

CONFERENCE COMMITTEE REPORTS

Conf. Com. Rep. No. 1-86 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, to provide for flexibility in the scheduling of the recess days and to require that the dates of the recess or recesses be determined by a majority vote of the members of each house vis-a-vis a concurrent resolution.

Your Committee has amended the bill to reflect the proposed statutory revision language of the bill as introduced, and by replacing a sentence which was inadvertently deleted during subsequent Senate revision.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1954-86, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1954-86, S.D. 1, C.D. 1.

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

Representatives Crozier, Metcalf, Souki, Tajiri and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 2-86 on S.B. No. 1678-86

The purpose of this bill is to require that owners of land situated within, and within one thousand feet of proposed geothermal resource subzones be notified of public hearings on the designation of such zones.

Presently the law does not require the notification of persons who own land within or adjacent to proposed geothermal subzones. This bill clarifies the statutes by setting a clear and precise standard for notifying landowners within the vicinity of proposed geothermal resource subzones of public hearings to offer them the opportunity to express their views.

Your Committee upon further consideration has amended this bill to provide that county tax rolls be utilized to obtain the names and addresses of all owners of record of real estate whose properties are within the proposed subzone or lie within the one thousand foot radius.

Your Committee finds that this amendment would provide a clearly ascertainable means by which the Board of Land and Natural Resources may determine the identities and addresses of the landowners who are entitled to notices of hearing on the subzone designation process. Without the amendment, the consequences for failing to notify a single landowner of the public hearing could lead to the total invalidation of the hearing process at an unnecessary cost to the State. This amendment would largely eliminate that possibility and still provide a reasonable means of notifying the proper landowners.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1678-86, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1678-86, H.D. 1, C.D. 1.

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

Representatives Andrews, Say, Metcalf, Tajiri, Tam and Pfeil
Managers on the part of the House

Conf. Com. Rep. No. 3-86 on S.B. No. 1595-86

The purpose of this bill is to amend the definition of "geothermal development activities" to include direct heat application, or non-electric application of geothermal resources as an activity that may be permitted in a geothermal resource subzone.

Presently the definition of "geothermal development activities" includes the exploration, development, or production of electrical energy from geothermal development. This may be construed to exclude non-electrical applications of geothermal energy as an authorized use of this source of energy.

Your Committee believes that the expansion of this definition to include direct heat applications of geothermal resources would provide additional incentives to geothermal

developers, enhance the viability of existing industries and lead to the establishment of new ventures.

Your Committee upon further consideration has amended S.B. No. 1595-86, H.D. 1, by amending every reference to "direct heat applications of geothermal resources" to read as "direct use applications of geothermal resources. Your Committee believes that limiting the definition of "geothermal development activities" to direct heat applications only is too restrictive, and does not allow for other possible direct use applications of geothermal resources.

Your Committee also amended the bill on page 4, line 19, by bracketing the word "users" and underscoring "uses" in order to correct a typographical error in the statute according to correct Ramseyer format.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1595-86, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1595-86, H.D. 1, C.D. 1.

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

Representatives Andrews, Say, Metcalf, Tajiri, Tam and Pfeil
Managers on the part of the House

Conf. Com. Rep. No. 4-86 on H.B. No. 172

The purpose of this bill is to provide for the confidentiality of records and information relating to sexually transmitted diseases.

Specifically, the bill would add a new part to Chapter 325, Hawaii Revised Statutes, which would provide for the following:

- (1) That any information or record from any source which identifies any person who has or is suspected of having a sexually transmitted disease shall be confidential and may be released for medical or epidemiological reasons only if the subject of the record or information cannot be identified or gives written consent, or in case of medical emergency, or to protect the general public, or for the purpose of enforcing the child abuse statutes;
- (2) Criminal penalties for illegal disclosure;
- (3) Civil penalties for negligent and willful disclosures;
- (4) Exemption of Department of Health personnel from examination in civil, special, or other proceedings regarding any individual's records, or the existence or contents thereof, without the written consent of the affected individual; and
- (5) That the part does not diminish, limit, or eliminate the responsibility of anyone to report sexually transmitted diseases to the proper authorities.

Your Committee finds that providing for the confidentiality of records of persons having or suspected of having a sexually transmitted disease is essential to the Department of Health's mission to protect the public health and consistent with declared public policies relating to protection of individual rights. Without confidentiality, the Department would be severely restricted in its ability to deal with sensitive problems such as A.I.D.S. and its transmission, because individuals affected therewith would be reluctant to seek treatment and counseling if they thought their condition would be reported and become public knowledge. Lack of confidentiality would also hamper efforts of medical personnel to diagnose and treat sexually transmitted diseases and educate the public regarding such conditions.

This bill would establish a method by which affected individuals and sources would be protected and violators severely punished, which your Committee believes satisfies the need for confidentiality of individual information and records without jeopardizing the ability of the Department and the medical profession in general to protect the public health.

Your Committee upon further consideration has amended this bill by deleting the criminal penalties, the civil penalties for negligent violation of confidentiality, and the civil penalty for negligent or willful violation which results in economic, bodily, or emotional harm to the person whose records were illegally released. Your Committee finds that criminal penalties are already statutorily provided for in Section 325-14, Hawaii Revised Statutes, and that the stiff

civil penalty for willful violation, which is herein left intact, should be sufficient to deter wrongdoing.

Your Committee has also amended this bill by changing the effective date to July 1, 1986.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 172, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 172, S.D. 1, C.D. 1.

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

Senator Matsuura did not sign the report.

Representatives Bunda, Hashimoto, Kihano, Leong, Lindsey and Leong
Managers on the part of the House

Representatives Lindsey and Liu did not sign the report.

Conf. Com. Rep. No. 5-86 on H.B. No. 2280-86

The purpose of this bill is to provide a definition for "handicapped status" in the Employment Practices Law and to make employment-related discrimination against those individuals with such a status illegal. It is the intent of this legislation to allow mentally or physically handicapped persons whose impairment is permanent the opportunity to gain or retain employment in situations in which their skills would merit their selection or retention.

The definition of "handicapped status" is a general definition covering all mental and physical impairments which substantially limit one or more major life activities of a person, who has a record of such impairment, or who is regarded as having such an impairment. Your Committee finds that any needed clarification about specific conditions of such status may be achieved in rules or interpretations by the appropriate departmental agency. One of the necessary clarifications will include a statement that "handicapped status does not include alcohol or drug abuse where the current use of alcohol or drugs prevents performing the duties of the job in question or where employment, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others," which your Committee finds will assure that the language of the state law will be consistent with federal rules and law.

Upon further consideration, your Committee has made the following amendment to H.B. No. 2280-86, H.D. 2, S.D. 1:

On line 12, the word, "an" has been added so that the definition of "handicapped status" will read, "...the state of having a physical or mental impairment which substantially limits one or more major life activities, having a record of such an impairment, or being regarded as having such an impairment."

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2280-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2280-86, H.D. 2, S.D. 1, C.D. 1.

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

Representatives Tungpalan, Souki, Manegdeg, Oshiro, Takamine, Anderson and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 6-86 on H.B. No. 2444-86

The purpose of this bill is to amend section 291-21.3, Hawaii Revised Statutes, deleting the definition of "luminous reflectance". In addition, this bill deletes the requirement for luminous reflectance standards from section 291-21.5(d)(7) and (8), Hawaii Revised Statutes.

The bill, as passed by the Senate, also amends section 291-21.5(d)(7) and (8), Hawaii Revised Statutes, to allow exemption from safety inspection (1) sun screening devices for front side wing vents and windows that have a light transmittance of no less than twenty-five per cent plus or minus three per cent, and (2) sun screening devices for rear windows which have a light transmittance of no less than fifteen per cent plus or minus three per cent.

Your Committee, upon further consideration, has made the following amendments to H.B. No. 2444-86, S.D. 1:

- (1) Retained the original light transmittance standards for section 291-21.5(d)(7) and (8), Hawaii Revised Statutes, of thirty-five per cent plus or minus three per cent.
- (2) Inserted a new paragraph exempting from safety inspection sun screening devices for side windows which are to the rear of the driver and rear windows on vans, mini-vans, trucks, or buses; provided that the vehicles are equipped with rearview mirrors on both sides.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2444-86, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2444-86, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 7-86 on H.B. No. 2166-86

The purpose of this bill is to provide exclusive vending machine concession rights to blind or visually handicapped persons at public schools.

In 1973, the Board of Education authorized the school vending machine program to be operated by blind or visually handicapped persons pursuant to Section 102-14, Hawaii Revised Statutes, which gave preference to blind or visually handicapped persons to operate vending machines and stands in government buildings. Section 102-14 was amended in 1981 to provide blind or visually handicapped persons protection from outside competition, and to allow exceptions to that protection at certain state facilities including Department of Education (DOE) facilities. Although unintentional, Section 102-14, as amended, had the unexpected effect of raising doubts as to the preference provided to blind or visually handicapped persons operating vending machines at DOE facilities.

