to statutory competitive bidding requirements.

Under current law, the University is required to seek the Governor's approval prior to initiating expenditures in excess of \$4,000 for emergency situations and in those cases where no bids are received in response to an advertised procurement for goods or services. Your Committees are in agreement with the University that this requirement is unnecessarily restrictive and often serves to prevent the University from promptly responding to emergencies and to the immediate needs of its instructional and research programs.

Your Committees received favorable testimony from the University and from the University of Hawaii Professional Assembly.

Your Committees wish to note that the University developed, at the chair's request, the following language, in case a "cap" had been deemed appropriate:

"In the case of emergency purchases by the University of Hawaii, the Board of Regents shall secure the approval of the Governor for any expenditure in excess of _____."

Your Committees appreciate the good faith shown by the University and have not deemed it necessary to include this language, but believe subsequent committees should be informed that there are alternatives available if an unlimited authorization is found to be excessive.

Your Committees on Higher Education and the Arts and Public Employment and Government Operations are in accord with the intent and purpose of S.B. No. 1781-86, 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 Representative Medeiros.

SCRep. 666-86

Public Employment and Government Operations on S.B. No. 425

The purpose of this bill is to permit the negotiation of salary ranges, the number of incremental steps, wages to be paid in each range and step, and the length of service necessary for incremental and longevity step increases. Under present law these subjects may not be negotiated and are prohibited in any year in which a negotiated pay increase is affected, whether by statute or collective bargaining agreement.

Representatives from the Hawaii Government Employees Association (HGEA), Hawaii State Teachers Association (HSTA), and the University of Hawaii Professional Assembly (UHPA) submitted testimony in support of this bill. Testimony indicated that since increments were removed in 1976, public employees have been unable to move laterally on their respective salary schedules. Because employees are unable to move beyond the entry level step, they can never catch up to those employees on the higher steps. This inequity affects many employees in the HSTA and HGEA bargaining units and lowers morale.

The ability to negotiate incremental and longevity steps will provide the means to address and resolve such inequities and improve morale, while also recognizing years of service. Moreover, according to the UHPA, it provides an additional opportunity for both the employer and the exclusive representative to reach a contract agreement.

Your Committee received testimony from the Office of Collective Bargaining (OCB) and the Department of Civil Service, City and County of Honolulu (DCS) in opposition of the bill. The OCB was extremely hesitant about any expansion in the area of mandatory subjects of negotiation and maintained that employers and exclusive representatives have, on several occasions, negotiated step movements for every bargaining unit. Such step movement provisions are similar to negotiating increment and longevity increases.

The DCS expressed concern as to whether incremental and longevity increase costs would be counted as negotiated costs. The deletion of the law which pro-

hibited increment and longevity increases in any year that general wage increases were granted could be construed as permitting increment and longevity costs to be granted without being included in the negotiated cost package.

The OCB and DCS voiced strong opposition to making salary ranges negotiable because it would indirectly involve negotiating the pricing of classes, possibly invoking a complicated pricing review of all classes, and could violate the principle of "equal pay for equal work". Due to the vast repercussions this bill might have on the personnel management field and the cost outcomes of future collective bargaining negotiations, the OCB and DCS recommended that a thorough study be conducted before any future action is taken.

Although the Department of Education (DOE) concurred with the OCB and DCS regarding the negotiability of salary ranges, it was not opposed to making increments or longevity step increases proper subjects of negotiation. The DOE, like the HSTA and HGEA, is concerned about the impact that "freezing" of increments has had on employee morale, its ability to retain talented personnel, and inequities in compensation.

Your Committee agrees that salary ranges should not be a negotiable item, and has therefore amended this bill to delete that provision. Incremental and longevity steps are, however, proper subjects of negotiation between the employer and exclusive bargaining agents. It should be emphasized that incremental and longevity increases are not automatic, but must be negotiated.

To assist the public employer in containing costs, your Committee explicitly states that negotiated incremental and longevity increases must be included in the overall cost package and is subject to appropriation by the appropriate legislative bodies.

Your Committee has further amended this bill by repealing sections 77-13.15 and 297-33.5 which are no longer necessary.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 425, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 425, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 667-86 Public Employment and Government Operations on S.B. No.
1033

The purpose of this bill is to allow the Board of Trustees of the Public Employees' Retirement System to forgive any overpayment to beneficiaries made as a result of staff errors in calculating retirement allowances.

Occasional miscalculations, which can be attributed to human error by the Public Employees' Retirement System, can sometime result in the overpayment of retirement benefits to eligible beneficiaries. Your Committee finds that although most errors resulting in overpayment can be corrected, mandatory recovery of overpayment may unduly burden some beneficiaries who are elderly and on fixed incomes.

Your Committee therefore believes that recovery of these overpayments should be left to the discretion of the Board of Trustees as the Public Employees' Retirement System representative estimates that approximately 12 cases of staff errors occur annually at a cost of \$5,000.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 1033, S.D. 3, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 668-86 Public Employment and Government Operations on S.B. No.
1624-86

The purpose of this bill is to extend the method of adjusting public contract

bids by adding the applicable retail rate of general excise tax and the applicable use tax to bids from tax-exempt vendors in determining the lowest bid. Currently, only out-of-state vendors not doing business in Hawaii have their bids adjusted in this manner. This bill will allow tax paying vendors to compete for public contracts on a more equitable basis with tax-exempt vendors.

The Department of Accounting and General Services (DAGS) and the U.S. Small Business Administration (SBA) testified in support of this bill. Their testimony indicated that, in bidding for public contracts, business firms are at a disadvantage because the state general excise tax is not applied to non-profit organizations.

Both DAGS and SBA maintained that this bill will correct the present inequity by adjusting the bid amount of a tax-exempt offeror by a sum equal to any general excise or use tax that would have been applicable if the bidder was a tax paying entity. The adjustment is solely for bidding purposes and does not increase the contract price payable to a tax-exempt vendor if determined to be the lowest bidder.

The SBA also testified that the federal government utilizes a similar strategy in dealing with non-profit organizations seeking government contracts.

Favorable testimony on this measure was also received from Hawaii Business League, Small Business Hawaii, and various other tax paying businesses.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 1624-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 669-86

Public Employment and Government Operations on S.B. No. 2050-86

The purpose of this bill is to appropriate funds for fiscal year 1986-1987 for salary increases and other cost adjustments for state and judiciary civil service employees in the managerial compensation plan who are excluded from collective bargaining.

The directors of personnel services of the State and counties are currently studying a proposal to amend the current salary structure under section 77-13.1, Hawaii Revised Statutes, to achieve a more effective program of pay administration for managerial white collar positions not covered by collective bargaining. This bill would provide funding for the salary increases and other adjustments as may be necessary after the proposal and possible alternatives are considered.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2050-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 670-86

Tourism on S.B. No. 1886-86 (Majority)

The purpose of this bill is to impose a transient accommodations tax on the gross income derived from furnishing transient accommodations. The term "transient accommodations" is defined as the furnishing of a room, apartment, suite, or other living unit customarily occupied by transient occupants for less than sixty consecutive days.

PERCENTAGE INCREASE

The bill, as received, would have generated an estimated forty-four to sixty million dollars by imposing a four percent tax on transient accommodations.

After the receipt of testimony and considerable deliberations, the Committee amended the bill to impose a five percent transient accommodations tax, which is estimated to generate between fifty-five and seventy-five million dollars.

REVENUE APPLICATION

The Committee recognizes the critical importance of tourism, which is the mainstay of Hawaii's economy. Visitors spend over four and a half billion dollars in Hawaii annually, and the visitor industry directly or indirectly supports more than a third of all civilian jobs in Hawaii. And an estimated five hundred fifty million dollars in State and local government tax revenues is generated annually by the visitor industry.

For the sake of maintaining a healthy economy, it is clear that visitor facilities and infrastructure must be maintained, especially in light of escalating competition from other visitor destinations. However, the passage of the Gramm-Rudman-Hollings Act at the federal level poses significant uncertainties regarding reductions to State and County programs, and creates additional difficulties for the State in funding its desired activities.

The Gramm-Rudman-Hollings Act was passed in an effort to control the Nation's deficit. Should its provisions go into effect as scheduled, the levels of federal support to State and local government entities would be reduced, while at the same time making states and municipalities responsible for a greater share of funding for its programs and projects, especially in the social service area. While the precise impact of the Gramm-Rudman-Hollings Act on Hawaii is not yet known, it is known that Hawaii may be one of the hardest hit states in terms of decreased federal funds.

In this regard, it is incumbent that prudence predominate the fiscal planning efforts of the State, making the needs of all people the major consideration in the budgeting and disbursement of State funds. As such, the State government must have the flexibility to allocate the bulk of State revenues to its various programs and projects.

Therefore, your Committee has amended the bill so that all revenues from the proposed transient accommodations tax be deposited into the State's general fund. For consistency, the special fund created by the bill, as received, has been deleted. One-fifth of the revenues received from the tax would be earmarked for the Counties of Kauai, Maui, and Hawaii through grants-in-aid for the construction and repair and maintenance of infrastructure. An additional three million dollars would likewise be earmarked for contracting for the services of the Hawaii Visitors Bureau.

TRANSIENT ACCOMMODATIONS DEFINITION

Critical to the provisions of a transient accommodations tax is the definition of the term "transient accommodations". Since numerous types of accommodations exist, the definition must be precise enough to encompass all of those living units which are intended to be taxed, while excluding all of those which are not intended to be taxed.

Testimony was received from the Hawaii Association of Realtors expressing the concern that the definition of "transient accommodations" may include rental units which are leased on a month-to-month basis to residents, even though the same renter may occupy the unit for a number of consecutive months.

It is the intent of your Committee to exclude from the definition of "transient accommodations" those rental units leased to residents on a month-to-month basis, as well as accommodations which are similar to the following:

- (1) Health care facilities;
- (2) School dormitories;
- (3) Lodging provided by non-profit corporations or associations for religious, charitable, or educational purposes such as the Boy Scouts' Camp Pupukeya and the Institute for Human Services; and
- (4) Living accommodations for military personnel and their dependents.

Other amendments were made to the bill to renumber sections for the sake of consistency.

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

No. 1886-86, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1886-86, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Onouye and Medeiros.

(Representative Anderson did not concur.)

SCRep. 671-86 Tourism on S.B. No. 2303-86

The purpose of this bill is to establish statutorily a tourism impact management system which would as its major function continuously monitor the impact of tourism on Hawaii's economic, social, and physical environments.

Your Committee finds that a tourism impact management system is necessary to assist the State and its local government entities in evaluating proposed tourism-related projects in order to maintain the quality of life for Hawaii's residents, while other government agencies promote Hawaii as a unique and exotic visitor destination.

A Department of Planning and Economic Development representative testified that the bill, as received, requires the Department to suggest and advocate solutions to ameliorate, or prevent, the undesirable effects of tourism development. The departmental representative questioned the appropriateness of this provision since other Department objectives may be in direct conflict with that function.

Your Committee has therefore amended the bill by deleting the word "advocate" on page 2, line 14, and replacing it with the word "propose".

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 2303-86, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2303-86, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Onouye and Medeiros.

SCRep. 672-86 Tourism and Water, Land Use, Development and Hawaiian
Affairs on S.B. No. 1884-86 (Majority)

The purpose of this bill is to provide for a convention center commission to acquire, develop, construct, and operate a convention center in Hawaii. The commission would operate the center in such a manner as to attract conventions, trade shows, meetings, and other appropriate activities to Hawaii by offering a convention center with quality facilities and services.

Your Committees agree with the findings of the Senate Committee on Ways and Means. Your Committees agree that an amount of \$1 be appropriated toward the planning, development, and operation of Hawaii convention center in order to allow flexibility in the overall budget-making process.

Your Committees on Tourism and Water, Land Use, Development and Hawaiian Affairs are in accord with the intent and purpose of S.B. No. 1884-86, S.D. 1, S.D. 2, and recommend that it pass Second Reading be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Onouye, Souki and Medeiros.

(Representative Kamali'i did not concur.)

SCRep. 673-86 Tourism and Water, Land Use, Development and Hawaiian
Affairs on S.B. No. 1885-86 (Majority)

As originally received, this bill designated the following parcels for consideration as possible sites for a convention center: Fort DeRussy, the Honolulu Zoo, Shell/Kapiolani Park, the Ala Wai Golf Course, and Fort Armstrong. The bill also provides a dollar appropriation to be used towards the purchase of a

Your Committees find that a convention center will attract the large numbers of conventioners, exhibitors, organizers, and their families who spend significantly more than the average visitor to Hawaii. A convention center will, in all probability, result in the infusion of considerable amounts of money and increase the State's tax base.

While a convention center in Hawaii would not be restricted exclusively to nonresidents, it is clear that the large majority of the participants in activities at such a center will be out of State visitors. As such, your Committee finds that a convention center site that is in close proximity to major hotels is superior to a site which generates transportation requirements. In this regard, the Fort DeRussy site appears to be the best situated of all the suggested sites since it is within a twenty minute walk from seventy-five percent of the hotels in Waikiki. Furthermore, it appears that there is a strong possibility that the Fort DeRussy site will become available from the federal government either through lease or through sale in the near future. And finally, it appears that the use of the Fort DeRussy area may result in more attractive green space than currently exists, as the bulk of the center will be underground.

While the Fort DeRussy site is the preferred site for a convention center, there is a degree of uncertainty as to whether it will become available for that use. Should it not become available, consideration will be given to other sites mentioned. Accordingly, the bill has been amended to provide that if a contract to obtain or lease Fort DeRussy is not entered by March 1, 1987, then the other Waikiki sites will be considered. These sites are the Honolulu Zoo, Shell/Kapiolani Park, and Ala Wai Golf Course.

Your Committees on Tourism and Water, Land Use, Development and Hawaiian Affairs are in accord with the intent and purpose of S.B. No. 1885-86, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1885-86, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

SCRep. 674-86 Higher Education and the Arts on S.B. No. 2332-86
(Majority)

Your Committee finds that continuing availability of educational loans is predicated on default rates acceptable to the federal government and to the United Student Aid Funds. The U. S. Department of Education has recently entered into an agreement with the Internal Revenue Service to withhold the income tax refunds of people who have failed to repay their student loans and is encouraging states to implement a similar off-set program for its student loan

defaulters.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of S.B. No. 2332-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

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

SCRep. 675-86

Higher Education and the Arts on S.B. No. 1852-86

The purpose of this bill is to create a revolving fund for libraries administered by the University of Hawaii. Revenues for this fund will be derived from fines and fees for lost, overdue, or damaged books, serials, and periodicals and such other sources as coin-operated photocopy machines, and reprography and other user services provided by the libraries. Allowable expenditures from this fund shall include such items as repair or replacement of lost, damaged, stolen, or outdated books, serials, and periodicals, and to support other direct library activities.

Your Committee finds that retaining funds generated from fines and fees, rather than returning them to the general fund, would enable the University to better handle the additional workload created by overdue library materials, such as checking shelves, mailing notifications and handling collections. The bill would allow this operation to become self-supporting and would allow the University libraries to improve other services including replacement of missing items. The increased availability of funds would also be an impetus for improving the handling of fee collection.

Your Committee believes that this bill will help the University meet the operational needs of the library system. However, in Section 1, which reads "... fines, fees, and other such revenues derived from library operations," referring to receipts which shall be deposited into the revolving fund, the phrase "other such revenues" was deleted so that the statute is specific and not unnecessarily open-ended.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of S.B. No. 1852-86, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1852-86, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 676-86

Higher Education and the Arts on S.B. No. 2328-86

The purpose of this bill is to amend section 26-52, Hawaii Revised Statutes, by deleting the \$95,000 a year ceiling on the salary of the President of the University of Hawaii.

Your Committee is aware of the Board of Regents' responsibility to select, appoint, and retain the best possible candidate as President of the University of Hawaii and the Board's need to establish the authority to set the President's salary without regard to a statutory ceiling to enable it to execute its duties and responsibilities to the public.

Your Committee finds that the deletion of the statutory ceiling is necessary to attract and compensate executive officers capable of directing the University to academic and institutional excellence.

Your Committee recognizes, however, the need to utilize private as well as public sources to fund the salary of the President and has amended S.B. No. 2328-86, S.D. 1, by substituting the language of H.B. No. 1664-86, H.D. 1. Also, in Section 1, item 2, language has been amended to clarify the advance funding of the private sources.

It is the feeling of your Committee that this bill can serve to fully address the concerns of the Board of Regents, and in addition, strengthen the University's case for a greater measure of flexibility by allowing the Board of Regents to set the salary of the President of the University of Hawaii without the constraint of a

statutory ceiling.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of S.B. No. 2328-86, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2328-86, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 677-86

Higher Education and the Arts on S.B. No. 1773-86

The purpose of this bill is to increase the amount of the indirect overhead funds which are deposited into the University of Hawaii Research and Training Revolving Fund from thirty percent of the total amount of indirect overhead funds generated by the University for research and training purposes in the prior fiscal year to fifty percent of the first \$7 million and one hundred percent of all amounts in excess of \$7 million of indirect overhead funds generated by the University for research and training purposes in the prior fiscal year. The bill also deletes the lapsing provision for this Fund which was approved by the 1984 Legislature.

Your Committee received testimony from the University, the University of Hawaii Professional Assembly, and the High Technology Development Corporation in support of this bill as an increase in this fund will result in attracting additional extramural support for research and training purposes.

Your Committee has deleted the provision calling for 100% of all amounts in excess of \$7,000,000 to be deposited into the fund, because your Committee believes 50% of said funds to be sufficient. Your Committee finds that the increase from 30% to 50% would result in an increase of \$1.4 million to the fund.

Your Committee accepts the change in the lapsing provision, and is in agreement with the University that the concerns of the 1984 Committee on Conference, as expressed in Conference Committee Report No. 73-84 have been justified:

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

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of S.B. No. 1773-86, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1773-86, S.D. 2, H.D.1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 678-86

Housing on S.B. No. 1826-86

The purpose of this bill is to amend subsections 519-2(b) and 519-3(b), Hawaii Revised Statutes, to allow the Hawaii Housing Authority (HHA) to assess all administrative costs to lessees and lessors in arbitration proceedings under the HHA's lease rent renegotiation program.

Presently, under chapter 519, the HHA, or its designee, must initiate arbitration proceedings in the event the parties to a lease are unable to achieve agreement under any lease renegotiation provision. Although the HHA is authorized to collect an advance deposit from the lessee and lessor, the Office of the Attorney General has concluded that such deposits cannot be used for administrative costs. Rather, they are to be applied to actual arbitration expenses.

Testimony submitted by the HHA, states that, prior to 1984, it received general fund appropriations for administration of the Land Reform Program. These appropriations partially covered expenses incurred in operating the Program and the

remainder of the expenses were covered by funds in the Fee Simple Residential Revolving Fund (Fund). These general fund appropriations have ceased, however, and the Authority has had to find an alternate means of recouping Program costs. The HHA testified that its policy is to pass on all administrative costs incurred in the conversion process, exclusive of constitutional costs, to the lessees. Currently, the Fund is used to finance the administration of the Lease Rent Renegotiation Program. However, continued use of the Fund in this manner will deplete its resources.

Your Committee finds that the bill would serve to replenish the Fund by allowing the HHA to assess administrative costs incurred in the arbitration process equally among lessees and lessors using the HHA services.

Your Committee on Housing is in accord with the intent and purpose of S.B. No. 1826-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 679-86

Housing on S.B. No. 801 (Majority)

The purpose of this bill is to establish a new formula for determining leasehold rents which a lessor of residential lots and lands under a cooperative housing corporation may charge lessees upon the expiration of fixed rent periods during the lease term. This formula essentially provides that the lease rent established at the beginning of the term of the lease is multiplied by factors that are determined by the Consumer Price Index and the Standard and Poor's 500 Composite Stock Dividend Yield. The formula has been placed in a new part to chapter 516, Hawaii Revised Statutes (Part VI), and supercedes the existing formula contained in Chapter 519, Hawaii Revised Statutes (HRS).

The bill also:

(1) Requires that lease rent reopenings shall not be scheduled more frequently than once every ten years.

(2) Provides that lease rents established under the lease rent control law shall not be used to determine the value of the leased fee interest for leases under the Hawaii Land Reform Act.

(3) Requires all new leases, of a term of fifteen years or more, of residential lots and land under cooperative housing corporations contain a provision which gives the lessee the option to purchase the fee simple title to the land during the first five years of the lease.

(4) Provides that the current provisions in Section 516-70, Hawaii Revised Statutes, which requires the lessor to compensate the lessee for the value of the improvements in situations where the lessor does not extend the lease or issue a new lease to the lessee, does not apply to leases under the rent control law and to leases which contain the fee purchase option, and permits those lessees not covered by section 516-70, Hawaii Revised Statutes, to remove all onsite improvements constructed or otherwise paid for by the lessee.

(5) Creates a presumption in the renegotiation of leases of property in multi-family apartment use that the highest and best use of the property is the actual use of the property, and where the parcel underlying the apartment building has been subdivided, that the fair market value of the parcel will be the aggregate of the values of the individual lots as subdivided.

Your Committee received voluminous testimony concerning S.B. No. 801, S.D. 2. Representatives from the Hawaii Housing Authority, Castle Estate, Kamehameha Schools/Bernice Pauahi Bishop Estate, Waiiau Community Association, Hawaii Leaseholders Equity Association, Awakea Association, Hawaii Kai Homeowners Ltd., Kamehameha Schools Alumni Association, financial institutions, and others presented differing opinions on this measure. Testimony ranged from generalized concerns over the bill, to support of selected portions of the bill, to opposition to the entire bill.

Under current law embodied in Chapter 519, Hawaii Revised Statutes, a lessor may charge up to four percent of "owner's basis" in the residential lot upon the

reopening of a contract for renegotiation of a lease. Many lessees were facing lease rent increase of up to 1000 percent, when the owner's basis formula was originally enacted under Act 185, Session Laws of Hawaii 1975 to assist lessees. The situation facing our lessees has not abated; in fact many of our lessees today are facing lease rent increase of up to 2500 percent.

Your Committee finds that the conditions existing at the time Act 185 was enacted in 1975 have continued to this day and further exacerbates the unequal bargaining relationship between lessees and lessors, resulting in high rent increases. Your Committee further finds that these phenomenal lease rent increases are especially burdensome on the poor, fixed-income persons, and the elderly.

Your Committee recognizes the effort of the Senate Committee on Housing and Community Development, along with its "Blue Ribbon Advisory Panel," to formulate a rent "cap" on renegotiated lease rents for residential lots and cooperative housing corporations, and appreciates the many hours of deliberation and discussion that went into developing S.B. No. 801, S.D. 2.

However, your Committee has very serious reservations about this measure and the accompanying discussion contained in the Senate Standing Committee Report No. (S.C.R.) 397-86.

While your Committee agrees with the basic intent of the bill to provide lessees with the right to have lease rents set at reasonable rates, your Committee disagrees with the Senate's findings, assumptions, rationale, and methodology contained in S.B. No. 801, S.D. 2, and S.C.R. 397-86 to reach that goal. Your Committee has therefore amended the bill as follows:

LEASE RENT FORMULA

Your Committee has amended the lease rent formula proposed by the Senate. The Senate's formula is a three step process:

(1) A "hypothetical estimate" of the initial value of the raw land is established by capitalizing (dividing) the initial lease rent by the average of the Standard and Poor's 500 Composite Stock Dividend Yield for the five years preceding the initial year of the lease.

(2) An "adjusted hypothetical estimate" is determined by adjusting the "hypothetical estimate" derived in the first step by the change in one of the national Consumer Prices Indices, the U.S. CPI(W), for the same period.

(3) The "adjusted hypothetical estimate" is multiplied by the average of the Standard and Poor's dividend yield for the five years immediately preceding the calendar year of the renegotiation date to obtain the current lease rent.

Your Committee finds that a lease rent control formula based on the CPI and Standard and Poor's Index involves an inaccurate methodology which has no rational basis. The CPI is not related to increase in land values, nor is there a relationship between the Standard and Poor's 500 average dividend yield to a reasonable return on capital. As such, your Committee had serious questions about the constitutionality of the original formula.

Moreover, the original formula treats a lessee with 5000 square feet of land in a rural area the same as a lessee with 15,000 square feet of prime ocean front property. Your Committee believes that the lease rent formula should take into consideration the relative size and value of leased land.

Your Committee has amended the formula so that increases in the lease rent could not exceed eighty per cent of the increase in tax assessed value of the property since execution of the lease. Specifically, the formula takes eighty per cent of the present tax assessed value of the land, divides the resulting product by the original taxed assessed value of the land to get the adjusted increase in value of the land. The adjusted increase in the value of the land is multiplied by the original lease rent to get the highest rent the landowner may charge the lessee.

The increase in value of the land is adjusted so as to compensate for:

(1) the counties' practices of including all onsite improvements other than the

dwelling (i.e. landscaping, walls, etc.) in the tax assessed value of the land;

(2) the non-inclusion of the land development charges paid by lessees; and

(3) increases in land prices due to speculation and the concentration of land in a few landowners.

Based on your Committee's calculations, the lease rents should generally increase $2\frac{1}{2}$ to 8 times depending on the size and location of the property. This formula would meet the constitutional requirement of reasonable rate of return to the lessor while significantly reducing the lease rents of the lower income people who probably lease smaller, less expensive lots.

FINDINGS AND PURPOSE

Your Committee has amended the bill by adding legislative findings and purpose to clearly articulate the need for imposing a new rent control formula to assist the lessees. Your Committee finds that the conditions which led to the current owner's basis formula being imposed in 1975 still exists to this day. Moreover, your Committee finds that the magnitude of the problem has grown even larger and that lessees today face rent increases of up to 2500 percent. Your Committee further finds that these phenomenal rent increases are especially burdensome on those lessees who are poor and on fixed-income and the elderly.

Your Committee reaffirms the findings and purpose contained in Section 1 of Act 307, SLH 1967, and Act 185, SLH 1975, and declares that it is the policy of the State that lessees shall have the right to have rents set at reasonable rates and that lessors shall receive no more than a fair return on their property.

OWNER-OCCUPANTS OF ALL RESIDENTIAL LEASEHOLD UNITS

Your Committee has amended the bill to extend the rent control provisions to all owner-occupants of any residential units, including single family residences, condominiums, and cooperatives.

UNLINKING OF RENT CONTROL AND CONDEMNATION VALUE

Your Committee agrees that a lessee having the protection of controlled lease rent should not have the right to use such rent to establish the price of the landowners' leased fee interests. Your Committee has made some technical language changes to the provision which "unlinks" the lease rent controls from the compensation paid to a lessor upon a condemnation under Chapter 516, Hawaii Revised Statutes.