Your Committee has amended the bill, as received, to clarify that the exceptions to Section 102-2(b) apply only to vending machines located at public schools operated by blind or visually handicapped persons in accordance with the provisions in Section One of the bill. The bill was also amended to correct certain technical, nonsubstantive errors for the purpose of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2166-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2166-86, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Gaulty, Lindsey, Souki, Cachola, D. Ige, Leong, Manegdeg, Kamali'i and Pfeil
Managers on the part of the House

Conf. Com. Rep. No. 8-86 on H.B. No. 1680-86

The purpose of this bill is to provide the Family Court with discretionary power to make parents liable for the support of children of their unmarried minor children.

This bill is prompted by a distressingly large number of births to unmarried minor parents who have neither the ability nor the inclination to assume the full responsibility of parenthood. Your Committee believes that minor parents and parents of minor parents should support these children, not the taxpayers of the State.

Your Committee agrees that a judgment or order for support should be made against the parent or parents of the minor, only to the extent that the minor parent is unable to provide full support for the child.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1680-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1680-86, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Gaulty, Metcalf, Hirono, D. Ige, Leong, Menor, Tungpalan, Jones and Liu
Managers on the part of the House

Conf. Com. Rep. No. 9-86 on H.B. No. 2170-86

The purpose of this bill is to indemnify individuals who may be sued for drawing a blood sample at the request of a police officer, from a driver suspected of intoxication, for testing of the sample for alcoholic content.

Currently, a fear of civil liability persuades some qualified personnel to refuse a police officer's request to take a blood sample from an individual suspected of driving while intoxicated. The fear derives from a Hawaii Supreme Court decision, Rossell v. City and County of Honolulu, in which the Court held liable a physician who drew a suspect's blood without the suspect's consent.

Your Committee finds that a driver cannot be effectively prosecuted or referred for appropriate treatment unless a blood sample is obtained and tested for alcohol content. Although a person who operates a motor vehicle in Hawaii gives an implied consent to a blood test for alcohol, unless the reservations of those asked to draw a suspect's blood are overcome, public policy cannot be effectuated.

Your Committee, upon further consideration, finds that a stronger commitment is needed to the State's public policy position in this matter and, accordingly, has made the following amendments to H.B. No. 2170-86, S.D. 2:

(1) Changed the provision providing an indemnity for civil damages resulting from a person's withdrawing blood, to providing for non-liability for civil damages. The effect of this change is to provide an immunity from civil liability to those qualified persons who draw blood at the request of a police officer.

(2) The protection of non-liability for civil damages is accorded not only to those qualified persons who draw blood but also to any hospital, laboratory or clinic, employing or utilizing the services of such person, and owing or leasing the premises on which such tests are performed.

(3) Amended line 6 of page 1 of the bill by adding the word "properly" between the words "who" and "withdraws", and by deleting the word "direction" and substituting therefor the words "written request".

Your Committee also has made a nonsubstantive amendment to the bill for clarification.

The non-liability for civil damages does not extend to damages arising from the authorized person's gross negligence or wanton acts or omissions.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2170-86, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2170-86, S.D. 2, C.D. 1.

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

Representatives Bunda, Tom, Blair, Cachola, Leong, Lindsey, Metcalf, Cavasso and Jones
Managers on the part of the House

Representative Cachola did not sign the report.

Conf. Com. Rep. No. 10-86 on S.B. No. 383

The purpose of this bill is to exempt the special summer school fund of the Department of Education from assessment for central service and administrative expenses as provided under Sections 36-27 and 36-30, Hawaii Revised Statutes.

Presently, the Department of Education's regular summer school program involves approximately 16,000 students annually at more than forty school sites. The program is voluntary and requires the payment of tuition to cover costs incurred. The tuition has been rising steadily in recent years due to salary increases of summer school teachers and directors and increases in costs of supplies and services.

Although tuition waivers are granted for students meeting financial need criteria, a large majority of summer school students do not qualify for waivers or find it difficult to pay the increasing tuition. The assessments for central services and administrative expenses may

necessitate an increase in tuition rate.

The bill would assist the Department in maintaining the tuition at its current level.

Your Committee has amended the bill by changing the effective date from July 1, 1986 to upon approval. It is the intent of your Committee that this bill apply to the summer session of 1986, even though the bill may take effect after the commencement of the 1986 summer session.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 383, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 383, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Lindsey, Souki, D. Ige, Lardizabal, Levin, Oshiro, Tajiri, Anderson and Pfeil
Managers on the part of the House

Conf. Com. Rep. No. 11-86 on S.B. No. 2309-86

The purpose of this bill is to require every county or city and county to protect the public health, safety, and welfare by licensing, controlling, and regulating by ordinance or resolution taxicab transportation service operated within the jurisdiction of the county or city and county.

Under this bill, Chapter 46, Hawaii Revised Statutes, is amended to provide legislative findings that the orderly regulation of vehicular traffic is essential to the welfare of the people and that privately-operated public passenger vehicle service provides vital transportation to Hawaii's people and persons who travel to the State for business or tourist purposes. Further, the Legislature finds that the economic viability and stability of privately-operated public passenger vehicle service is a matter of statewide importance and thus it is the policy of the State to promote safe and reliable service through the regulation of privately-operated public passenger vehicle service. The Legislature further declares that the policy of the State is to require that counties regulate privately-operated public passenger vehicle service and that a county or city and county shall not be subject to liability under the federal antitrust laws. Thus, this bill provides that, where not within the jurisdiction of the Public Utilities Commission, every county or city and county is empowered to regulate entry into the business of taxicab service, rates charges for taxicab service, and establishment of stands for a limited number of taxicab firms.

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

- (1) Subsection (b) on page 2, line 18, the word "shall" has been replaced with the phrase "may provide rules to" in order to allow the county or city and county to adopt rules to implement this law.
- (2) Subsection (c) on page 3, the word "taxicab" has been replaced with the phrase "public passenger vehicle service" in order to conform the language within the section and to authorize regulation of all forms of public passenger vehicle service rather than just taxicab service.
- (3) Nonsubstantive changes have been made by inserting appropriate commas in line 19, page 2, capitalizing the word "State" where appropriate, and using the word "the" instead of "this" before the word "State" where appropriate.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2309-86, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2309-86, S.D. 1, H.D. 2, C.D. 1.

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

Representatives Shito, Yoshimura, Manegdeg, Taniguchi and Anderson
Managers on the part of the House

Conf. Com. Rep. No. 12-86 on H.B. No. 2202-86

The purpose of this bill is to provide the Board of Land and Natural Resources with the discretion to convene parties involved in a contested geothermal resource subzone dispute prior

to the scheduled contested case hearing for the purpose of possible settlement through mediation by an appointed special master or designee, neither of whom shall be a member of the Board or its staff. This bill further provides that the settlement conference shall not extend beyond thirty days after the parties are determined, except upon mutual agreement of all parties.

Your Committee finds that mediation and arbitration offer practical alternatives to the settlement of disputes through formal judicial procedures. Early public input by all parties concerned in a geothermal resource dispute will allow for the timely resolution of these conflicts. Following discussion on this bill, your Committee has decided that this bill should be amended to provide that the Board of Land and Natural Resources "shall" instead of "may" require parties to participate in a settlement conference for the purpose of mediation. Your Committee finds that this direction to the Board will avoid disputes over possible questions as to whether or not a settlement conference shall be held. In addition, your Committee finds that in order to achieve fair and representative solutions to geothermal resource subzones disputes, the Board should have the authority to require all parties to such disputes to participate.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2202-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2202-86, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Andrews, Say, Metcalf, Tajiri, Tam and Pfeil
Managers on the part of the House

Conf. Com. Rep. No. 13-86 on H.B. No. 1998-86

The purpose of this bill is to require specific types of materials or loads being carried on any vehicle on a highway to be covered with some suitable material.

The original intent of this bill was to prevent the littering of the State's highways by vehicles carrying certain types of materials or loads. This bill would hopefully alleviate this statewide problem.

The effect of H.B. No. 1998-86, H.D. 1, S.D. 1, is to disallow the carrying of any loads which extend beyond the length of the vehicle, to delete the agricultural products exemption, to apply the covering or securing requirement to all types of loads, and also to provide for specific penalties for violations of this section.

Your Committee finds that the carrying of certain materials, such as rocks or boulders, pose a definite safety risk to others who utilize the highway. Your Committee has therefore deleted portions of the proposed language on page 2, lines 13 through 21 and added a new subsection which deals with the carrying of "rocks, boulders, or other materials of a nature capable of causing bodily injury or death."

Your Committee also finds that a number of businesses regularly carry materials which extend beyond the length of the vehicle and to disallow the carrying of these materials altogether would be an economic hardship.

Your Committee has further considered the economic implications of the proposed penalty provisions upon transportation-related operations and agrees that some type of penalty is necessary to act as a deterrent.

Your Committee also had concerns about situations where the violation is due to the fault or negligence of the driver, or in other cases, caused solely by the owner. Your Committee feels that there should be some discretion on the part of the court in imposing a fine on either the driver, the owner or both, depending on the circumstances, as well as the suspension of either the vehicle registration or the license of the driver.

Your Committee has amended the bill on page 1, lines 12 through 16, by retaining the exemption for materials extending beyond the length of the vehicle, provided that such materials are securely fastened by some means.

Your Committee has also amended the bill by retaining the agricultural produce exemption on page 2, lines 4 through 8 of the bill.