REVERSION

Your Committee has amended the provisions proposed by the Senate regarding the reversion of the onsite improvements to the lessor at the expiration of the lease. The Senate version provided that the lessee enjoying reduced rents through the rent control formula would lose the current right to receive the fair market value of the onsite improvements from the lessor. Your Committee believes that the Senate version could involve a great windfall to lessors. Your Committee amended the bill to provide that the rent savings enjoyed by the lessee be deducted from the fair market value of any onsite improvements that the lessor would be required to pay. The rent savings are computed by taking the difference between the actual rent paid and the lesser of the rents provided in the lease and the maximum rents allowed under the current statute compounded annually by the lowest passbook savings rate. In no event would the lessee have to pay the lessor if the rent savings exceeded the market value of the onsite improvements.

TEN YEAR REOPENINGS

Upon further consideration, your Committee finds that the ten year reopening provision would reduce market distortions and will help future rent increases to be less precipitous. Minor language amendments have been made.

FEE PURCHASE OPTION

Because your Committee did not want to interfere with the court approved land condemnation process, your Committee has deleted all provisions dealing with the fee purchase option.

Moreover, your Committee earlier this session passed out a bill to redefine a development tract to ensure that once a tract is designated as such, it will remain available under the condemnation process. Because of this pending bill, your Committee further believes that the fee purchase option is not necessary at this time.

SEVERABILITY CLAUSE

Your Committee has added a severability clause to ensure that the entire Act need not be repealed if only one portion is found to be unconstitutional or unlawful.

However, your Committee has maintained the requirement that if the unlinking provision is found unconstitutional, the rent control formula will revert to the formula in chapter 519.

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

Your Committee on Housing is in accord with the intent and purpose of S.B. No. 801, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 801, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Liu.
(Representative Cavasso did not concur.)

SCRep. 680-86 Housing on S.B. No. 1764-86

The purpose of this bill is to authorize the Hawaii Housing Authority (Authority) to issue capital appreciation bonds under the Hula Mae Program.

A capital appreciation bond, similar in concept to a savings bond, is purchased at a discounted price and redeemed for its full face value at maturity. During the period between the bond's purchase and redemption, a capital appreciation bond accretes in value. The principal of accretion is important since capital appreciation bonds: (1) are considered to bear no interest (they increase in principal value only); and (2) have no regular payments of interest. These two technical deviations from the typical characteristics of bonds are addressed in the bill.

The advantage or benefit of capital appreciation bonds to the eligible borrower is a savings in the mortgage rate of 0.20 to 0.25 percent. This is achieved by issuing capital appreciation bonds at a discounted value equal to an amount from seven to ten per cent of the total value of the bonds issued.

The advantage or benefit of capital appreciation bonds to the Authority is lowered bond issuance costs. This is possible because capital appreciation bonds enable the bond issues' cash flow to support additional shorter term serial bonds.

Your Committee on Housing is in accord with the intent and purpose of S.B. No. 1764-86, 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. 681-86 Transportation on S.B. No. 2512-86

The purpose of this bill is to amend Chapter 279G, Hawaii Revised Statutes, by establishing a State policy encouraging ridesharing.

The Department of Transportation is advocating ridesharing as a suggested mitigation measure for the expected traffic congestion caused by new developments in Central and Leeward Oahu and feels it can also be used for other areas on this island.

This bill makes it a state policy to encourage ridesharing and requests that the Legislative Auditor present a study on ridesharing twenty days before the regular legislative session of 1987.

Your Committee is in agreement with the intent of the bill to provide for the establishment of a state policy encouraging ridesharing. However, the Department of Transportation testified that it may not be necessary for the Legislative Auditor to conduct a study on ridesharing because of the Department of Transportation's ongoing commitment to ridesharing. Furthermore, testimony indicated that passage of H.B. No. 2429-86 will provide for such a study. Therefore, your Committee has amended this bill by deleting the section regarding the study to be done by the Legislative Auditor.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2512-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2512-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Manegdeg and Onouye.

SCRep. 682-86 Transportation on S.B. No. 2325-86

The purpose of this bill is to amend section 243-4, Hawaii Revised Statutes. This bill seeks to correct a legislative oversight by setting the diesel fuel tax one cent less per gallon than the regular fuel tax.

Testimony was presented in support of this bill. Testimony indicated that Act 239, Session Laws of Hawaii, 1985, amended Section 243-4 (b), Hawaii Revised Statutes, by revising the fuel tax for diesel oil to 11 cents. Under subsection 243-4 (a) (1), a one cent fuel tax for diesel oil is also paid; therefore, the total diesel fuel tax paid amounts to 12 cents instead of 11 cents. This bill corrects the oversight.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2325-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Manegdeg and Onouye.

SCRep. 683-86 Water, Land Use, Development and Hawaiian Affairs and
Agriculture on S.B. No. 2394-86

The purpose of this bill is to authorize the Department of Land and Natural Resources (DLNR) to negotiate and enter into long-term residential leases, not to exceed 55 years, with persons who reside on Waimanalo farm lots and who operate farms on these lots by devoting at least one-third of their time or derive at least one-third of their net cash income from direct participation in farming.

According to testimony by the Hawaii Farm Bureau Federation, the membership of the East Oahu County Farm Bureau includes a number of Waimanalo farmers with revocable permits to lease State lands on a month-to-month basis. Your Committees find that some of these farmers have been directly participating in farming, as qualified by specifications in Subsections 171-68(a) (2) and (3), for up to two generations.

Your Committees are in agreement that it should not be the intent of this bill to set a precedent for other farmers elsewhere in Hawaii to obtain long-term leases, without bidding, as proposed by this bill. Moreover, your Committees are of the opinion that it is not valid for such leased lands to be exempt from county subdivision ordinances, regulations, and requirements. Therefore, your Committees recommend the following amendments:

(1) To instruct and authorize DLNR to negotiate and enter into short-term leases not to exceed five years, rather than long-term leases not to exceed 55 years, in order to allow DLNR sufficient time to study their existing policies and practices as well as Chapter 171, Hawaii Revised Statutes;

(2) To delete SECTION 5 in its entirety, in order to remove such leased lands from exemption under county subdivision ordinances, regulations, and requirements; and

(3) To renumber SECTION 6 and SECTION 7, to conform to the second amendment recommended above.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Agriculture are in accord with the intent and purpose of S.B. No. 2394-86, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2394-86, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 684-86 Water, Land Use, Development and Hawaiian Affairs and
Planning, Energy and Environmental Protection on S.B. No.
1961-86

The purpose of this bill is to expand provisions authorizing the Aloha Tower Development Corporation (ATDC) to issue revenue bonds to finance the entire Aloha Tower redevelopment project and to ensure that ATDC obtains the most favorable rates possible on the bond issues.

The bill expressly permits ATDC to finance harbor improvements and to manage facilities ancillary to maritime facilities, such as hotels, office space, and parking structures. The bill clarifies that ATDC can only lease property under its jurisdiction. It also provides that ATDC may issue a variety of tax-exempt bonds and receive rents and payments connected with such development.

Your Committees find that the Aloha Tower project is an important redevelopment effort which can help revitalize the Honolulu downtown area, create jobs, improve our maritime facilities, establish a trade center, and provide greater accessibility of the Aloha Tower site for public use. The revenue bonds which will be issued to finance the project will not cost the State any money since repayment would come through revenues generated by the project itself.

However, your Committees are concerned, as indicated in the Standing Committee Report (WLH/PEP) on S.B. No. 1960-86, H.D. 1, about an apparent oversight in drafting this bill. ATDC has indicated in its testimony on S.B. No. 1960-86 that it is its intention to issue term bonds, instead of serial bonds, and to use the "sinking fund" device to ensure the availability of moneys to meet its debt service requirements at the end of the term of the bonds. The concern of your Committees is that there is no requirement in the bill or the present law to create such a fund, nor is there a recitation of the safeguards normally present when sinking funds are used to accumulate the moneys necessary to pay bondholders when the bonds mature.

Your Committees have amended the bill to rectify the apparent omission, by inserting on lines 17, page 10, of the bill a sentence to read:

"All revenue bonds authorized by this section shall be issued pursuant to Part III of Chapter 39, Hawaii Revised Statutes, except as provided by this chapter."

This amendment, your Committees believe, will correct the problem discussed above. However, your Committees recommend that your Committee on Finance give further consideration to the matter of term bonds, the use of sinking funds, and the necessary safeguards to protect the issuer and the holders of the bonds.

Your Committees have further amended the bill, at the suggestion of the ATDC. On line 5, page 11, the underlined phrase has been replaced by the following:

"payable at such time or times as the corporation may determine with the approval of the Governor (except for deeply discounted bonds which are subject to redemption or retirement at the accreted value thereof; provided that the discounted value of such bonds shall not exceed ten per cent of issue and no such bond shall be issued without prior approval of the Director of Finance and the Governor)".

The reason for the amendment is to limit the amount of deeply discounted bonds and, as indicated in the amendment, make them subject to approval of the State Director of Finance and of the Governor. Your Committees concur with this precautionary provision.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Planning, Energy and Environmental Protection are in accord with the intent and purpose of S.B. No. 1961-86, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1961-86, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 685-86 Water, Land Use, Development and Hawaiian Affairs on S.B.
No. 2145-86

The purpose of this bill is to preserve Hawaii's unique native flora and fauna by designating the Department of Land and Natural Resources (DLNR) to reclassify certain significant areas into the conservation district.

According to testimony by DLNR, this bill can contribute to the conservation of native forests and rare biota within lands presently outside of the conservation district. These lands may be State-owned or privately owned.

Your Committee is in agreement that the task of reclassifying certain significant areas into the conservation district is necessary. However, your Committee is of the opinion that the appropriate State agency to initiate this task and implement its activities is the Department of Planning and Economic Development (DPED). At the same time, DLNR would assist DPED in this task. Your Committee also recommends that an appropriation of \$50,000 be authorized for expenditure by DPED for the purposes of this bill. Therefore, your Committee recommends the following amendments:

(1) To replace the phrase "The Department of Land and Natural Resources", on line 14, page 1, with the following: "The Department of Planning and Economic Development, with the assistance of the Department of Land and Natural Resources";

(2) To add a new SECTION 3 to authorize appropriation:

"SECTION 3. There is appropriated 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 1986-1987, for the purposes of this Act. The sum appropriated shall be expended by the Department of Planning and Economic Development.";

(3) To revise the effective date, in SECTION 4 of this bill, from "upon its approval" to "on July 1, 1986"; and

(4) To renumber SECTION 3 and SECTION 4 to conform to the second amendment recommended above.

Your Committee is aware that the recommended appropriation of \$50,000 is insufficient to complete the task of reclassification of all significant areas into the conservation district. However, your Committee understands that the initial phase of reclassification will cover those areas in State lands.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 2145-86, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2145-86, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 686-86 Water, Land Use, Development and Hawaiian Affairs on S.B.
No. 2095-86

The purpose of this bill is to establish enterprise zones in Hawaii. The bill provides that enterprise zones are to be designated by the Governor as economically depressed areas in Hawaii and administered by the Department of Planning and Economic Development, to create commercial activity in these areas through the use of certain business benefits, such as State tax credits, general excise tax exemptions, and local incentives.

There are currently no statutory provisions for the establishment of enterprise zones in Hawaii, and your Committee is in agreement that certain areas in the State should be designated as enterprise zones. Your Committee supports this bill for other reasons. First, it designates State authority in designation and administration, without creating an additional "Authority". Second, it provides for strong incentives for businesses to establish enterprises in the enterprise zones. These incentives include seven years of business tax credits and general excise tax exemptions. Your Committee is of the opinion that seven years is sufficient time for meaningful tax incentives to assist business development in these enterprise zones. Third, designation of economically depressed areas as enterprise zones would not mean serious loss of State revenues from these areas, because revenues from business activities in areas to be designated enterprise zones would not be currently significant. It is the intent of this bill to increase economic activity in these areas to a significant level, and at the same time it creates job opportunities for residents in those areas.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 2095-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 687-86 Water, Land Use, Development and Hawaiian Affairs on S.B.
No. 2359-86

The purpose of this bill is to authorize the issuance of industrial development bonds not to exceed \$6,000,000 to assist Hawaiian Abalone Farms Limited Partnership.

According to testimony by the Department of Planning and Economic Development, the purpose of these bonds would be to assist the expansion of Abalone Farms at the Natural Energy Laboratory of Hawaii (NELH) to expand abalone production and sales. Your Committee is of the opinion that, with financing through these industrial development bonds with a loan guarantee from the Farmer's Home Administration, Abalone Farms might become a major employer in the State and a leader in the aquaculture industry.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 2359-86, 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. 688-86 Water, Land Use, Development and Hawaiian Affairs on S.B.
No. 564 (Majority)

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

Article XI, Section 7, of the Hawaii State Constitution adopted in 1978 requires that:

"The Legislature shall provide for a water resources agency which, as provided by law, shall set overall water conservation, quality and use policies; define beneficial and reasonable uses; protect ground and surface water resources, watersheds and natural stream environments; establish criteria for water use priorities while assuring appurtenant rights and existing correlative and riparian uses; and establish procedures for regulating all uses of Hawaii's water resources."

In attempting to define the intention of the Constitutional Convention, your Committee finds in the Standing Committee Report No. 77 that "one agency shall be created or designated..." and that the agency "should not be an existing governmental body which is a competing user of water...." Your Committee further finds in the said Report that it was not the intention of the Convention "to interfere with the water rights of private property owners using water as defined by law, but merely to subject such rights to reasonable regulation...."

Further, in its Committee of the Whole Report No. 18, the Constitutional Con-

vention indicated that "it was never intended that the proposal confront the question of ownership of water resources because that is more appropriately a matter for the courts". Moreover, the Committee of the Whole stated that "since appurtenant rights and existing correlative and riparian uses are assured, it would not be warranted to restrict the water resource agency to regulating only new uses of water..." but to avoid any water supply crisis, "the agency should have the flexibility to regulate existing as well as future usage of Hawaii's water resources...."

The Legislature, in Act 170, Session Laws of Hawaii 1982, directed that:

"The basic function of the water code is to recognize, clarify, and systematize legal concepts relating to water resources. The water code shall include only fundamental matters of policy, principles, and rights that have continuous application and will not require or be subject to frequent amendment."

Moreover, the testimony received by your Committee from the Department of Land and Natural Resources (DLNR) summarizes most of the concerns that have been communicated to your Committee. In its recent testimony, DLNR stated that the objective of the code should be to focus on regulatory measures to protect waters from future waste and misuse. DLNR further stated that the code should not define and codify a system of water rights, nor create and ensure rights which may not now exist. The Department and others, such as the Conservation Council for Hawaii, have expressed the need for protection of instream uses and the prevention of diminution of streamflows for beneficial uses. The Department further stated that the nature and extent of native Hawaiian water rights need to be sufficiently described and addressed.

Your Committee, recognizing the directions of the Constitutional Convention and considering the information gathered during the interim and through its public discussions, has attempted to identify those legal concepts relating to water resources that should be clarified and systematized and to formulate a water code that addresses the wide range of concerns that have been expressed to the Committee, without going beyond the intention of the Constitutional Convention. In developing its recommendations, your Committee has identified those concepts that should be addressed in the water code and organized these concepts into separate parts in the bill.

Your Committee has redrafted Part I, Administrative Structure. The Board of Land and Natural Resources currently functions as the water resources agency for the State. Your Committee is in agreement that the Board should continue as the water resources agency, provided that it divests itself of any functions that would make it a competing user of water. In Part I, as redrafted, your Committee recommends the following amendments:

- (1) To define the general powers and duties of the Board to be those specified in Chapters 176 and 177, Hawaii Revised Statutes;
- (2) To delete the deputy for water resource management, the Advisory Commission on Water Resource Management, and the State Water Use and Protection Plan;
- (3) To include the provisions for investigations, injunctions, hearing procedures, and judicial review from Chapter 177;
- (4) To require all persons making withdrawals or diversions of water to submit reports of water use; and
- (5) To provide that the code shall not impair any provisions of any county charter or ordinance for planning, zoning, and the management, control, and operation of water systems, provided that the county boards or departments of water supply comply with the reporting requirements of the BLNR.

Your Committee is of the opinion that the powers and duties contained in Chapters 176 and 177 have stood the test of continuous application required by Act 170 and are adequate for the BLNR to administer the regulatory program to be established by this code. Under these powers and duties, the Board will have the power to plan and coordinate programs for the protection, control, and regulation of water resources. Using this authority, the Board could formulate a water use and protection plan for the protection, control, and regulation of water resources that could respond to its water resources program without being subject to frequent statutory amendment. Regarding the deputy for water resources

management and the Advisory Commission on Water Resource Management, your Committee is of the opinion that there has not been a demonstrated need for the position or the Commission. If, upon the implementation of the program, the Board can demonstrate the need for either or both, it can, at that time, submit a proposal for that purpose.

Further, regarding the water use and protection plan, your Committee is of the opinion that, if the plan is to be included in the statutes, the Legislature needs to eliminate the confusion over the primacy of such a plan. If the Hawaii State Plan is supposed to be the "guide for the future long-range development of the State...", the water resources functional plan that is directed by the State Plan is the appropriate document in which to address water resources.

Your Committee is also of the opinion that all persons making withdrawals or diversions of water should be required to submit reports of water use to enable the Board to develop an inventory of water use and a good profile of water users. Without this reporting requirement, the development of an inventory and a good management program would be difficult.

Further, your Committee is of the opinion that this code should not impair the management and operation of any county water system, nor should it impair any county planning and zoning ordinances to the point that water controls planning and zoning. The counties should be subject to the extent that they receive allocations of water from the BLNR. If the management and operation of county water systems do not violate the provisions of the code, the code should not impair their operations and management to the extent that the use of water through a county water system, as directed by planning and zoning ordinances, would become burdensome. It is the intention of your Committee, however, that county water systems be required to submit water use reports to the BLNR as other users would be.

Your Committee is of the opinion that the responsibility for water quality belongs to the Department of Health (DOH), and your Committee has stated that DOH should continue to exercise those powers and duties. DOH enforces various statutes and rules as delegated by the U.S. Environmental Protection Agency (EPA). These include programs such as the Safe Drinking Water Program, National Pollution Discharge Elimination System, Underground Injection Control Program, 208 Water Quality Management Program Plan, Surface Impoundment Assessment, Hazardous Waste Management Program, and Waste Water Treatment Works and Construction Grants Program. These delegations from EPA are based upon DOH's demonstration of adequate State statutory authority and program resources to enforce the federal laws and to bring millions of dollars of federal funds into Hawaii for the implementation of various environmental programs. It is not the intention of your Committee to jeopardize these programs. Your Committee, however, is of the opinion that those water quality provisions in S.B. No. 564, S.D. 2, should be incorporated into the appropriate health, water quality, and environmental chapters of the statutes. Your Committee, therefore, recommends that the water quality portion be deleted from the bill and those provisions of the bill relating to water quality, that do not conflict with the delegations from EPA, be included, through other legislation, in the appropriate statute.

Your Committee recommends a new part entitled "Water Use Rights". Your Committee is in agreement with the Constitutional Convention that the ownership of water resources is more appropriately a matter for the courts. It is not the intention of your Committee to confer upon persons any more rights than they now have or to deny any rights than they now have. Your Committee is of the opinion that, if a right to use water has been adjudicated or is a right conferred by a document such as a patent awarded by the board of commissioners to quiet land titles, that right should be noted by the board. DLNR stated that the Legislature should not create and ensure rights which may not now exist, nor restate the case-law existing before the McBryde decision. It is not the intention to do either, but rather to provide that, if any right has been adjudicated or conferred, that right should be made known to the board. Your Committee is of the opinion that the McBryde matter has not been finally decided and does not intend to restate the case-law existing before the 1973 decision. Your Committee, therefore, has stated in its declaration of policy to clarify its intention that no part of the code should be construed as conferring or determining the ownership of water in favor of any private party.

Your Committee recommends another new part entitled "Certificate of Use". It is not the intention of your Committee to only provide for regulation of the use of

water in critical or emergency situations. This part provides that all uses in other than water resource management areas should be by a certificate of use. The certificate would be the manner in which the DLNR would record the description of the water use, the quantity of water or time of taking required by that use, the use to which the water is being put, and other information that may be required. The certificate is meant to be a record of a right to use water for a reasonable and beneficial purpose, and not to be an instrument that confers ownership.

To answer the claim that water rights conflicts are lengthy, costly processes that only the rich can afford, your Committee has provided for and recommends that a water rights claims conciliation process be instituted to attempt to resolve water rights conflicts through an informal process similar to that used for medical claims. Your Committee does not propose to give DLNR any adjudicatory powers; your Committee recommends that a party to the process who rejects the decision of the Board or its special master appointed to conduct the hearing may commence an action in circuit court. This recommendation is not meant to be a mechanism for conferring ownership, but your Committee is of the opinion that water rights conflicts will occur and cannot be ignored. Again, your Committee holds that only the courts can decide on the question of ownership of water. This recommendation, however, is an attempt to resolve conflicts in a manner that would reduce costs and give an indication of the probable outcome should the conflict be adjudicated.

Your Committee further recommends, as does S.B. No. 564, S.D. 2, that water may be transported and used beyond overlying land or outside the watershed from which it is taken. Your Committee has provided, however, that the transportation of water can occur only if the quantity of water under the certificate of use is not exceeded, the transportation and use of the water do not interfere with other uses of water, and the use of the water is reasonable and beneficial.

Your Committee recommends another new part entitled "Native Hawaiian Water Rights". The part provides that the rights of native Hawaiians established by the Hawaiian Homes Commission Act, 1920, as amended, shall not be diminished or limited, and that the funds derived from water licenses that are paid to the Hawaiian Home Loan Fund and to the Office of Hawaiian Affairs shall not be diminished or extinguished. Your Committee further recommends that the traditional and customary rights exercised for subsistence, cultural and religious purposes by ahupua'a tenants should not be limited or diminished, and that the appurtenant water rights of kuleanas, taro water rights, should not be diminished or extinguished by a failure to file a declaration for a certificate of use.

DLNR, in its recent testimony addressing the clarification of native Hawaiian water rights, stated:

"We believe all common law water rights in the State should be collectively addressed in the statutes, along with appropriate new legislation for the clarification and systematization of legal concepts relating to water rights, but only after deliberate and careful review by all affected parties, particularly the general public."

Your Committee finds that the Constitutional Convention, in its Standing Committee Report addressing traditional and customary rights, decided to eliminate specific categories of rights so as not to constrain the Legislature in its actions. According to the Report, it was not the intention of the Convention to remove or eliminate any statutorily recognized rights of native Hawaiians from consideration. Recognizing the courts' unwillingness and inability to define native rights, your Committee has further recommended that DLNR be requested to conduct a deliberate and careful review of the legal concepts relating to water rights, including the implications in traditional and customary rights of native Hawaiians, and that the Department involve all affected parties, including the general public, in conducting this review.

Your Committee has rewritten the provisions relating to designation of water management areas and recommended a new part entitled "Water Resource Management; Emergency Powers". Your Committee recommends that surface water be included in a regulatory mechanism following that of Chapter 177. Your Committee, however, based on information from the boards of water supply and other sources, recommends the following criteria for the designation of water resources management areas:

(1) The current increases in uses and authorized planned uses will cause the maximum rate of withdrawal from the ground water source to reach ninety per cent of the sustainable capacity of the water resources management area; or

(2) Surface water resources are diminishing as evidenced by excessively declining surface water levels or increasing diversions of surface water, to levels which detrimentally affect beneficial instream uses or prior existing off-stream uses.

The new criteria would trigger the designation of management areas before the crisis occurs and still provide time for BLNR to act. The authorized planned uses are uses that may not be current water users but have received the required planning and zoning approvals of the appropriate county. The designation would not occur when ninety per cent is reached, but when proposed uses and the rate of current increases would cause ninety per cent to be reached if all the proposed uses are completed.

Surface water sources may be designated when the surface water levels decline excessively, or when increasing diversions of surface water have a detrimental effect on beneficial instream uses and existing off-stream uses. It is not your Committee's intention that a surface water source be designated annually because of shortages of water caused by seasonal declines in rainfall.

Your Committee recommends a further amendment that is not now in Chapter 177, to provide for the release of water in a designated water resources management area when there is a change in the use of water that results in a decrease in the quantity of water used. When there is a change in use of water, from an agricultural use, such as sugar, to an urban use, as an example, there is often a great difference in the quantity of water required. In these situations, BLNR should determine the difference in the quantity of water of the new use and the existing use and establish a timetable for the extinguishment of the use of water that is the difference. The extinguished quantity of water would be returned to BLNR for allocation to new uses.

Your Committee recommends a new part entitled "Instream Uses". In addition to the powers for the regulation of surface waters under designated water resources management areas, your Committee recommends that the instream protection program of Chapter 176D be incorporated in this part. Much of the testimony received by your Committee expressed the need for the protection of instream uses, and your Committee, in response to these requests, recommends the inclusion of the provisions of Chapter 176D in this part. Your Committee, however, is aware that S.B. No. 1506-86, relating to instream uses of water, is also being considered. Your Committee recommends that this part on instream uses be applied statewide and that, should S.B. No. 1506-86 also pass, the provisions of that bill be incorporated into this part.

Your Committee has made minor amendments to the part on wells, which are to include provisions of Chapter 178 that are not contained in the bill.

Regarding the question of "home rule", your Committee has recommended the following amendments:

(1) To provide that the provisions of the code, including the allocation, transportation, and use of water, be interpreted and applied in a manner that conforms to the planning and land use policies of both the State and counties;

(2) To provide that the county, if the county council elects to do so by resolution, may administer the program for the issuance of certificates of use, provided that the program is conducted according to guidelines established by BLNR; and

(3) To provide that the counties may issue permits for the construction of new wells, except in a designated water resources management area.

These provisions are intended to provide flexibility in the administration of the water resources management program. In the event that a water resources management area is declared, however, it is your Committee's intention that BLNR be the controlling agency.

Your Committee further recommends that:

(1) The powers, functions, and duties of DLNR for the management, control, operation, and maintenance of irrigation water facilities be transferred to the Department of Agriculture; and

(2) The powers, functions, and duties of DLNR for the construction of water facilities be transferred to the Department of Planning and Economic Development.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 564, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 564, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

(Representatives Hagino, Nakata, Isbell and Kamali'i did not concur.)

SCRep. 689-86

Water, Land Use, Development and Hawaiian Affairs on S.B.
No. 2320-86

The purpose of this bill is twofold: (1) to enable the Department of Hawaiian Home Lands (DHHL) to use its credit, in the form of moneys due from DHHL borrowers, as collateral for borrowing from a financial institution; and (2) to authorize the DHHL to transfer certain loan funds into the Hawaiian Home Trust Fund to serve as cash guarantees or reserves for federal loan programs.