Your Committee has amended the bill on page 3, lines 1 through 15, by totally revising the form of the penalty sections to allow for a discretionary suspension of the vehicle registration or the license of the driver, or both, five working days upon the conviction of the first offense,

and added the phrase "or suspension of the license of the driver, or both," in the subsections dealing with subsequent violations. Language has been inserted to indicate that the subsequent violations are meant to specifically cover vehicles which have been previously cited under the section. Your Committee has added a new provision which would allow the court to apportion the fine between the driver and the owner according to the court's determination of the degree of fault, and also added a new provision to clarify how truck-trailer and tractor-semitrailer combinations will be treated.

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

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1998-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1998-86, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 14-86 on H.B. No. 2348-86

The purpose of this bill is to clarify current provisions relating to enforcement of department of transportation motor carrier safety rules and the inspection powers of the director or designated delegates.

Presently the director of transportation may delegate the enforcement of any part of the rules adopted by the department of transportation to the executive officers of each county and any other state agency having responsibilities relating to the operation of motor vehicles.

Your Committee has amended the bill by adding the phrase "of transportation" to the word director on page 1, line 9.

Your Committee has further amended the bill by allowing the director, persons appointed by the director, and the county executive officers to whom powers of enforcement are delegated, to:

- (1) inspect lands, building, freight and equipment of motor carriers,
- (2) stop and inspect freight and equipment of motor carriers and the military on any public highway,
- (3) inspect shipping papers, hazardous waste manifests and other documents of motor carriers and persons subject to this part.

Your Committee has also made technical and non-substantive changes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2348-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2348-86, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 15-86 on H.B. No. 2596-86

The purpose of this bill is to place mopeds and motor scooters under the same muffler exhaust regulations as motorcycles and to repeal sections 291-22 and 291-23, Hawaii Revised Statutes.

Presently the law does not provide for the regulation of moped exhaust systems.

Your Committee has found a problem with the proposed inclusion of motor scooters in this bill. Based on information provided by the House Majority Attorney, inclusion of motor scooters would go beyond the scope of the title. Your Committee has amended this bill by deleting the words "motor scooters" from page 1, lines 3, 4, 9-10, 11, 13 and 16.

Your Committee has further amended the bill by leaving intact Sections 291-22 and 291-23, Hawaii Revised Statutes, concerning muffler exhaust regulations and penalties for motor scooters.

Your Committee has also made technical and non-substantive changes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2596-86, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2596-86, S.D. 1, C.D. 1.

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

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

Representative Nakasato did not sign the report.

Conf. Com. Rep. No. 16-86 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 to include the staff of skilled nursing facilities, intermediate care facilities, adult residential care homes, and adult day care centers.

This bill further provides that "financial exploitation" be included within the definition of elderly abuse or neglect.

Since elderly abuse and child abuse are similar, this bill patterns elderly abuse reporting on current child abuse reporting procedures. This bill accordingly repeals language in Section 394-C, Hawaii Revised Statutes, and substitutes provisions requiring professionals of health-related occupations, employees of public and private agencies, employees of adult residential care homes and adult day care centers, medical examiners and coroners to report directly to the Department of Social Services and Housing, thereby encouraging timely reporting through the elimination of the current two-tier reporting system in hospitals and medical facilities.

Your Committee bracketed out the paragraph on page 4, lines 15 to 18, which was inadvertently left in the Senate version, to eliminate language that duplicates provisions found on page 3, lines 20 to 22.

Your Committee considered whether the penalty for failure to report incidences of elderly abuse should be a civil fine of \$500 or a petty misdemeanor, as with failure to report incidences of child abuse. Your Committee believes that the civil fine is sufficient to ensure compliance with the elderly reporting requirements while removing the stigma of criminalization. Your Committee further amended the bill to provide that the fine apply to failure to report both orally and in writing.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2069-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2069-86, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 17-86 on H.B. No. 1688-86

The purpose of this bill is to enable a person to express their decision relating to their own medical treatment.

This bill provides that a person who executes a declaration will be able to express his or her decision as to medical treatment in the event the person is terminally ill and is unable to make known his or her decision. The bill is also intended to absolve the doctor or health care provider of liability if they act in accordance with the patient's instructions.

Currently, thirty-five states and the District of Columbia have enacted legislation allowing for some type of "living will".

Your Committee finds that competent individuals have the fundamental right to control and to make decisions relating to their medical care. This right extends to decisions to have medical or surgical procedures administered, withheld, or withdrawn. Your Committee believes that prolonging life through artificial means for an individual with a terminal condition may only serve to provide a precarious and burdensome existence.

It is the intention of your Committee that physicians who act in accordance with the provisions of this bill should not be subject to liability. Thus, a physician should not be held accountable if a patient requests that "life-sustaining procedures" be withheld or withdrawn.

The bill will not permit the starving of a patient. Although the bill authorizes the withdrawal or withholding of medical procedures which will only prolong the dying process, nourishment, fluids, and medication will continue to be administered to the patient for the patient's comfort or relief.

Furthermore, your Committee emphatically states that this bill does not condone "euthanasia" or "mercy killing". Your Committee directs your attention to Section -13 of the bill which provides that nothing in this chapter shall be construed to condone, authorize, or approve mercy killing or euthanasia.

After discussion, your Committee made the following amendments.

1. Purpose clause. Your Committee amended the bill by reinserting Section -1 of the House draft. Your Committee believes the purpose section of the bill should establish the general intent of the bill and not discuss specific provisions which are contained in other sections of the bill.

2. Terminal Condition. A concern was raised that the definition of "terminal condition" created confusion because it would not be clear when a terminal condition reaches the final stage or when death was imminent. This would place an additional burden on the physician. Your Committee therefore amended the bill by using the definition of terminal condition contained in the House draft.

3. Statement of Physician Accompanying Declaration. Your Committee was very concerned that an effective living will declaration was contingent upon a physician's statement of the issues and risks. A living will is a very personal document similar to an individual's last will and testament and an individual has personal reasons for making the declaration. Therefore, your Committee did not believe that validity of the declaration should be contingent upon a physician's statement. In addition, the statement would place an additional burden on the physician and may invalidate living wills that already have been drafted and executed. Your Committee believes that delivery of a notarized declaration to the physician to be placed with the patient's records is sufficient and therefore, the bill was amended accordingly.

4. Certification of Incompetency and Terminal Condition. Your Committee agreed to combine the certification of incompetency and terminal condition. This would streamline procedures since the physician could certify the patient's incompetency and terminal condition at the same time.

5. Deletion of the term "imminent" and the phrase "within a relatively short time" from the physician's certification. Your Committee believed the terms were too vague and would create an additional burden for the physician. Therefore, said terms were deleted from the physician's certification.

6. Penalty for failure to certify terminal condition or failure to transfer a patient. Your Committee believed the penalty was too severe for a physician who fails to certify a terminal condition or fails to transfer a patient. Your Committee did not believe that conduct would rise to levels which could be considered criminal and therefore, amended the bill to provide that it constitute professional misconduct.

7. Procedure in Absence of Declaration. Your Committee amended the bill to clarify that ordinary standards of current medical practices will be followed in the absence of declaration.

Your Committee also made certain technical, non-substantive amendments.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1688-86, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1688-86, H.D. 1, S.D. 2, C.D. 1.

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

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

Conf. Com. Rep. No. 18-86 on H.B. No. 105

The purpose of this bill is to give the Family Court the authority to order the name change of a minor in instances where one parent cannot be located, if it is in the best interest of the child and there is clear proof that all reasonable efforts have been made to locate the absent parent. The bill also permits the acceptance in Hawaii of valid name changes ordered by courts in other states, District of Columbia, Puerto Rico, or other territories or possessions of the United States.

Under this bill, if a name change is in the best interest of the child, the efforts of the parent initiating the name change cannot be hindered by the unavailability of the absent parent.

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

1. Added "legitimate or legitimated" on page 2, lines 4 to clarify that this paragraph applies only to legitimate children.

2. Deleted the word "clear" on page 2, line 5 since the standard of proof to be applied was not certain. Your Committee expects that the Family Court will demand the same exhaustive efforts that it now uses to find absent parents who owe child support payments or who must be contacted for other reasons.

3. Delete reference to the registrar of births for petitions accompanied by a prosecutor's affidavit.

4. Require that change of names ordered by the Lieutenant Governor be recorded in the Bureau of Conveyances within sixty days after the signing of the order and deletes requirement that name change orders of persons born in this State be reported to the state registrar.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 105, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 105, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 19-86 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 the release of certain records; and (3) to make certain technical amendments.

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). This will allow 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.

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 best interest of the child.

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

1. Add a new section that provides for the admission into evidence of a recording of a child's statement. Your Committee believes this procedure will help reduce the trauma to the child. Your Committee also made certain other amendments to include the reference to the recorded statement.

2. Amended section 587-74 to clarify the criteria the court would use in determining whether adoption would be appropriate as part of the permanent plan.

3. Made technical non-substantive amendments and corrected certain typographical errors that do not affect the intent and purpose of this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2221-86, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2221-86, H.D. 2, S.D. 2, C.D. 1.

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

Representatives Kiyabu, Tom, Blair, Crozier, Hirono, Manegdeg, Metcalf, Souki, Kamali'i and Medeiros
Managers on the part of the House

Representative Kamali'i did not sign the report.