S.B. No. 2320-86 and H.B. No. 2578-86 are companion bills.

According to testimony by DHHL, many homestead lots awarded in fiscal year 1984-1985 have not been developed, and planned construction activities cannot proceed because of a lack of loan financing. The lack of DHHL funds for making loans and for building roads, drainage, utilities, and other infrastructural improvements on homestead lands hampers the ability of new lessees to build on their lands. Your Committee is in agreement that the DHHL be allowed to obtain additional financing by using its loan accounts receivable (moneys owed by present borrowers) as collateral on loans from financial institutions. The loans made to DHHL would be backed up by moneys due the Department. These DHHL loans would then be made available to new lessees for home construction, as well as for construction of infrastructure in homestead subdivisions.

Your Committee also finds that Act 284, Session Laws of Hawaii 1985, authorizes DHHL to form an account within the Hawaiian Home Trust Fund as a reserve for home loans insured by the U.S. Department of Housing and Urban Development (HUD). This bill would allow homestead lessees to participate in the HUD home loan program, by expressly allowing DHHL to transfer any available and unpledged loan funds (moneys from the Hawaiian loan guarantee fund) to set up the cash reserves for the HUD home loan program.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 2320-86, 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. 690-86

Water, Land Use, Development and Hawaiian Affairs on S.B.
No. 2319-86

The purpose of this bill is to amend the Hawaiian Homes Commission Act, to authorize the Department of Hawaiian Home Lands (DHHL) to develop lands by contract and by agreements with developers. The bill specifies that this type of development would be for (1) homesteading purposes and (2) commercial purposes to generate income for the Department.

S.B. No. 2319-86 and H.B. No. 2577-86 are companion bills.

Section 171-60, Hawaii Revised Statutes, requires that DHHL obtain the approval of the Governor and also legislative authorization through a concurrent resolution before DHHL may enter into an agreement with a private developer to develop or subdivide Hawaiian homelands as a leasehold project. According to DHHL testimony, the development of unimproved lands, with potential for income-generation, through agreements with private developers is a prudent course

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Public Employment and Government Operations are in accord with the intent and

purpose of S.B. No. 970, 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 Lardizabal, Manegdeg, Menor, Onouye, Souki, Hemmings and Medeiros.

SCRep. 693-86 Water, Land Use, Development and Hawaiian Affairs and
Planning, Energy and Environmental Protection on S.B. No.
1960-86

The purpose of this bill is to amend Act 121, Session Laws of Hawaii 1985, to increase the revenue bond authorization from \$33,260,000 to \$200,000,000 in order to finance redevelopment of the Aloha Tower complex.

Act 121 last year authorized the Aloha Tower Development Corporation (ATDC) to issue revenue bonds for the public participation portion of the redevelopment project. This bill would increase the \$33,260,000 in Act 121 to \$200,000,000. The bill also specifies that the authorization for the bond issuance is to be "in such principal amount as shall be required to yield the amount appropriated" in the bill.

Your Committees also find that, instead of the intent of Act 121 to limit State financial participation to the \$33,260,000 in the Act for the public participation portion (infrastructure) of the project, the \$200,000,000 in this bill is for the financing of the full project or projects under Chapter 206(5), Hawaii Revised Statutes, or the Aloha Tower project.

Your Committees also find that the intent of ATDC is to rely on "term bonds" and, to some extent, "deeply discounted bonds", and not serial bonds.

Your Committees concur with the intent of the bill (to permit ATDC to continue its planning and negotiations with the developers), and your Committees are of the opinion that the cost could be as much as the proposed \$200,000,000. Your Committees also concur with the amendment proposed by the Department of Planning and Economic Development (DPED) that the phrase in SECTION 2, which states "in such principal amount as shall be required to yield the amount appropriated for such purposes", be deleted. The phrase is now unnecessary.

Your Committees are of the opinion, however, that, if the testimony from DPED regarding the form of the bonds to be issued is to be carried out, the "sinking fund" mentioned should be specifically required and the necessary safeguards regarding the management of sinking funds be included in the enabling legislation. This will be addressed in the discussion on S.B. No. 1961-86, S.D. 1, which is the enabling portion.

Your Committees on Water, Land Use, Development and Hawaiian Affairs and Planning, Energy and Environmental Protection are in accord with the intent and purpose of S.B. No. 1960-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1960-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 694-86 Water, Land Use, Development and Hawaiian Affairs on S.B.
No. 81

The purpose of this bill is to provide for definition and clarification of the responsibility of maintaining streams, in order to protect the health, safety, and welfare of the people of Hawaii. In effect, the bill pinpoints the proper authority of stream and drainageway maintenance, by ownership, and makes this authority a statewide assignment.

Under present law, the neighbor island counties are responsible for maintaining all public channels, including those on State lands. For the City and County of Honolulu, its responsibility is restricted to only those streams owned by the City and for projects undertaken by the City. State responsibility was not specified, nor was any government agency specified to oversee or enforce maintenance requirements on private lands on Oahu.

Your Committee is in agreement with the intent of the bill; however, your Committee recommends the following amendments:

(1) To replace the word "streams" with "streambeds" wherever it appears on pages 5, 6, and 9 of the bill, in order to identify the specific area in streams where maintenance is required;

(2) To add a new paragraph (9) on line 17, page 12, to read: "With regard to certain streambeds and drainageways whose ownership is not claimed nor determined, the board is authorized to coordinate the resolution of streambed and drainageway maintenance problems with the appropriate state agency or agencies", in order to avoid conflicting responsibility in maintenance and to assign responsibility to the State; and

(3) To renumber paragraph (9) to paragraph (10), on line 17, page 12.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 81, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 81, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 695-86

Water, Land Use, Development and Hawaiian Affairs on S.B.
No. 1506-86 (Majority)

The purpose of this bill is to amend Chapter 176D, Hawaii Revised Statutes, by extending the instream use protection program to all streams in Hawaii. The bill also includes a provision to exempt transportation-related maintenance and construction projects from stream channel alteration permit requirements.

Under present law, the instream use protection program applies only to streams located in the Windward Oahu districts of Koolaupoko and Koolauloa. Your Committee is in agreement that the proposed extension is necessary in authorizing the Department of Land and Natural Resources (DLNR) to prepare for implementing instream flow standards, when disposing of water from State watersheds, including that pumped from wells, and when regulating use of lands and waters within the State conservation districts.

In reviewing the numerous testimonies received, your Committee recommends the following amendments:

(1) To add the phrase "on a stream-by-stream basis", on line 13, page 1, to precede the phrase "whenever necessary to protect..." Your Committee is fully aware that the flows of water vary tremendously from stream to stream, given each stream's unique existing and potential water uses, and that no statewide instream use protection program can sufficiently and adequately protect all streams in Hawaii, without consideration of each stream's uniqueness. Therefore, your Committee recommends that the instream flow standards be on a stream-by-stream basis.

(2) To replace the proviso on lines 1-5, page 6, with the following: "provided that routine streambed and drainageway maintenance activities are exempt from obtaining a permit." According to testimony by DLNR, transportation-related maintenance activities include:

(a) The removal of debris and grass from existing culverts and bridges, or the repair of existing structures in streams; and

(b) The construction of new bridges and culverts.

Your Committee finds that stream maintenance activities are commonplace, repetitive activities essential to preventing the flooding of adjacent properties during storms, and that these activities are sufficiently routine to warrant exemptions from stream channel alteration permit requirements. However, your Committee is of the opinion that the construction of new bridges and culverts would continue to require environmental assessments or environmental impact statements, and that its exemption is not desirable from the permit requirement review process.

(3) To add the clause "Where the standards have been adopted", to precede the underlined sentence beginning on line 19, page 6. Your Committee is in agreement that the implementation of instream flow standards can proceed only after these standards have been adopted on a stream-by-stream basis. Therefore, once the Board of Land and Natural Resources has adopted standards specific to each stream, they may be applied to that stream, without impact on instream uses of water elsewhere.

(4) To add the clause "notwithstanding the provisions of subsection 343-5(a)(1), a person wanting to renew without substantive modification a license to harvest water from state lands shall not be required to prepare an environmental assessment", to follow the underlined sentence ending on line 2, page 7. Your Committee is in agreement that parties already having licenses for use of water from State lands should be exempted from having to prepare environmental assessments or environmental impact statements when they request renewal of these licenses.

(5) To include a "drop dead" clause in SECTION 3 on page 7. Your Committee is aware that, if a statewide water code is enacted this year, Chapter 176D, Hawaii Revised Statutes, as amended in this bill, would be nullified upon enactment of the water code. Accordingly, your Committee recommends the "drop dead" clause.

Your Committee on Water, Land Use, Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 1506-86, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1506-86, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Crozier and Pfeil.

(Representative Andrews did not concur.)

SCRep. 696-86

Public Employment and Government Operations and Judiciary
on S.B. No. 1652-86

The purpose of this bill is to grant permanent civil service status to the position of director of the Hawaii Criminal Justice Data Center.

The Hawaii Criminal Justice Data Center (Data Center), previously known as the Statistical Analysis Center, was originally placed within the Judiciary for administrative purposes, and was dependent upon federal funds for its operations.

The Data Center was statutorily established as a permanent State agency in 1979 pursuant to passage of Act 129, SLH 1979. In 1981 the Data Center was transferred to the Department of the Attorney General for administrative purposes. Thereafter all other positions except that of the director were granted permanent civil service status.

Today, the Data Center's operations are totally funded by the State, and make it comparable to a division within a department. And as an ongoing program of the State, the Data Center needs the continuity of service on the part of the director to ensure program progression, and to minimize the effect of political influence in this area. Your Committees therefore find that the placement of the director's position within the State's civil service system would accomplish these objectives.

Testifying in support of this measure were representatives from the Department of the Attorney General, the Department of Personnel Services, the State Intake Service Centers, the Police Department of the City and County of Honolulu, and the Department of the Prosecuting Attorney of the City and County of Honolulu.

The representative from the Department of the Attorney General recommended that the effective date provision in the bill be changed to July 1, 1986 to permit the initiation of necessary classification activities before the implementation of an Act should this bill become law. Your Committees concur with the departmental recommendation, and have amended the bill accordingly.

Your Committees on Public Employment and Government Operations and Judiciary

are in accord with the intent and purpose of S.B. No. 1652-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1652-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Apo, Bunda, Shito, Tungpalan, Hemmings, Jones, Liu and Medeiros.

SCRep. 697-86 Housing and Consumer Protection and Commerce on S.B.
No. 2190-86

The purpose of this bill is to authorize the Hawaii Housing Authority to establish taxable mortgage securities programs.

Federal legislation threatens to curtail greatly the Hawaii Housing Authority's use of tax exempt bonds to fund public programs. The federal guidelines would institute a volume aggregate cap and would put stricter income limits on prospective applicants.

This bill provides the Hawaii Housing Authority with another viable alternative to finance mortgage loans by the use of taxable securities.

Your Committees have amended S.B. 2190-86, S.D. 1, by deleting section 2. Section 2 allows the Hawaii Housing Authority to issue taxable securities in an aggregate principal amount not to exceed \$200,000,000 at such times and in such amounts as the authority deems advisable for the purpose of undertaking and maintaining any of the housing loan programs under this act.

Your Committees believe that taxable securities may involve a commitment of state funds to offset higher interest rates being passed on to the ultimate home purchaser. The deletion of section 2 allows the Legislature to more thoroughly review the use of taxable securities for specific developments and projects. This bill enables the authority to issue taxable securities when it becomes necessary to do so. At this point in time, the authority may then come before the Legislature with its requests for the necessary funding.

Your Committees have also made technical, non-substantive amendments to this bill for the purpose of style and clarity.

Your Committees on Housing and Consumer Protection and Commerce are in accord with the intent and purpose of S.B. No. 2190-86, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2190-86, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees.

SCRep. 698-86 Judiciary on S.B. No. 1840-86

The purpose of this bill is to prevent a criminal from financially benefitting from his or her criminal enterprise through the sale of information of the criminal enterprise which may be used for a movie, book, article, radio, television program or other form of communication.

The bill requires the person who contracts with the offender to deposit moneys payable under the contract with the Criminal Injuries Compensation Commission. The moneys deposited would then be used to pay a money judgment obtained by the victim or victim's representative, and to pay legal expenses of the convicted person in prosecuting an appeal.

Your Committee received testimony from the Criminal Injuries Compensation Commission, Victim/Witness Kokua Services, and the Prosecuting Attorney, City and County of Honolulu in support of this measure.

Your Committee finds that presently, a person convicted of a criminal offense is free to exploit his or her crime by selling information relating to the crime. Your Committee believes that a convicted person should not be allowed to financially profit from his or her crime.

Your Committee amended the bill to allow interest on the collection account to be

available to pay for legal expenses of the offender and the interest on the special account to be available for victims, victim's representatives, and judgment creditors.

Your Committee further amended the bill to allow the offender to ask the court for a larger percentage to be deposited in the collection account to pay for legal expenses.

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

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1840-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1840-86, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Apo.

SCRep. 699-86 Judiciary on S.B. No. 1718-86

The purpose of this bill is to compensate victims of certain crimes and providers of services under the Criminal Compensation Act and provide appropriations to replenish the fund from which payment of awards have already been made.

Your Committee recognizes the value of this program to protect the State's residents and visitors at least in part, from the consequences of criminal acts. Since its inception the program has awarded a total of \$4,539,637.09 to 3,821 persons whose claims have been approved.

The fund has limited funds for immediate disbursement, however, in 1985 as in many other years, all of this money has been used to compensate 403 victims and providers who received \$489,112.09. The appropriation for both replenishing the fund and also providing payment to victims and providers are contained in this bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1718-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 700-86 Judiciary on S.B. No. 2155-86

The purpose of this bill is to amend chapter 291, HRS, to provide criminal penalties for persons who, while driving under the influence of intoxicating liquor, cause serious bodily injury or death to another.

The penalties for the misdemeanor crime of driving under the influence under section 291-4, HRS, have increased, however, penalties have not increased where driving under the influence results in death or serious injury.

Your Committee received testimony from the Honolulu Police Department, Mothers Against Drunk Driving (MADD), and Gary Okamoto, M.D. in support of this bill. The Department of Health expressed concerns about the treatment provisions in the bill.

Your Committee finds that drunk drivers who cause accidents which result in serious bodily injury or death should receive stiffer penalties.

Your Committee amended the bill by deleting the provision that requires a six month treatment program. Your Committee received testimony from the Department of Health and MADD questioning the six month duration. Their testimony indicated that there are available programs which range from 28 days to two years.

Your Committee also finds that because of the seriousness of the offense, there should be a longer revocation period for the license and not the 90 day period as contained in section 291-4, HRS. Your Committee, therefore, amended the bill to

provide for longer revocation periods if the offender is convicted of the same offense or a section 291-4, HRS offense within a five year period.

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

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2155-86, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2155-86, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Apo.

SCRep. 701-86 Judiciary on S.B. No. 2290-86

The purpose of this bill is to: (1) clarify which parties may file a petition for a public guardian; (2) determine who is eligible for public guardianship; and (3) require the public guardian give equal priority to permanent guardianships and to the needs of the elderly.

Under the present law, a petition for appointment of the public guardian may only be filed by the Office of the Public Guardian.

Your Committee received testimony in support of this measure from the Family Court, the Department of Health, the Hospital Association of Hawaii, the National Association of Social Workers, and the Protection and Advocacy Agency of Hawaii.

Your Committee finds from the testimony presented that in the absence of a legal guardian or family to make health care decisions, the hospitals and care facilities are faced with grave liability concerns.

Your Committee further finds that the proposals in this bill would redirect the present public guardianship program toward serving those who require permanent guardianship services, and would thereby result in an expansion of the present short term and emergency guardianship program.

Your Committee feels that the needs of elderly persons should be viewed in connection with those who require permanent guardianship and therefore amended the bill to delete priority to elderly persons. Your Committee believes that the mere fact that a person is elderly does not necessarily mean the person would need a public guardian.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2290-86, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2290-86, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 702-86 Judiciary on S.B. No. 2263-86

The purpose of this bill is to insure the permanency and continued funding of the victim-witness assistance program through the establishment of a statewide program as part of the Department of the Attorney General.

Presently, each county has a victim-witness assistance program which is attached to the county prosecutor's office. Each victim-witness assistance program is funded through a combination of state and county funds. State funds have been appropriated annually for the past three years as part of the Attorney General's budget. Each county provides additional funds, however, except for the City and County of Honolulu, those funds are substantially less than the sum appropriated by the State. This commitment and support by the State has been instrumental for the counties to provide the essential services to victims.

Testimony in support of the measure was received from the Department of the Attorney General, Judiciary, Department of Health, Victim-Witness Kokua Services, City and County of Honolulu, and Prosecuting Attorneys from Kauai and Hawaii.

The Attorney General expressed concern that monitoring of the program may entail added staff requirements not necessarily because of this program alone but if considered with other programs currently administered by the Department.

Your Committee amended the bill to include the amount appropriated to each county.

The Committee amended the bill to require that the counties appropriate funds at a minimum of twenty-five percent (25%) of the amount appropriated by the State. Your Committee clearly intends that counties which do not match this desired minimum level will lose State funds. It is your Committee's sincere desire that if the programs are as beneficial as was clearly indicated in the testimony, the counties will appropriate funds to meet the minimum requirement.

Lastly, your Committee believes the Attorney General should work with the county prosecutors to formulate program policies and criteria and amended the bill accordingly.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2263-86, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2263-86, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

SCRep. 703-86

Judiciary on S.B. No. 1827-86

The purpose of this bill is to amend the Child Protective Act, chapter 587, HRS: (1) to facilitate permanency planning by enabling the Department of Social Services and Housing (DSSH) to initiate termination of parental rights and adoption proceedings at any point during the period of the service plan; (2) to provide for the release of certain records; and (3) to make certain technical amendments.

The Child Protective Act was enacted in 1983, to provide for prompt protection of children, for reunification of a child with the family, if practicable, and for permanent planning to enable a child to develop and mature into responsible, self-sufficient, law-abiding citizens. During the three years since its enactment, many organizations have had a chance to work with the act and as a result have made suggestions to strengthen the act. This bill is a result of all these efforts.

The bill seeks to provide for timely permanent planning by incorporating in the Child Protective Act certain provisions of the termination of parental rights statute (chapter 571, part VI, HRS), the adoption statute (chapter 578, HRS), and the guardianship statute (chapter 560, part 4, HRS). Under present law, the required use of these separate proceedings has resulted in confusion and unnecessary delays for children and their families. Under the bill, DSSH will have the authority to conduct criminal history record checks of an alleged perpetrator to determine the harm or potential harm to a child. DSSH also will be able to disclose without court order such information that is in the court records.

Your Committee heard testimony in support of the bill from the Family Court, First Circuit, Department of the Attorney General, DSSH, and Victim-Witness Kokua Services, City and County of Honolulu.

Your Committee amended the bill to allow the recording of a child's testimony and the admission into evidence of the recording. Your Committee believes this procedure will help reduce the trauma to the child.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1827-86, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1827-86, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Apo and Medeiros.

SCRep. 704-86

Human Services and Judiciary on S.B. No. 1843-86
(Majority)

The purpose of the bill is to enhance the State's capability to obtain and enforce child support obligations and comply with federal requirements under Title IV, part D, of the Social Security Act. Title IV-D was amended substantially by the Child Support Amendments of 1984, Public Law 98-378, and this bill is intended to achieve full compliance within the mandated deadline.

In order to comply with 45 CFR 205.100, the State's Child Support Enforcement Agency (CSEA) must be a single unified agency. This bill, as received from the Senate, unifies the CSEA under the Department of Social Services and Housing (DSSH). Your Committees believe, as the Governor's Commission on Child Support Enforcement, that the CSEA is more appropriately placed under the Judiciary.

Under P.L. 98-378, both AFDC and non-AFDC custodial parents have access to the CSEA. The program, therefore, is no longer a welfare program alone and your Committees believe that leaving the CSEA within the DSSH will foster this erroneous conception. Additionally, the DSSH is a direct provider of human services and continuing its role as a collection and enforcement agency violates its true mission. Children and custodial parents, on the other hand, can look to the Judiciary, with the CSEA, as they do to the Family Court, as parens patriae and the protector of their rights.

Your Committees further believe that, whether the CSEA is placed within the DSSH or Judiciary, the Legislature must be cognizant of the fact that additional resources are needed to achieve effective child support enforcement in our State. Child support is a moral issue, in addition to a financial one, and enforcement is indisputably cost-effective to the taxpayers of our State.

Your Committees, in placing the CSEA within the Judiciary, made substantial amendments to the bill. Your Committees used the language found in S.B. No. 1830-86 as the basis for its amendments, making the following amendments to the amendments:

(1) Page 2, line 1: Deleted "whose whereabouts are unknown" and inserted "who is absent from the family."

(2) Page 7, line 13: Amended language to read:

"(8) Establish procedures for the notification of custodial parent that any income tax refund setoff under section 231-53 shall be credited to child support debts for past public assistance or foster care maintenance before any other debt;".

(3) Page 8, line 2: Deleted "The procedures required under paragraphs (5), (6), (7), (8), and (9) or any amendments shall be established after at least one public hearing conducted upon twenty days public notice. All interested persons shall be allowed to testify or submit formal testimony at a public hearing."

(4) Page 22, line 21: Added "of a child or if child support and spouse support are contained in the same order."

(5) Page 24, line 9: Changed "may" to "shall".

(6) Page 26, line 1: Added "or child and spouse support."

(7) Page 27, line 1: Added "or child and spouse support."

(8) Page 30, line 22: Deleted "the agency having secondary responsibility."

(9) Page 44, line 17: Inserted "collecting and disbursing child support collections and establishing."

(10) Requiring the family court, rather than the child support enforcement agency, to establish the guidelines to determine the amount of support.

Additionally, your Committees made further amendments to the bill by including mechanisms for the modification of child support and enforcement of visitation rights. The mechanisms are essential components of a child support enforcement

system which is even-handed, fair, and reasonable for the custodial and noncustodial parents in our State.

Your Committees are also concerned that the effective date of July 1, 1986, will not afford sufficient opportunity to the Judiciary to consolidate the CSEA into a single unified agency. Your Committees therefore have amended the transfer provisions to more specifically designate the personnel and property to be transferred from DSSH to the CSEA, authorized the Chief Justice to designate an administrative agency of the Judiciary to collect and disburse support payments on behalf of the CSEA until consolidation is effectuated, and required the electronic data processing division to provide services to the CSEA for one year. Your Committees note that this bill does not require physical consolidation of the CSEA at one location. The location of the CSEA at one site or at various sites is at the discretion of the Chief Justice, subject to available moneys.

Finally, your Committees concur with the recommendations of the Chief Justice that the consolidation of the CSEA under the Judiciary be reviewed after a three-year trial period to properly assess its effectiveness in administering the CSEA. To this end, language was added to the bill providing for a management audit by the Legislative Auditor of the operations of the CSEA during the next three fiscal years.

Your Committees on Human Services and Judiciary are in accord with the intent and purpose of S.B. No. 1843-86, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1843-86, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Andrews, Kihano, Leong, Shito, Tungpalan, Jones and Liu.
(Representative Bunda did not concur.)

SCRep. 705-86

Ocean and Marine Resources and Water, Land Use,
Development and Hawaiian Affairs on S.B. No. 1748-86

The purpose of this bill is to repeal Chapter 187, Hawaii Revised Statutes, relating to aquatic resources and wildlife.

Act 85, Session Laws of Hawaii 1981, reassigned the aquatic and wildlife resource management functions of the former Division of Fish and Game to the Division of Aquatic Resources and the Division of Forestry and Wildlife. Subsequently, Acts 74, 94, and 174, Session Laws of Hawaii 1985, reassigned remaining provisions located jointly in Chapters 187 and 188, Hawaii Revised Statutes. With the effective date of the 1985 acts, all necessary provisions of Chapter 187 have been reassigned, and therefore this chapter may now be repealed.

Your Committees, upon further consideration, find that the ten Aquaculture Development Program staff members in the Department of Land and Natural Resources have been exempt, temporary employees since 1977. Your Committees further find that the State has consistently awarded civil service status to similar exempt employees when a new division, over time, performs as an integral part of the department. Such is the case with the Aquaculture Development Program. In calendar years 1984 and 1985, over \$20 million have been invested in commercial aquacultural facilities, and projections now estimate that the aquaculture industry will reach a yearly wholesale value of some \$50 million by 1990.

Your Committees are in agreement that the Aquaculture Development Program has served a vital function for the Department in promoting economic development, and that civil service status for the ten positions would provide tenure, just opportunity for promotion, and reasonable job security for the employees.

Accordingly, your Committees have amended the bill by adding a new section to the bill that provides appropriate language granting permanent civil service status to the following positions authorized, established, and funded pursuant to Act 12, First Special Session Laws of Hawaii 1977: manager, secretary II, clerk-typist II, disease specialist, aquaculture specialist, information specialist IV, information specialist III, economist/analyst, microbiologist III, and laboratory assistant II.

Your Committees have also made technical, nonsubstantive amendments to the bill for purposes of style and clarity.

Your Committees on Ocean and Marine Resources and Water, Land Use, Development, and Hawaiian Affairs are in accord with the intent and purpose of S.B. No. 1748-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1748-86, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 706-86 Ocean and Marine Resources on S.B. No. 718 (Majority)

The purpose of this bill is to facilitate the development and utilization of the State's marine resources by ensuring the protection of property rights and by providing security of tenure for mariculture and ocean thermal energy conversion (OTEC) entrepreneurs as well as researchers through an orderly ocean leasing process that minimizes conflicts with traditional public uses of the offshore waters of this State.

Your Committee finds that research, development, and demonstration of viable energy, aquaculture, mariculture, and ocean technologies are progressing rapidly in this State. In addition, prospects for private commercial investment in OTEC and floating and submerged seafarming operations and related ocean resources are fast becoming a reality.

However, your Committee also finds that uncertainties regarding the jurisdictional aspects over the private use of the ocean have, to date, yet to be resolved. As long as this climate of uncertainty continues to exist, entrepreneurs will be deterred from investing in projects that will develop and utilize our ocean resources. Accordingly, your Committee finds that the establishment of guidelines and procedures for the granting of leases for commercial and noncommercial ocean activities within State marine waters and on submerged lands are a timely and appropriate means to address this concern.

Under this ocean leasing bill, entrepreneurs will benefit from an orderly leasing process whereby certain parcels within State waters may be leased for OTEC, mariculture, and other research activities. Among its main features, this bill would provide property rights to lessees for the duration of their leases; and clarify the definition of "state marine waters" to include the water surface as well as the water column. Your Committee believes that these features as well as others will help to create a more predictable and secure environment for investors.