Conf. Com. Rep. No. 20-86 on H.B. No. 2725-86

The purpose of this bill is to provide immunity from civil liability for individuals performing duties and responsibilities pursuant to Section 350-2 and Chapter 587, Hawaii Revised Statutes, which relate to child abuse and the Child Protective Act.

Your Committee takes cognizance of the morale and recruitment problems created when CPS workers and others who assist in protecting children from abuse and neglect are left unprotected from liability. 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 Committee believes that a measure of protection from civil liability is necessary if child protective workers are to make the difficult decision necessary in this area.

Your Committee wishes to point out that any individual assuming a duty or responsibility under Section 350-2 and Chapter 587 fall within the protection afforded by this bill. The guardian ad litem and foster care certification workers assisting CPS workers in the placement of children, when appointed and acting pursuant to Section 350-2 and Chapter 587, are specifically covered by this bill.

While it is the intent of your Committee to provide immunity for child protective workers, your Committee wishes to emphasize that this bill should in no way be construed to limit that liability of the Department of Social Services and Housing, any other state agency, or any private organization for the conduct of individuals provided immunity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2725-86, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2725-86, H.D. 1, S.D. 2, C.D. 1.

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

Representatives Gaulty, Metcalf, Apo, Cachola, D. Ige, Kihano, Menor, Liu and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 21-86 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 finds that these amendments were promulgated by the Uniform Laws Commission to modernize the procedures for dealing with stock certificates and bonds which fall within the definition of "securities" under Article 8 of the Uniform Commercial Code. Accordingly, 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.

Your Committee also finds that 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 further finds that it is appropriate to request the reviser of statutes to add the commentary from the Comments to Official Text, Uniform Commercial Code.

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

1. A new Section 1 has been added to amend Section 490:1-201, Hawaii Revised Statutes. This amendment would amend the definitions of subsections (5), (14) and (20);
2. A new Section 2 has been added to amend Section 490:5-114, Hawaii Revised Statutes. This amendment would allow an issuer acting in good faith to honor a draft or demand for payment despite notification from the customer of fraud, forgery or other defect not apparent on the face of the documents;
3. A new Section 4 has been added to amend Article 9 of Chapter 490, Hawaii Revised Statutes, as follows:
 - a. Subsection 490:9-103 (3) (a) has been amended to clarify that this subsection applies to general intangibles (other than uncertified securities);
 - b. A new subsection 490:9-103 (6) has been added which states that the jurisdiction of organization of the issuer will govern the perfection and the effect of perfection or non-perfection of a security interest in uncertificated securities;
 - c. Subsection 490:9-105 (j) has been amended by amending "instrument" to mean a negotiable instrument (defined in section 490:3-104), or a certificated security (defined in section 490:8-102);
 - d. Subsection 490:9-203 (1) has been amended by adding "section 490:8-321 on security interest in securities" as an additional provision;
 - e. Subsection 490:9-302 (1) (f) has been amended by adding "securities (section 490:8-321)" as an exception to the requirement of filing a financing statement to perfect a security interest;
 - f. Sections 490:9-304 and 490:9-305 have been amended to clarify that instruments for purposes of this article are "instruments (other than certificated securities)";
 - g. Section 490:9-309 has been amended to delete "section 490:8-301" and to insert "section 490:8-302"; and
 - h. Subsection 490:9-312 (7) has been amended by adding "section 490:8-321 on securities" as a condition under which future advances of a security interest is made.

Your Committee has also made nonsubstantive amendments to correct gender references.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2845-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2845-86, H.D. 2, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 22-86 on S.B. No. 1550-86

The purpose of this bill is to protect officers and board members of nonprofit corporations from civil liabilities that may result from their work on behalf of the corporations. The immunity extends to all officers and board members who serve without payment but does not cover wanton acts or gross negligence.

Your Committee finds that it is increasingly difficult for many nonprofit corporations to obtain sufficient insurance coverage for their boards and officers. Programs beneficial to the public are disabled when the unavailability of insurance curtails the corporations' activities and discourages able individuals from donating their services to nonprofit organizations. This bill may ease the situation and assure that the social contributions of nonprofit corporations are not impeded.

Your Committee has amended the language of Section 2 of the bill so that it conforms to the wording of Section 1, without changing the purpose or effect of the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1550-86, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1550-86, S.D. 2, H.D. 1, C.D. 1.

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

Representatives Shito, Bunda, Hirono, Taniguchi and Jones
Managers on the part of the House

Conf. Com. Rep. No. 23-86 on H.B. No. 2117-86

The purpose of this bill was to clarify and redefine certain terms concerning fine prints, to require that certain informational details be disclosed to purchasers by sellers of fine prints, and to set penalties for violations of these provisions.

Your Committee finds that Chapter 481F, Hawaii Revised Statutes (HRS), presently requires sellers to disclose informational details which may be inadequate for a purchaser attempting to judge the degree of uniqueness or scarcity of a fine print. This bill would strengthen the existing fine prints law by requiring that consumers are provided more meaningful details with which to make an informed decision regarding the purchase of fine prints.

Your Committee, upon consideration, has amended the bill by incorporating sections of the present Chapter 481F, HRS, and California law which the Committee believes would best serve the purpose of protecting the consuming public.

Specifically, your Committee has amended the bill by:

- (1) Conforming the disclosure requirements for all print multiples regardless of when the prints were produced;
- (2) Providing for more detailed disclosure of the artist's participation in creating the prints;
- (3) Eliminating the exemption for prints offered for sale or sold at wholesale or retail for \$250.00 or less;
- (4) Eliminating the provision exempting charitable organizations from disclosure requirements imposed on sellers of print multiples;
- (5) Narrowing the coverage of the bill to cover only print multiples which are prints produced by means of engraving, etching, woodcutting, lithography, serigraphy, or other similar processes or any combination thereof; and
- (6) Providing for an effective date of July 1, 1986.

Your Committee intends to require the disclosure of informational details in written instruments which solicit a direct sale of print multiples. This requirement shall apply to advertisements soliciting the sale of specific prints at stated prices.

Your Committee believes that this bill provides for strong remedies against sellers who fail to disclose or falsely disclose informational details required by Chapter 481F, Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2117-86, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2117-86, S.D. 1, C.D. 1.

Senators Cobb, Abercrombie, Chang, B. Kobayashi, Matsuura, McMurdo and A. Kobayashi
Managers on the part of the Senate

Representatives Levin, Shito, Bunda, Hagino, D. Ige, Onouye, Tungpalan, Hemmings, Jr. and Jones
Managers on the part of the House

Conf. Com. Rep. No. 24-86 on H.B. No. 2468-86

The purpose of this bill is to provide native Hawaiian individuals and organizations the right to bring suit in State courts to resolve controversies relating to the administration of the Hawaiian Homes Commission Act, 1920, as amended, and the Admission Act.

Your Committee recognizes and supports the rights of native Hawaiians and native Hawaiian organizations to bring suit for the enforcement of provisions which directly affect their status as native Hawaiians and the rights and benefits due to them.

Your Committee is also aware of a recent federal court decision affirming the reasonableness of the classification of Hawaiians as defined in Section 10-2. Moreover, your Committee recognizes the concerns expressed in prior testimony from representatives of native Hawaiians and their organizations that the rights and benefits afforded them should not be diminished by rights conferred on Hawaiians.

However, your Committee has amended this bill in the following manner:

- (1) To delete, on line 3, page 2, the reference to Section 4 of the Hawaii State Constitution; and
- (2) To insert, on line 14, page 5, a reference to Section 6 of the Hawaii State Constitution.

These two changes reflect an accurate citation of those sections of the State Constitution which refer to the Hawaiian Homes trust and distinguish it from the trust established for the Office of Hawaiian Affairs.

A third amendment was made in the following manner:

- (3) To insert, on line 4, page 5, the phrase "unless the exhaustion of administrative remedies would be futile", following the reference to the Hawaiian Homes Commission Act, 1920, as amended.

An exhaustion of administrative remedies is not a judicial standard when such processes would deny or fail to address the issue of controversy.

Technical, non-substantive amendments were made for the purpose of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2468-86, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2468-86, H.D. 2, S.D. 2, C.D. 1.

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

Representatives Say, Tom, Kiyabu, Apo, Crozier, Souki, Tajiri, Jones and Kamali'i
Managers on the part of the House

Conf. Com. Rep. No. 25-86 on H.B. No. 2282-86

The purpose of this bill is to reduce the total membership of the Pesticides Advisory Committee from sixteen members to eleven members and to diversify the range of interests represented on the Committee.

Your Committee finds that the current membership structure of the Pesticides Advisory Committee is cumbersome and encourages inefficiency. Additionally, your Committee finds that the present size of the Advisory Committee heavily favors the interests of pesticide users. By reducing the Advisory Committee's overall membership and by diversifying its interests, your Committee finds that the Advisory Committee will be better able to fulfill its duties as an advisory body to the Department of Agriculture and thereby assure full and fair pesticide policy formulation.

Upon further consideration, your Committee has amended the bill by deleting the following phrase from page two, lines 1-4 of the Senate draft version of the bill:

"provided that the member from an environmental organization, the member of a citizen group, and the public member shall be appointed without regard to any list of recommended persons."