While supporting the intent of this bill, your Committee clearly recognizes that the concept of ocean leasing represents a major step into a new area that could infringe upon traditional public uses of the same waters unless steps are taken to prevent it from occurring. Your Committee believes that adequate provisions have been included into this bill to protect the public interest. For example, for proposed marine activities requiring the lease of submerged lands as well as marine waters, this bill requires that an applicant must not only comply with certain requirements (i.e., the preparation of an acceptable environmental impact statement and the holding of a public hearing on the proposal) but must also comply with Section 171-53, Hawaii Revised Statutes, by obtaining the approval of the Governor and the authorization of the legislature via concurrent resolution.

These are only some of the many safeguards that have been included into this bill to protect the public's interest. Other safeguards include: guidelines for the Board of Land and Natural Resources (Board) to follow in reviewing applications; requirements for lessees to execute a bond in case of nonperformance; and mandates for revoking a lease for violation of any lease provision.

To further protect the public's interest, your Committee urges the Board of Land and Natural Resources to consult with the Department of Planning and Economic Development's Coastal Zone Management Program for compliance of each application with the objectives and policies of chapter 205A. Your Committee recognizes the contributions made by this Program during its brief tenure in ensuring the wise management of the State's coastal area, and believes its involvement in the review of applications will greatly benefit decisionmaking on the eventual development and utilization of our ocean resources.

Finally, in urging passage of this bill, your Committee concurs with the following statement relating to the compatibility between the public trust doctrine

and the ocean leasing concept: ". . . an ocean leasing program is not only permissible within public trust precepts, but . . . a well-planned leasing program may be considered a positive means of furthering the basic objectives of the trust." (Ocean Leasing in Hawaii prepared for the Department of Planning and Economic Development, 1981, p. V-87).

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

- (1) deleted Section -11 of the original bill relating to the designation of marine waters or submerged lands for lease; and further deleted all reference to the designation of these areas elsewhere in the bill;
- (2) amended Section -31 of the original bill by restricting the Board from leasing state marine waters or submerged lands where existing programs of the department would be adversely affected;
- (3) further amended Section -31 by requiring the Board to obtain the concurrence of the Director of Transportation before approving a lease;
- (4) amended Section -12 of the original bill by requiring the applicant to prepare an environmental assessment or an environmental impact statement, if necessary, as part of the applicant's conservation district use application;
- (5) replaced the phrase, "marine activities" with the word "mariculture" on page 14, line 19 and on page 15, line 8 of the original bill relating to lease provision requirements; and
- (6) made technical, non-substantive amendments to the bill for purposes of style and clarity.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of S.B. No. 718, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 718, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.
(Representatives Nakata and Isbell did not concur.)

SCRep. 707-86

Public Employment and Government Operations and
Consumer Protection and Commerce on S.B. No. 2315-86

The purpose of this bill is to clarify the authority of the State Risk Manager to settle and pay No-Fault claims arising out of the operation of State vehicles that are self-insured. This bill would also allow the State to continue operating as self-insured under No-Fault laws in order to minimize the expense of owning and operating vehicles.

Since the State initiated self-insurance for State-owned or operated vehicles, questions have been raised concerning the Risk Manager's authority to settle and pay No-Fault claims in light of the provisions of Section 662-11, Hawaii Revised Statutes, which provides that the Attorney General may arbitrate claims against the State. This bill provides that the Risk Manager is authorized to settle and pay those claims.

With regard to the provision that would allow the State to continue operating as self-insured under the No-Fault laws, the Department of Accounting and General Services submitted testimony indicating that this is a viable alternative to purchasing insurance. Records show that the State has paid substantially more in premiums than losses incurred from automobile accidents. For example, since FY 1981, the State has paid over \$2 million in premiums but has incurred losses of less than \$700,000. Accordingly, the State is taking steps to develop and maintain a strong risk management program with high self-insurance retention and to purchase only catastrophic excess coverage.

The bill was amended to correct a typographic error; no substantive changes were made.

Your Committees on Public Employment and Government Operations and Consumer Protection and Commerce are in accord with the intent and purpose of S.B. No. 2315-86, S.D. 1, H.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 Representative Liu.

SCRep. 708-86

Judiciary on S.B. No. 1933-86

The purpose of this bill is to authorize the court to award reasonable attorney's fees to a small business, if the court finds that the action by the government agency was frivolous and wholly without merit. Conversely, the bill will also award reasonable attorney's fees to the government agency, if the court finds the small business' action was frivolous and wholly without merit.

The bill sets a maximum award of \$7,500 and provides a procedure for determining attorney's fees. The bill further provides that the attorney's fees will be payable by the agency only after a request has been approved by the legislature. The amount of the attorney's fees must be included in the agency's budget request for the fiscal year following the award.

Your Committee heard testimony in support of the bill from U.S. Small Business Administration, National Federation of Independent Business (NFIB), the Hawaii Business League, and the Plumbing and Mechanical Contractors Association of Hawaii. The NFIB testified that twenty-four states have enacted similar laws. Also, Congress has enacted a similar measure, the Equal Access to Justice Act.

Your Committee finds that this bill will provide small businesses with some protection against unconscionable actions by government.

Your Committee amended the bill to reduce the standard for award of attorney's fees to the small business to "...if for good cause the agency's action was without merit." Your Committee believes the standard presently in the bill is too great a burden for a small business to prove and that the new standard is more realistic.

Your Committee further amended the bill by deleting the phrase "... or the cash equivalent in premiums, incentives, or bonuses." Your Committee could not understand how the phrase affected the maximum award.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1933-86, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1933-86, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Apo.

SCRep. 709-86

Judiciary on S.B. No. 1651-86

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

Your Committee received testimony from the Department of the Attorney General and the Department of Taxation in support of this measure. Your Committee has amended the bill to include two additional cases that have been settled or resolved by the Attorney General and to indicate which cases have the necessary documentation.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1651-86, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1651-86, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Taniguchi.

SCRep. 710-86

Higher Education and the Arts and Public Employment and Government Operations on S.B. No. 1780-86

The purpose of this bill is to provide the University of Hawaii with greater

flexibility in budgeting and expending appropriations. Specifically, this bill would allow budget requests and expenditures of appropriations to be made according to the University's own priorities as long as they are within the budget and allotment ceilings established by the Governor. It also permits the University to transfer certain general fund appropriations for operating expenses and research development costs among and within programs and between quarters.

Testimony presented by the University of Hawaii, University of Hawaii Professional Assembly, and the Manoa Faculty Senate Ad Hoc Legislative Committee indicated that this bill will provide the administrative flexibility necessary to manage Hawaii's complex higher education system in a manner that is responsive to program needs, changing situations, and unforeseen problems or opportunities. They also indicated that with this legislation, the Board of Regents and the University administration can better accomplish their mission of providing higher education of superior quality.

Your Committees recognize that implementation of effective public programs require more than funding. Equally, if not more important than the amount of funding itself, is the authority to budget and expend according to the University's own priorities. And in this regard, the transfer authority is perhaps the most significant provision of this bill. It is believed that the flexibility afforded the University would promote timely and appropriate responses to higher education's changing needs and situations. Such flexibility and authority does not, however, remove accountability. The University would still be subject to the appropriation powers of the Legislature which will continue reviewing and, when deemed necessary, modifying the budget requests of the University. Your Committees explicitly state that this bill does not preclude the Legislature from making appropriations to the University below or above the budget ceilings established by the Governor.

Moreover, this bill contains significant limitations on the transfer authority which will ensure the following of legislative budgetary directions. Most of the provisions of this bill have been implemented administratively in recent years by the current Governor. And while increased flexibility for the University is a worthy goal, your Committees are concerned that the University may not be capable of handling its own affairs based upon past performance. However, in view of the Strategic Plan, the appointment of a new president and the administrative reorganization, your Committees are willing to give the University more responsibility, and the opportunity to demonstrate its capabilities.

The University claims it is seeking flexibility, not attempting to avoid accountability. Therefore, to allow the administrative flexibility needed, while assuring proper accountability, your Committees have taken steps to accomplish this objective through several substantive amendments consistent with the intent of the flexibility legislation as originally proposed by the University and the Administration.

Your Committees have made several significant amendments to the bill:

(1) Under the bill, as received, amendments were made to sections 37-65, 37-67 and 37-68, Hawaii Revised Statutes. Your Committees, however, deleted these amendments to promote greater accountability.

(2) Section 37-74, Hawaii Revised Statutes, has been amended to permit the University general fund transfer authority for the operating cost category only, excluding research and development funds.

(3) Section 37-74, Hawaii Revised Statutes, has been further amended by changing subsection (e) to prohibit the University of Hawaii from using transferred funds to expand programs or initiate new programs which may require any future increase in the commitment of State resources, without the specific concurrence of the Legislature or advice of the Governor.

(4) A new section was added requiring a three part review by the Legislative Auditor. It reads as follows:

"SECTION 7. The Legislative Auditor shall conduct a review of the University of Hawaii to assess and evaluate any impact of the provisions of this act on the quality and effectiveness of the University's instruction, organized research, public service, academic support, student services and institutional support program areas. Particular emphasis

shall be given to the impact of the general fund transfer authority upon student education. This review shall be conducted in three phases with an initial report to the 1987 session of the Legislature which shall include an inventory and assessment of the condition of the University prior to implementation of this act; and interim report to the 1988 session of the Legislature evaluating progress made and identifying problems encountered to date within any or all of the six program areas; and a final report to the 1989 session of the Legislature with an overall evaluation and final recommendations on continuation of the provisions of this act."

(5) Your Committees have included a three-year sunset provision to assure proper accountability during the initial transition period. Concern was expressed by several members of your Committees about this provision and its use beyond 1989.

Your Committees on Higher Education and the Arts and Public Employment and Government Operations are in accord with the intent and purpose of S.B. No. 1780-86, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1780-86, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Honda, Nakasato, Tungpalan, Cavasso, Hemmings, Medeiros and Pfeil.

SCRep. 711-86 Higher Education and the Arts and Public Employment and
Government Operations on S.B. No. 1828-86

The purpose of this bill is to amend Chapter 40, Hawaii Revised Statutes (HRS), to allow the University of Hawaii (University) to assume authority and responsibility for all matters relating to the acquisition of goods and services, pre-audit of payments, payroll, disbursing, fund accounting, and business and accounting forms.

Your Committees received testimony in support of this bill from the University of Hawaii, University of Hawaii Professional Assembly, and the Manoa Faculty Senate. Testimony indicated that this bill is a central part of administrative flexibility package, and that its passage will enable the University's financial and procurement support units to serve and respond to the University's instructional, research and public service, and other units in a more efficient and effective manner.

The Department of Accounting and General Services (DAGS) testified against S.B. No. 1828, S.D. 1. DAGS' primary concern was that the University's disbursement authority would be discretionary and that this could result in University independence from the comptroller's administrative functions while remaining dependent upon the comptroller's disbursement control functions. DAGS concluded that such a mixture of responsibilities would be contrary to the needs of both the University and the Administration, and recommended amendment of the bill to its original form.

Your Committees have adopted the recommendation of DAGS by amending the bill to make the University's disbursement responsibility mandatory. Moreover your Committees further amended the bill to provide adequate time for the University to properly develop and implement its own payroll system by enabling the University to make disbursements for payroll and other operating expenses at such time as DAGS and the University mutually agree.

Your Committees have also amended this bill to reflect two other concerns of DAGS. Specifically, your Committees have:

(1) Added a provision requiring the return of moneys remaining in an appropriation which lapses to the State treasury within ninety days.

Section 40-66, HRS, provides for the lapsing of funds which are already in the State Treasury, however, since the University's appropriations may be banked outside the State Treasury, that Statutory section does not address the disposition of those remaining University funds; and

(2) Amended Section 5 by requiring the University to prepare quarterly reports to be submitted to the Comptroller on all fiscal transactions in lieu of

detailed financial statements. This amendment is necessary since the Comptroller must prepare the financial statements for statewide financial reports, of which the University's operations are an integral part.

Your Committees on Higher Education and the Arts and Public Employment and Government Operations are in accord with the intent and purpose of S.B. No. 1828-86, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1828-86, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Ige, Manegdeg, Onouye, Tam, Hemmings, Medeiros and Pfeil.

SCRep. 712-86 Public Employment and Government Operations on S.B. No. 1958-86

The purpose of this bill is to increase the statutory limit on the amount of petty cash funds a State agency may be assigned from \$25,000 to \$100,000.

Act 281, Session Laws of Hawaii 1985, requires that all payments for goods and services less than \$100 be paid from petty cash funds. Your Committee recalls that the purpose of Act 251, Session Laws of Hawaii 1985, was to make the State's overall payment system more efficient by having small payments made quickly and directly through petty cash rather than through the regular vouchering system.

The Department of Accounting and General Services (DAGS) submitted testimony that some State agencies have indicated the current \$25,000 limitation presents a problem. With the significant increase in petty cash fund usage anticipated as a result of Act 281, Session Laws of Hawaii 1985, DAGS believes some agencies may need more than \$25,000 in petty cash funds, and that \$100,000 would be an adequate substitute amount. However, DAGS acknowledged that the actual requirement for the efficient and prompt payment of small-dollar purchases is the central consideration that should always determine the amount of a petty cash fund of any agency. And because of the wide variety of operations found throughout State government, agency petty cash needs vary substantially. In fact, DAGS estimated that only four agencies might require more than \$50,000 in their petty cash account.