Your Committee finds that if this phrase is not removed, the language could restrict the Governor's flexibility in appointing individuals to represent the environmental organization, the citizen group, or the public-at-large. In deleting this language, it is your Committee's

conviction that those individuals appointed to represent the public-at-large on this Advisory Committee do indeed represent the views of the general public and not the views of any special interests.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2282-86, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2282-86, S.D. 1, C.D. 1.

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

Representatives Andrews, Crozier, Hagino, Metcalf and Kamali'i
Managers on the part of the House

Conf. Com. Rep. No. 26-86 on H.B. No. 2246-86

The purpose of this bill is to define, specify and clarify the duties and responsibilities of the Department of Social Services and Housing and the Medicaid Fraud Control Unit in the area of medical assistance provider fraud and abuse, and to define, specify and clarify the rights of providers in this area.

This bill proposes to address the concerns regarding the handling of suspected Medicaid fraud cases by differentiating between Medicaid fraud and Medicaid abuse, with fraud being intentional deception for the purpose of gain.

Further, as decided by the U.S. District Court in Hawaii Psychiatric Society v. Ariyoshi, use of administrative inspection warrants to search the offices and records of Medicaid providers is violative of the right to privacy and the Fourth Amendment of the United States Constitution (and Article I, Section 7 of the Hawaii Constitution). The bill therefore requires administrative inspection warrants to comply with the probable cause standards under the Fourth Amendment and forbids the use of attorney general subpoena to obtain patient medical records. Your Committee believes that should there be need for the Department or Unit to delve into these patient records, the Unit or the Department should obtain a search warrant from the court, with the court determining whether sufficient probable cause was established.

Your Committee made the following further amendments to the bill:

- (1) Added language on page 2, lines 13 through 15, as follows: "The department may request and receive assistance from the unit during the conduct of a preliminary investigation";
- (2) Deleted the requirement for interviews to be transcribed on page 5, line 14, and added language requiring originals of recordings to be retained until the investigation was terminated and all appeals exhausted; and
- (3) Clarified on page 7, line 12, that the twenty-day prior notice requirement was for twenty working days, as opposed to calendar days.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2246-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2246-86, H.D. 2, S.D. 1, C.D. 1.

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

Representatives Graulty, Kiyabu, Cachola, D. Ige, Leong and Liu
Managers on the part of the House

Conf. Com. Rep. No. 27-86 on H.B. No. 326

The purpose of this bill is to include intentional, knowing, or reckless poisoning as an act of cruelty to an animal prohibited by section 711-1109, Hawaii Revised Statutes.

Currently, poisoning of animals is not expressly included in the litany of prohibited acts of cruelty against animals. The bill amends section 711-1109, Hawaii Revised Statutes, to include needless poisoning as a class C felony. Since extermination of certain undesirable animals is a commonly condoned activity, persons who seek to control pests such as insects and vermin are not subject to criminal penalties.

Your Committee has amended the bill by removing the broad category of rodents from the

group of animals excluded from protection under subsection (d). The term "rodents" defines a class of small animals which are distinguished by the shape of their teeth and were improperly identified in the bill as a group of animals commonly subject to extermination.

A concern was raised that the present definition of animal could be interpreted to include people who participate in sporting events. The definition of animal under section 711-1100(5) has been amended to exclude human beings.

Nonsubstantive changes have been made for clarification and to conform section 711-1109(2), Hawaii Revised Statutes, to the changes made in subsection (1).

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 326, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 326, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 28-86 on H.B. No. 381

The purpose of this bill is to increase the compensation paid to jurors from \$20 to \$30 for each day of actual court attendance.

Jury duty is a civic responsibility of all the citizens of this state. Many citizens do not wish to serve as jurors because of the responsibilities placed on them as well as the inconvenience it may cause to their daily schedules. However, the juror plays an important role in the operation of our system of justice. Your Committee believes compensation of jurors should reflect more equitably the value of the juror's service.

Your Committee amended the bill to take effect on July 1, 1986 since no funds were appropriated in the biennium budget to cover the remainder of the current fiscal year if the bill took effect upon approval. Your Committee further amended the bill to include an appropriation of \$619,500 for fiscal year 1986-1987 to implement the provisions this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 381, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 381, H.D. 1, S.D. 1, C.D. 1.

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

Representatives Souki, Tom, Andrews, Manegdeg, Menor, Metcalf, Oshiro, Takamine, Anderson and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 29-86 on H.B. No. 1691-86

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.

Your Committee amended the bill to provide that each county appropriate funds at a minimum of twenty-five per cent (25%) of the amount appropriated by the State. Your Committee believes that if the program is beneficial, the counties should appropriate funds to meet the minimum requirement.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1691-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1691-86, H.D. 2, S.D. 1, C.D. 1.

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

Representatives Kiyabu, Tom, Apo, Hirono, Lardizabal, Metcalf, Souki, Tajiri, Anderson
and Medeiros
Managers on the part of the House

Conf. Com. Rep. No. 30-86 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 any offense except under limited circumstances.

Under this bill, a person who willingly becomes intoxicated and then commits a crime will not be able to claim self-induced intoxication as a defense. Evidence of self-induced intoxication will not be admissible to negate the offender's state of mind but still will be admissible for the limited purpose of proving or negating conduct or proving state of mind.

Your Committee believes that when a person chooses to drink, that person should remain ultimately 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, upon consideration, has amended the bill to delete the phrase, "which is pathological or not self-induced" from page 2, lines 2 and 3 for purpose of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2373-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2373-86, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 31-86 on H.B. No. 1740-86

The purpose of this bill is to improve the process of searching real property titles by requiring the addition of the tax map key on deeds or other instruments recorded in the Bureau of Conveyances.

Under this bill, all deeds or instruments of real property will include the corresponding tax map keys in order to be recorded at the Bureau of Conveyances. Additional information would be required with respect to condominium units. The bill also mandates that the registrar adopt rules relating to full disclosure of the tax map key numbers and that the Department of Taxation shall verify that the property has the subdivision approval of the respective county.

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

1. Amended section 502- (a) to provide that the registrar of conveyances need not verify the tax map key numbers.

2. Delete the provision that requires the Department of Taxation to verify the subdivision of real property. The problem this section sought to address will be addressed administratively by the Department of Land and Natural Resources. In response to the concern presented by the Hawaii Association of Realtors, the Bureau of Conveyances indicated procedures will be changed to include a check for subdivision approval. This change should prevent the problem of property owners discovering that they cannot build because their property was illegally subdivided.

3. The Committee further amended the bill by changing the effective date from July 1, 1987 to January 1, 1987.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1740-86, H.D. 2, S.D. 1 as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1740-86, H.D. 2, S.D. 1, C.D. 1.

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

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

Representative Liu did not sign the report.

Conf. Com. Rep. No. 32-86 on H.B. No. 26

The purpose of this bill is to raise the minimum drinking age to twenty-one.

Drunk driving, once given scant attention, is now a prominent issue. Records of deaths and injuries resulting from drunk driving have spurred consideration of various proposals addressing this problem. A nationwide drinking age of twenty-one has been suggested as one solution to drunk driving. Proponents assert that those aged eighteen to twenty have a disproportionately high per capita rate of alcohol-related accidents than those in other age categories; thus, it is argued, raising the drinking age should result in a significant decrease in alcohol-related traffic fatalities and injuries.

The federal government is supporting a national drinking age through Public Law 98-363, which penalizes states without a drinking age requirement of twenty-one. Thus, if a state does not have such a requirement by October 1, 1986, five percent of its federal highway funds will be withheld for fiscal year 1987. If a state does not have the requirement by October 1, 1987, ten percent of its highway funds will be withheld in fiscal year 1988. For the State of Hawaii, this would amount to \$6,285,000 in fiscal year 1987 and \$12,570,000 in fiscal year 1988 - a total of \$18,855,000.

Accordingly, your Committee finds that it cannot postpone this matter further and is compelled to act to avoid the loss of federal highway funds. These funds are sorely needed for the construction of necessary state highway projects; moreover, last year the Legislature was forced to increase the fuel and weight taxes and the vehicle registration fee significantly to keep the highway fund solvent.

Your Committee was not convinced, however, that it would be appropriate to require insurers of motor vehicles to provide a ten percent reduction off premium charges each insurer assesses for each new and renewal policy. This conclusion was based upon the Committee's finding that there was insufficient data to support the assumption that there would be a ten percent payout reduction of insurance benefits.

Your Committee, upon further consideration, has amended the bill by revising the purpose section to incorporate the purpose as stated in House Draft 1 and adding a paragraph to explain why your Committee finds it appropriate to pass on a projected savings to the consumer in the form of premium reductions on insurance policies. Your Committee has also amended the bill by substituting the language in subsection 294-13(n) with the following:

"(n) Notwithstanding subsection (j), and in addition to all other premium reductions required under this section, commencing on October 1, 1986, and ending on September 30, 1989, all insurers of any motor vehicle shall provide a 1.5 per cent reduction for bodily injury liability, property damage liability, no-fault benefits, uninsured motorist, and underinsured motorist coverages, and a 0.75 per cent reduction for collision coverage off premium charges each insurer assesses for each new and renewal policy, based on the anticipated effects of section 281-78. Commencing on October 1, 1989, and ending on September 30, 1990, at the discretion of and as determined by the commissioner, based on the difference between the actual and anticipated effects of section 281-78, all insurers of any motor vehicle shall provide a refund or credit to each insured at the time of renewal of a no-fault policy."

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 26, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 26, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 33-86 on H.B. No. 122

The purpose of this bill is to amend section 28-2.5, Hawaii Revised Statutes, to clarify the subpoena powers of the Department of the Attorney General.

Under this bill, the distinction between the Department's prosecutorial and investigatory functions will better be maintained. The bill also provides that persons under investigation and

opposing parties will be assured fairness by preventing the inappropriate use of investigating subpoenas.

Your Committee amended the bill by deleting the provision that would require the Department to establish guidelines for determining whether or not an investigation will result in an adjudication proceeding.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 122, H.D. 1, S.D. 2 as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 122, H.D. 1, S.D. 2, C.D. 1.

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

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

Conf. Com. Rep. No. 34-86 on H.B. No. 1998-86

The purpose of this bill is to require specific types of materials or loads being carried on any vehicle on a highway to be covered with some suitable material.

The original intent of this bill was to prevent the littering of the State's highways by vehicles carrying certain types of materials or loads. This bill would hopefully alleviate this statewide problem.

The effect of H.B. No. 1998-86, H.D. 1, S.D. 1, C.D. 1, is to retain the provision allowing the carrying of any loads which extend beyond the length of the vehicle, to retain the agricultural products exemption, to apply the covering or securing requirement to certain types of loads, and also to provide for specific penalties for violations of this section.

Your Committee, upon further discussion, is concerned that the application of the requirement that all types of loads must be covered or secured may have an adverse economic impact on the trucking industry and may also pose a potential danger to the individual driver's safety when complying with this requirement.

Your Committee has, therefore, amended the bill by deleting the language on page 2, line 14 starting with the word "gravel", and ending with the word "vehicle" on page 3, line 2.

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

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1998-86, H.D. 1, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1998-86, H.D. 1, S.D. 1, C.D. 2.

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

Senator George did not sign the report.

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

Conf. Com. Rep. No. 35-86 on S.B. No. 303

The purpose of this bill is to amend the laws governing the qualification of political parties in Hawaii. Currently, to qualify and remain qualified as a political party, an organization must first petition to appear on the ballot and then either achieve certain election results to remain qualified or requalify by petition. The bill, as amended, allows parties that qualify by petition in three successive elections to remain qualified for the following 10 years without earning specified percentages of the vote in elections, as long as the parties continue to field candidates for public office.

Your Committee has amended the bill to change the location of the provision requiring a party that has qualified by petition for a period of ten years to continue fielding candidates. Another technical amendment to subsection (a) adds "section 11-64" to a sentence referring to the statutory provisions governing qualification. Your Committee made other technical amendments that do not change the purpose or effect of the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 303, S.D. 1, H.D. 1, and recommends that it pass Final Reading and in the form attached hereto as S.B. No. 303, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 36-86 on S.B. No. 592

The purpose of this bill is to make profits from the sale of information by a criminal relating to the commission of a crime available to the victim as compensation for the harm suffered as a result of the crime.

Currently, a person convicted of a criminal offense is free to exploit the crime by selling information relating to the crime. The bill requires that, upon conviction, the person contracting for the sale of information relating to a crime deposit moneys payable under the contract with the criminal injuries compensation commission. Your Committee has amended the bill to require that the moneys be deposited in federally-insured interest-bearing accounts.

Fifty percent of the moneys payable under the contract shall be deposited in a collection account, used to pay the costs of prosecuting an appeal. If the expense of seeking judicial relief exhausts the funds in the collection account, the convicted person may obtain a court order compelling an amount greater than fifty percent be deposited in the collection account.

The other fifty percent of the funds payable under contract shall be deposited into a special account. Those moneys, along with any interest accrued, are available to reimburse the criminal injuries compensation commission for payments made to the convicted person's victims or to satisfy a judgment won by the victim against the convicted person.

If the conviction is overturned or reversed, or ten years have elapsed since the last judgment obtained by the victim and the applicable statute of limitations has expired, the remaining moneys held in the collection and special accounts shall be disbursed to the offender.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 592, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading and in the form attached hereto as S.B. No. 592, S.D. 1, H.D. 2, C.D. 1.

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

Representatives Tom, Souki, Isbell, Jones, Leong, Menor, Metcalf and Takamine
Managers on the part of the House

Representative Takamine did not sign the report.

Conf. Com. Rep. No. 37-86 on S.B. No. 2290-86

The purpose of this bill is to assure that the Office of the Public Guardian receives and responds appropriately to petitions for public guardianship. The bill permits persons who support and care for eligible individuals to petition the Family Court for appointment of the Public Guardian. Those who care for incapacitated individuals are in an excellent position to recognize needs for public guardianship and to alert the Office of the Public Guardian to individuals who require its services. Further, the desire to protect themselves from the risk of legal liability will encourage responsible caretakers to consult or involve the public guardian when necessary for the protection of the individuals in their care.

Your Conference Committee upon further consideration has amended the bill by deleting a sentence that gave priority to needs for long term guardianship and to the needs of the elderly.

Testimony supporting the bill indicated that the Office of the Public Guardian now provides only short term guardianship, and that the needs of many elderly individuals for permanent guardianship are unmet. However, the Public Guardian's priorities seem to be determined more by financial constraints than by policy decisions. Your Committee accordingly declined to establish statutory guidelines for the Office, but does expect that a balanced public guardianship program will result when increased funding becomes available.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2290-86, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading and in the form

attached hereto as S.B. No. 2290-86, S.D. 1, H.D. 2, C.D. 1.

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

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

Conf. Com. Rep. No. 38-86 on S.B. No. 1933-86

The purpose of this bill is to allow any small business to recover attorney's fees from the state when a court finds that a state agency has sued the small business without sufficient reason. The state agency is allowed attorney's fees if a court concludes that a small business's lawsuit against the state was frivolous and wholly without merit. Fees are to be reimbursed at a specified rate up to a statutory maximum.

Your Committee upon further consideration has amended the bill to clarify the standards controlling awards of attorney's fees to small businesses. The bill now allows attorney's fees if a court finds that an agency's action lacked a reasonable basis. A technical amendment was also made to the language pertaining to the appropriations that the bill will necessitate.

Your Committee finds that small businesses are unusually vulnerable to the risks and costs of lawsuits initiated by state agencies. Small businesses are subject to regulations not applicable to individuals, and are ordinarily not eligible for publicly funded legal assistance when disputes arise concerning the interpretation of relevant rules and decisions. Judicial clarification of the propriety of an agency's regulatory conduct benefits the entire community although the costs may fall on a single business. Allowing attorney's fees to be awarded against state agencies will assure that small businesses are not unfairly burdened by the costs of defending against baseless actions.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1933-86, S.D. 1, H.D. 2 as amended herein, and recommends that it pass Final Reading and in the form attached hereto as S.B. No. 1933-86, S.D. 1, H.D. 2, C.D. 1.

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

Representatives Tom, Souki, Blair, Crozier, Lardizabal, Metcalf, Tajiri, Tungpalan,
Anderson and Medeiros
Managers on the part of the House

Representative Anderson did not sign the report.

Conf. Com. Rep. No. 39-86 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 a lien on freight in its possession for the total amount owed the carrier by the shipper for freightage, charges for services and advances due on freight previously delivered upon the promise of the shipper to pay freightage, charges and advances, as provided in this section.

Your Committee finds that common carriers require an expeditious method of obtaining payment from shippers, since they cannot select their customers to reduce the risk of nonpayment. The bill also protects shippers' interests by affording them notice that a lien may be imposed on future shipments unless past charges are paid. An adequate opportunity to contest the carrier's claim is also provided before any freight can be sold.

Your Committee, upon further consideration, has amended subsection (b) as follows:

(b) The lien provided by this section shall not arise:

- (1) Unless the carrier has given the shipper and consignee 10 days notice in writing, that failure to pay billed charges may result in lien on future shipments; or
- (2) As to any freight which consists of perishable goods; or
- (3) As to any freight, the freight charges for which have been prepaid by the consignee or the intended recipient; or
- (4) As to any freight, if the applicable charges were paid to a third party legally obligated

to remit the payment to the carrier but the amount due has not been received by the carrier; or

- (5) As to any property legally owned by anyone other than the debtor, or as to which the current identity of the owner is unknown.

Your Committee has further amended the bill by adding a new subsection (g) and has changed the effective date to July 1, 1987.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1388, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1388, H.D. 1, S.D. 1, C.D. 1.

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

Senator Cayetano did not sign the report.

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

Conf. Com. Rep. No. 40-86 on S.B. No. 909 (Majority)

The purpose of this bill is to amend section 296-46.1, Hawaii Revised Statutes, to exclude from any school bus contract an age limitation provision for buses manufactured in accordance with Federal Motor Vehicle Safety Standards issued in 1977 by the Secretary of Transportation, to require the contract to include provisions requiring periodic refurbishment of buses over ten years old, and to require serviceability of a vehicle to be determined by chapter 286, Hawaii Revised Statutes.

Your Committee upon further consideration has provided that school buses may be contracted out to the State regardless of age as long as they meet the standards of serviceability set forth in chapter 286, Hawaii Revised Statutes. Reference to manufacturer in accordance with Federal Motor Vehicle Safety Standards issued in 1977 by the Secretary of Transportation has been deleted.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 909, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 909, S.D. 1, H.D. 1, C.D. 1.