Although an increase in the petty cash limit available to an agency appears reasonable with the passage of Act 281, Session Laws of Hawaii 1985, your Committee has amended the bill to ensure that any increases to an agency's allotment be consistent with the actual requirements for the efficient and prompt payment of its small-dollar purchases.

Therefore the bill has been amended with the insertion of the phrase, "consistent with actual requirements" as a modifier to the new \$100,000 limitation. Other grammatical revisions for purposes of style and clarity were made.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 1958-86, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1958-86, S.D. 2., H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hemmings and Medeiros.

SCRep. 713-86 Public Employment and Government Operations on S.B. No. 1800-86

The purposes of this bill are: (1) to create a position for a State Fire Council Administrator responsible for the administrative functions of the State Fire Council (Council); (2) to provide staff support for the Council through the Fire Department of the City and County of Honolulu (Honolulu Fire Department); (3) to statutorily designate the Fire Chief of the City and County of Honolulu as the chairperson of the Council; and (4) to appropriate funds for the operating expenses of the Council.

Since the operation of the Council requires administration by a person experienced in fire prevention, fire codes, and building codes and since the support

staff for the new position will be provided by the Honolulu Fire Department, this bill would provide for a Council Administrator who is required to be a member of the Honolulu Fire Department.

For purposes of style and clarity, your Committee has amended this bill by moving Section 2 of the bill which provides for annual appropriations from the State general revenues for operation of the Council to Section 1 of the bill. Your Committee has also made other technical, nonsubstantive amendments.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 1800-86, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1800-86, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Onouye.

SCRep. 714-86

Public Employment and Government Operations on S.B. No.
2070-86

The purpose of this bill is to exempt the purchase of life saving equipment for hospitals and other health agencies of the State and counties from advertising and bidding requirements for public contracts in emergency situations.

A representative from the Hospital Association of Hawaii (Association) presented testimony in support of this bill noting the occurrence of considerable time delays for public hospitals while awaiting purchase approvals which could negatively impact patient care, and which can be attributed to certain existing statutory provisions. The Association maintains that all health care facilities need flexibility to acquire or replace life-saving equipment on a timely basis.

On the other hand, your Committee notes that while a representative from the Department of Accounting and General Services indicated that the bill in its amended form is acceptable, your Committee is concerned that this measure poses the following risks:

(1) Because departmental purchasing agents are not always certain as to what equipment and supplies they want, increased impulse purchases that are not suited to departmental needs may occur;

(2) Because the Department of Health is being granted a unique exemption to the bidding process not enjoyed by other executive departments, questions of fairness and equity by the business community may be raised; and

(3) The exemption would eliminate supplier incentives to provide the State purchasing agents advantageous prices.

Your Committee therefore explicitly states that it recognizes the need to preserve the integrity of the bid process for the expenditure of public funds over a certain amount, and reiterates that it is not its intent to encourage irresponsible purchases which circumvent statutorily mandated advertising and bidding requirements. Only purchases of bona fide life-saving equipment under emergency situations is permitted. In this regard, the Department of Accounting and General Services and the Department of Health are directed to cooperatively develop responsible guidelines governing such purchases which properly balances the need for flexibility with the need for efficient, cost-effective and trustworthy purchases.

During review, your Committee observed a technical drafting error which occurred when converting the specific bid exemptions from the original text to the bill's new numerical listing format. Specifically, your Committee believes a phrase intended to modify the bid exemption for item 2 which deals with "permanent settlement, subsidies or other claims or objects" was inadvertently converted to a separate bid exemption item. Therefore, the phrase numbered as item 3 of the bill has been incorporated in the aforementioned item 2 of the bill. Other technical non-substantive revisions were made for the purposes of consistency, style and clarity.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2070-86, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B.

No. 2070-86, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hemmings and Medeiros.

SCRep. 715-86

Public Employment and Government Operations on S.B. No. 2166-86

The purpose of this bill is to establish a State policy for an equitable relationship for the value of comparable work performed by certain employees of the State and its political subdivisions.

The bill requires the Legislature Auditor to contract with a consultant to conduct a job evaluation study of selected occupational classifications in the State civil service with preliminary reports to be submitted to the Legislature before the 1987 Regular Session, and a final report before the 1988 Regular Session.

Your Committee considered substantial oral and written testimony from labor unions, public employees, and various community groups in support of this bill emphasizing the importance of conducting a job evaluation study as a necessary first step in the process of achieving pay equity.

Several of those who testified in support of this bill spoke of the need to increase the scope of the study beyond nonsupervisory and supervisory white collar and professional and scientific positions, other than registered professional nurses. Among those favoring a broader scope of study were: Pay Equity Coalition, League of Women Voters, Hawaii Women Lawyers, Oahu Public Librarians Pay Equity Committee, and the Hawaii Nurses' Association Collective Bargaining Organization.

On the other hand, representatives from the Department of Education (DOE) and the Department of Civil Service, City and County of Honolulu (DCS) testified in opposition to the bill. The DOE maintained that the civil service classification and compensation system is a viable system which classifies and assigns positions based on level of performance of each class.

The DCS expressed the following objections to the bill: (1) the scope of the classifications to be covered by the job evaluation study was too narrow; (2) the impact of a point-factor evaluation system on the existing civil service laws, pricing of classes, and collective bargaining is unknown and adjustments made pursuant to this system could trigger similar adjustments to related classes within the State's current classification and compensation plans; and (3) any statutory commitment to correct "underpayments" without knowing the full impact and compatibility of a point-factor evaluation system is premature and unwise.

The Department of Personnel Services, State of Hawaii (DPS) agreed to a study for the purpose of determining whether sex-based wage disparity exists. However, the DPS felt that any study should be based upon operations within current statutes, rules, union contracts and practices, not a job evaluation system, unauthorized for use by the Legislature. Once the current system is studied, and if it is determined that sex-based wage disparity exists, then a job factor evaluation system may be applicable.

While in agreement with the basic intent of this bill, your Committee shares some of the concerns expressed by the DOE and DCS regarding the structure and content of the proposed study.

Accordingly, your Committee has amended the bill to provide for a three stage consultant study with the first report submitted to the Legislature before the 1987 Regular Session. The other two parts, if necessary, will be submitted in 1988 and 1989 respectively.

Your Committee has made many amendments to this bill. Among the more significant are the following:

- (1) To focus the study on those employer-identified job classes with 70 percent or more women or men;
- (2) To devise a random sampling of all such one sex dominated job classes covering the spectrum of job classes;

(3) To determine whether pay disparities exist and identify the contributing factors;

(4) To provide that the consultant analyze alternative solutions to pay disparities, including a point-weighted system, and make recommendations to minimize or eliminate these disparities;

(5) To work with state and county personnel directors in planning and programming changes in job evaluation systems; and

(6) To construct a framework for comparing job classes and determining appropriate ranking and salary levels.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2166-86, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2166-86, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Nakasato, Yamashita, Hemmings and Medeiros.

SCRep. 716-86 Public Employment and Government Operations on S.B. No.
2314-86

The purpose of this bill is to establish a revolving fund account for the State Motor Pool Program to assist in the acquisition, operation, repair, maintenance, storage, and disposition of State-owned vehicles.

At the present time, the State Motor Pool Program has been operating under a revolving fund concept which has proven to be most successful. However, a financial audit undertaken to assess the Program's efficiency and effectiveness which was completed in fiscal year 1985, found that while the Legislature authorizes appropriations for Program expenditures to be financed from the proceeds of a revolving fund, through an apparent oversight, the revolving fund was never formally established statutorily.

Your Committee believes that the revolving fund concept will encourage the responsible management of State-owned vehicles, and assist in an accurate and efficient accounting of vehicular expenditures to meet State government's transportation needs. Moreover, your Committee concurs with the Department of Accounting and General Services representative's assessment that the continued operation of a revolving fund for the State Motor Pool Program will complement the State Parking Revolving Fund established pursuant to Section 107-11 of the Hawaii Revised Statutes, from which monies are used to defray the costs of operating State parking facilities.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2314-86, 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 Onouye.

SCRep. 717-86 Public Employment and Government Operations on S.B. No.
1561-86

The purpose of this bill is to provide express authority to the Neighbor Island counties and the City and County of Honolulu for the elimination of annual business licenses required by law.

While existing statutory provisions allow the Neighbor Island counties and the City and County of Honolulu to require licenses for businesses operating within their respective jurisdictions, they are silent as to the elimination of licensing requirements.

The City and County of Honolulu, acting on its own behalf and without consultation with the Neighbor Island counties, testified in support of this measure and stated that county licenses are often issued subsequent to state licenses, and serve no valid purpose from the county's standpoint.

Your Committee finds that granting specific authority to the counties to eliminate license requirements will in all probability result in efficient, local government operations.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 1561-86 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Onouye.

SCRep. 718-86

Public Employment and Government Operations on S.B. No. 2309-86

The purpose of this bill is to allow each county with a population of less than 500,000 to regulate the use of passenger vehicles, limit the number of public passenger vehicles when necessary in the interest of public safety, and fix the rates charged in transporting persons or baggage, where not within the jurisdiction of the Public Utilities Commission.

Currently, the State of Hawaii does not have an affirmatively expressed policy on the regulation of taxicab operations. A review of pertinent statutes indicate that such operations are not subject to the Public Utilities Law, Chapter 269, Hawaii Revised Statutes, and are exempt from the application of Chapter 271, Hawaii Revised Statutes, which pertains to Motor Carrier.

The Oahu Taxi Owners Association, Waikiki Improvement Association, Valley Isle Taxi Association, Maui County Taxi Association, Maui Independent Taxi Associates, Mano Corporation and others testified in support of this measure, citing the need to protect the safety, health and welfare of the public. Some of the testimony also discussed the impact taxicab operations have on the tourism industry and expressed concerns over the taxicabs' effect on the local traffic.

Testimony and a legal opinion supplied by the Deputy Corporation Counsel, County of Maui, indicated that until such time as the State clearly articulates a legislative policy granting counties the power to impose anti-competitive regulations, the current taxi ordinance is subject to challenge as a violation of federal antitrust statutes. Among the recommendations suggested was express authorization to the counties to regulate taxicabs through licensing controls.

Your Committee finds that the economic viability and stability of privately operated taxicab services are matters of statewide concern. The orderly regulation of vehicular traffic is essential to the welfare of the State and its people. Taxicabs also provide vital transportation links and economic benefits through their service to Hawaii's people and those who travel here for business or pleasure.

Your Committee believes that without proper regulation, the taxicab industry will likely incur destructive competition and utilize resources inefficiently.

Your Committee also finds that the regulation of taxicabs can be best achieved by the various county governments because taxicab operations impinge upon local traffic flow patterns, street and highway usage and maintenance, and other related activities.

After careful consideration, your Committee has amended the bill by adding a public purpose subsection to clearly articulate the necessity for providing the counties with the authority to regulate the taxicab industry and what aspects of the industry the counties may properly regulate. Other nonsubstantive amendments were also made to the bill for purposes of clarity.

Your Committee on Public Employment and Government Operations is in accord with the intent and purpose of S.B. No. 2309-86, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2309-86, S.D. 1, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representatives Hemmings and Medeiros.

SCRep. 719-86

Human Services and Health on H.R. No. 74

The purpose of this resolution, as originally drafted, is to request the Department of Health, in conjunction with the Department of Social Services and Housing and the Executive Office on Aging, to conduct a study to identify and examine the strengths and weaknesses of our current long-term care system.

Your Committees are concerned that:

- (1) The philosophy in our state appears to be that placement of persons in long-term care institutions is the first resort;
- (2) No agency coordinates the assessment of persons needing long-term care and the placement of those persons into the appropriate settings;
- (3) Current assessment practices involve a high degree of subjectivity, lack common criteria and are subject to the prerogative of the institutional providers;
- (4) No agency coordinates the monitoring and reassessment of long-term care patients;
- (5) Current standards for different types of long-term care facilities may focus on the physical plant rather than on the skills of the care provider; and
- (6) The current payment system is not based on the functional needs of the patients and their varying degrees of disability.

To these ends, therefore, your Committees believe that the different agencies and departments involved in long-term care need to engage in a collaborative study to establish a statewide definition and philosophy towards long-term care; to look at the organization and delivery of institutional and community-based long-term care services; to recommend possible changes in the reimbursement mechanisms; and to effect an ongoing process which will lead to a comprehensive plan for long-term care in Hawaii.

The Department of Health, the Department of Social Services and Housing, the Executive Office on Aging, the ILWU, the Hawaii Centers for Independent Living, the Commission on the Handicapped and the Kokua Council for Senior Citizens-Founders' Group testified in support of the measure.

Your Committees believe, however, that the resolution, as originally drafted, was too comprehensive, making it difficult for the agencies and departments involved to complete the study in time for the convening of the 1987 Regular Session. Your Committees therefore amended the resolution to allow for a more manageable study.

Groups representing the developmentally disabled, the mentally retarded and the severely disabled additionally suggested that the concept of long-term care be taken in its broadest terms so that the study can be of assistance and guidance to these populations as well. Your Committees believe that this would be appropriate and useful to the Legislature.

The Executive Office on Aging, due to financial constraints, has been unable to fund its long-term care planner position. In response to this problem, and as a result of your Committees' belief in the usefulness of broadening the concept of long-term care, your Committees have placed the primary responsibility for the study with the Department of Health. Your Committees believe that the study should also include the input of the State Health Planning and Development Agency, which is responsible for approving certificates of need for long-term care beds.

Your Committees on Human Services and Health concur with the intent and purpose of H.R. No. 74, as amended herein, and recommend 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 Committees except Representative Kiyabu.