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

Senator George did not sign the report.

Representatives Lindsey, Taniguchi, D. Ige, Levin and Hemmings, Jr.
Managers on the part of the House

Representative Levin did not concur.

Conf. Com. Rep. No. 41-86 on H.B. No. 1665-86

The purpose of this bill is to increase the percentage of indirect overhead funds generated by the University of Hawaii (University) which is deposited into the Research and Training Revolving Fund (Fund). An increase in the amount deposited in this Fund would enhance the ability of the University to attract additional moneys for innovative projects, and permit the University to invest its resources in new program areas which have the potential to develop into major research projects.

Your Committee is in agreement that fifty percent of the total amount of indirect overhead funds generated by the University is an appropriate amount to be deposited in the Fund. Accordingly, with the exception of the proposed insertion of the new word "fifty" which is underscored to delimit the exact percentage of funds eligible for deposit, the amendments to lines 5 and 6 on page 1 of the bill previously proposed have been deleted to reflect the Committee's aforementioned intent.

Another major issue considered was the requirement that the Governor and Director of Finance approve University expenditures from the Fund. Your Committee believes that this requirement is unnecessary and undesirable since it may result in delays which prevent the timely and effective expenditure of funds. Therefore, the phrase "upon approval of the

governor or the director of finance, if so delegated" on page 1, lines 9-10 modifying fund authorization was deleted. For purposes of consistency, a similar amendment was made to Section 304-8.1(c) of the Hawaii Revised Statutes.

Upon further consideration, your Committee finds that since it is the intent of this bill to increase the amount of available moneys in the Fund, and one of the proposed amendments agreed upon deletes the provision mandating the transferal of moneys unencumbered at the end of the fiscal year to the general fund, the effective date shall also be changed for purposes of consistency. In short, since the effective date of the bill, as received, is July 1, 1986, which is one day after the end of the 1985-86 fiscal year, and after current unencumbered funds are automatically transferred, the bill was amended to take effect upon approval.

Nonsubstantive amendments were also made to the bill for stylistic purposes, and conformance to accepted Ramseyer drafting techniques.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1665-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1665-86, H.D. 2, S.D. 1, C.D. 1.

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

Representatives Kiyabu, Levin, Cachola, Crozier, Onouye, Say, Shon, Tajiri, Yoshimura, Anderson and Hemmings, Jr.
Managers on the part of the House

Conf. Com. Rep. No. 42-86 on H.B. No. 2608-86

The purpose of this bill is to provide tuition waivers for certain Vietnam era veterans who are enrolled in programs offered on any campus of the University of Hawaii system.

Your Committee finds that since the Vietnam era ended over ten years ago, a great majority of the veterans eligible for the proposed tuition waivers are thirty years old or older. Since at this stage in life many of these veterans have jobs and families, they may not be able to attend school on a full-time basis, and if they are to meet their individual educational goals many need some form of financial assistance. Therefore, your Committee finds that tuition waivers should be provided to eligible Vietnam era veterans.

While it is your Committee's desire to provide some relief for educational expenses for more than four years, the length of time typically required for a full-time student to earn an undergraduate degree, your Committee acknowledges the fact that the period of eligibility should not be so long as to invite abuse. Accordingly, your Committee amended page 2, line 9 of the bill to increase from four to five the number of regular academic years which an individual would be eligible for tuition waivers.

Another major issue discussed was the "sunset" date of the proposed program. Since the intent of this bill is to allow an individual a maximum of five years in which to complete degree requirements, an individual starting the program at the inception of the program should be assured of five years of tuition waivers before a decision is made either to allow the program to "sunset" or to extend the "sunset" date. In this regard, the bill was amended to extend the repeal date of the Act on page 3, line 18 from December 31, 1989 to June 30, 1991. For consistency, the date for the discontinuance of this program's tuition waivers on page 2, line 13 was changed from September 1989 to September 1990.

Your Committee finds that although certain veterans served in Southeast Asia, their military records may not delimit the specific geographic areas of service such as Vietnam, Cambodia, or Laos. Examples of these veterans are airplane pilots who flew missions over Vietnam, but who were based in Thailand, and Navy personnel who were assigned to ships which served in Southeast Asian waters. Your Committee has therefore amended the bill on page 1, line 8 to expand the eligibility criteria by deleting the words "Vietnam, Cambodia, or Laos", and replacing them with the words "the Southeast Asia Theater of Conflict".

As received, the bill would have allowed the Board of Regents (BOR) to request reports from the Veterans Administration (VA), and to terminate the program based on any VA report or upon failure of the VA to submit a report. The Committee finds that the VA, upon certifying a veteran for a program, does very little, if any, follow-up activity. Data from the VA on the impact of the program on veterans would thus be insufficient to determine whether or not the program should be terminated. Yet the BOR should be allowed to request any available reports from the VA. Accordingly, your Committee retained the provision allowing the BOR to request reports from the VA, but amended page 3, line 3 through 14 by deleting the provisions which

allow the BOR to terminate the program based on any VA report or failure to report, and which require the BOR to notify the Legislature of such termination.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2608-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2608-86, H.D. 2, S.D. 1, C.D. 1.

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

Representatives Souki, Levin, Honda, Kihano, Manegdeg, Nakasato, Oshiro, Shon,
Anderson and Cavasso.
Managers on the part of the House

Conf. Com. Rep. No. 43-86 on H.B. No. 2495-86

The purpose of this bill is to amend Chapter 239, Hawaii Revised Statutes, to specifically authorize the Public Utilities Commission to offer lifeline telephone service rates to eligible residential customers. Further, this bill would prescribe criteria for eligibility for lifeline telephone service and provide a means for funding lifeline telephone service by allowing telephone public utilities a tax credit, equal to their respective lifeline service rate subsidy, to be applied against the company's public service company tax liability.

Your Committee finds that having telephone service is essential to many persons with low and limited incomes as they are significantly dependent on the telephone to maintain communication with public agencies and providers of medical care, as well as to retain necessary social contacts in the community. Accordingly, your Committee finds the concept of lifeline telephone service to be highly commendable and that it should be made available to persons with low and limited incomes in the face of rising telephone service costs.

Your Committee finds, however, that lifeline telephone service should not be extended to all low and limited income persons, but, rather, should be limited to only the elderly and the handicapped with low or limited income.

Your Committee, upon further consideration, has amended the bill by amending page 2, lines 16-18 by deleting the language, "service for persons with low or limited income including but not limited to elderly and handicapped individuals", and by inserting the language, "users identified as the elderly with limited income and the handicapped with limited income".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2495-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2495-86, H.D. 2, S.D. 1, C.D. 1.

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

Representatives Shito, Kiyabu, Bunda, Crozier, Oshiro, Souki and Anderson.
Managers on the part of the House

Conf. Com. Rep. No. 44-86 on H.B. No. 393

The purpose of this bill is to amend the criteria for the allotment of moneys and instructional resource augmentation positions in the school priority fund. Allotment of moneys are authorized for grades kindergarten through twelve, instead of separately for elementary schools and secondary schools. Allotment of positions are authorized to school districts based on enrollment in schools with grades kindergarten through eight, instead of only for elementary schools.

This bill provides an equitable criterion for the distribution of moneys in the school priority fund and allows schools with combined intermediate and elementary grades to benefit from instructional resource augmentation positions.

Your Committee upon further consideration has made an amendment to H.B. 393, H.D. 1, S.D. 1 to read as follows:

Section 1.

- "(3) "School priority fund" includes money which may be appropriated and allotted for grades kindergarten through twelve and appropriated instructional resource augmentation positions which shall be allotted by the superintendent to districts for

schools with grades kindergarten through six and grades kindergarten through eight based on enrollment in grades kindergarten through six."

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

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

Representatives Kiyabu, Lindsey, D. Ige, Lardizabal, Nakata, Say, Takamine, Yoshimura, Kamali'i and Pfeil
Managers on the part of the House

Conf. Com. Rep. No. 45-86 on H.B. No. 1663-86 (Majority)

The purpose of this bill is to establish a child care pilot project at the University of Hawaii.

Your Committee agrees that the establishment of child care centers by the University will greatly improve access to the university system for students with young children and that access to education is an important societal goal for Hawaii.

This bill establishes a child care center revolving fund for the operation, construction and/or renovation of child care centers throughout the university system. While the University and Board of Regents are responsible for implementing the pilot project, your Committee has included language in the bill to ensure that the project will be self-supporting.

Your Committee emphasizes that the revenues which are required to be deposited into the revolving fund must be sufficient to pay the costs of providing child care at centers, including the costs of construction or renovation and utilities. Your Committee, however, intends that the costs of activities at a child care center which are attributable to execution of a curriculum assignment or organized research under an academic program of the University shall not be considered costs of providing care and need not be paid from the revolving fund.

Your Committee finds that section 2 of the bill does not limit the University to the establishment of a pilot project. Rather, your Committee intends that the University pilot test any child care centers which are established and make necessary improvements or adjustments without discontinuation of services.

Your Committee has also included language requiring the University to provide the Legislature with an evaluation report on the pilot project twenty days prior to the convening of the 1988 Regular Session.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1663-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1663-86, H.D. 2, S.D. 1, C.D. 1.

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

Senator Abercrombie did not concur.

Representatives Kiyabu, Levin, Graulty, Hirono, D. Ige, Lardizabal, Leong, Nakasato, Onouye, Shon, Souki, Tajiri, Isbell, Liu and Pfeil
Managers on the part of the House

Conf. Com. Rep. No. 46-86 on H.B. No. 1666-86

The purpose of this bill is to establish at the University of Hawaii a Teacher Incentive Program (Program) providing tuition waivers to students who agree to pursue a curriculum which would allow them to teach in Hawaii's public schools. This bill is in response to the information received indicating a need for up to 4,000 public school teachers by the year 1991 projected by the Department of Education.

In support of this bill's goal and objectives, the measure directs the Board of Regents (BOR) to adopt rules in a number of different areas in furtherance of the Program's establishment. Of the nine separate items listed, item 6 on page 2, line 4 of the bill relating to the payback by those who do not fulfill their respective teaching obligations was amended.

As received, this item would have specified that these individuals would make reimbursement by way of payment of an amount equivalent to the tuition waived. Your Committee agrees with

the concept of a payback to preserve the integrity of the Program. In addition, your Committee believes that the BOR should be given the latitude to adopt rules providing for appropriate interest payments and penalties. Accordingly, the bill was amended by inserting the phrase "not less than" between the words "pay" and "the tuition" on page 2, line 5.

In view of the impending teacher shortage, your Committee believes that the Program should be implemented as soon as practicably possible to ensure the training of qualified teacher candidates. Hence, on page 2, line 18 the effective date of the bill has been amended by the deletion of the "January 1, 1987" date, and the substitution of the phrase "upon approval." While it is not the intent of your Committee to mandate the immediate implementation of the Program, it is believed that if the Program can be implemented before the beginning of the new year, the BOR should be given the flexibility to do so.

With regard to the issue of the Program's "sunset", your Committee feels that it would be inappropriate for the Program to end in the middle of an academic year. Therefore to accommodate the academic schedule, an amendment has been made to delete the January 1, 1992 repeal date on page 2, line 19 and substitute a June 30, 1992 repeal date.

Upon further consideration, your Committee deleted subsection (c) of the bill, and inserted the phrase, "In addition to any other tuition waivers provided in this chapter," after the title of the section on page 1 line 5 of the bill. This nonsubstantive stylistic change clarifies the fact that this is a new financial assistance program for eligible recipients.

Other nonsubstantive amendments for purposes of style and clarity were made.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1666-86, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1666-86, H.D. 2, S.D. 2, C.D. 1.

Senators Yamasaki, Holt, Toguchi and Soares
Managers on the part of the Senate

Representatives Kiyabu, Levin, Cachola, Crozier, Leong, Lindsey, Onouye, Shon, Isbell and Pfeil
Managers on the part of the House

Conf. Com. Rep. No. 47-86 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 significantly curtail the Authority's use of tax-exempt bonds to fund public programs, such as Hawaii's Hula Mae Program. The federal guidelines would institute a volume aggregate cap and would place strict income limits on prospective applicants.

This bill provides the Hawaii Housing Authority with alternatives to finance mortgage loans by taxable securities.

Your Committee finds Hawaii's Hula Mae Program has been an effective tool to assist Hawaii families to obtain home ownership and should be supported to ensure continued program benefits for Hawaii residents.

Toward this end, your Committee has amended the bill by inserting an authorization amount of \$200 million. This would permit the Hawaii Housing Authority to commence its taxable mortgage securities programs as soon as necessary.

The bill has been further amended by making nonsubstantive changes as follows:

1. Page 1, line 11 - the word "needed" has been deleted and "used" substituted therefor.
2. Page 6, line 5 - the letter "s" has been added to the word "conveyance" to correctly identify the bureau of conveyances.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2190-86, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2190-86, S.D. 1, H.D. 2, C.D. 1.

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

Representatives Hashimoto, Shito, Kiyabu, Kihano, Leong and Liu
Managers on the part of the House

Conf. Com. Rep. No. 48-86 on S.B. No. 425

The purpose of this bill is to permit the negotiation of the number of incremental steps and the length of service necessary for incremental and longevity step increases in the public service.

Under present law, these subjects may not be negotiated and step increases are prohibited in any year in which a negotiated pay increase is effective, whether by statute or collective bargaining agreement, resulting in a situation in which some public employees have been unable to move laterally on their respective salary schedules. Because employees are unable to move beyond this entry level step, they can never catch up to those employees on the higher steps. This inequity affects many employees in the bargaining units and lowers morale.

Your Committee finds that 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, it may provide an additional opportunity for both the employer and the exclusive representative to reach a contract agreement.

To assist the public employer in containing costs, your Committee explicitly states that incremental and longevity step increases are not automatic, but must be negotiated and included as part of the overall cost package which is subject to appropriation by the Legislature.

Upon further consideration, your Committee has amended this bill by clarifying that movement between steps and the number of longevity steps, as well as the number of incremental steps, are proper subjects for negotiation.

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

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

Representatives Yoshimura, Kiyabu, Manegdeg, Takamine and Anderson
Managers on the part of the House

Conf. Com. Rep. No. 49-86 on S.B. No. 1762-86

The purpose of this bill is to remove restrictions in the present law which have hampered the development of correctional industries by: (1) deleting the \$350,000 gross annual production value limit on correctional industries; (2) deleting the public hearing requirement and giving the department of social services and housing discretionary authority to hold hearings when necessary in the public interest; (3) permitting the use of funds from the correctional industries account for the leasing of equipment and machinery, the leasing and renovation of buildings, personnel salaries, and for expenses incurred in studying and evaluating proposed or existing correctional industrial enterprises; and (4) increasing the expenditure ceiling of the correctional industries account fund from \$100,000 to \$500,000.

Your Committee upon further consideration has only made technical changes for purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1762-86, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1762-86, S.D. 1, H.D. 2, C.D. 1.

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

Representatives Menor, Souki, Blair, Crozier, Oshiro, Takamine, Anderson and Jones.
Managers on the part of the House

Conf. Com. Rep. No. 50-86 on H.B. No. 1857-86

The purpose of this bill is to assure that all persons in the State of Hawaii are free of unfair discrimination in their use of public accommodations.

Hawaii is well known for its cultural diversity and the uniqueness of its people. In keeping with the Aloha Spirit, this bill clearly proclaims the State's policy of prohibiting all unfair

discrimination in public accommodations. The bill also will provide the legislature with needed information about the extent and focus of any unfair discriminatory practices which may serve as a basis for future legislative action.

Your Committee upon further consideration has made the following amendments to H.B. No. 1857-86, H.D. 2, S.D. 1:

- (1) Deletes a private club licensed under chapter 281 doing business under a class 6 license, as defined in section 281-31 from the definition of "place of public accommodation".
- (2) Deleted the requirement of having the office of consumer protection, department of commerce and consumer affairs investigate all complaints of discriminatory treatment in public accommodations.
- (3) Added a section which would require the department of labor and industrial relations to receive complaints of unfair discriminatory treatment in public accommodations, and to provide procedures for reporting of complaints.
- (4) Amended the bill to conform subsections (1) and (3) of section 5 to the complaint procedures available in other sections of the bill.
- (5) Added a section that states that nothing in this chapter shall be construed to limit any cause of action based upon any unfair discriminatory practice.

Your Committee has also made certain nonsubstantive changes to the bill for purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1857-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1857-86, H.D. 2, S.D. 1, C.D. 1.

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

Senator George did not sign the report.

Representatives Tungpalan, Souki, Metcalf, Lardizabal, Leong, Takamine, Anderson and Jones
Managers on the part of the House

Representatives Leong, Anderson and Jones did not sign the report.

Conf. Com. Rep. No. 51-86 on H.B. No. 100

The purpose of this bill is to update the Hawaii Penal Code by incorporating certain recommendations of the committee on Penal Code Revision and Reform of the Judicial Council of Hawaii.

It has been approximately twelve years since the penal code was enacted; during which time piecemeal amendments have been made to the code. The Committee on Penal Code Revision was appointed in 1983 to address the community's concern that the Hawaii Penal Code, adopted in 1973, required some adjustment in order to respond to current patterns of crime. The committee was composed of representatives from the three major sectors of the criminal justice system: enforcement, judiciary, and corrections. The committee's recommendations were published in a report entitled, "A Comprehensive Review and Reformation of the Hawaii Penal Code." All the recommendations were not unanimously agreed to by all members and there was strong disagreement on certain recommendations. However, the report did attempt to synthesize the diverse perspectives of the committee into specific proposals.

This bill proposes comprehensive amendments that would refine the penal code rather than propose wide-ranging reform.

The bill focuses on crimes against the person and against property as the most compelling areas for revision, since it is in these areas that the impact of crime is most felt. The penalties for substantive crimes were restructured to more precisely define various crimes in order to provide sentencing which justly penalizes the crime committed.

The offense of murder in the first degree is expanded to include the killing of more than one person in separate incidents. Your Committee intends that persons convicted of serial killings be subject to life imprisonment without parole.

The definition of bodily injury has been expanded to include an intermediate level of substantial bodily injury. There are currently two definitions of bodily injury -- "bodily injury" which means any physical pain, illness or impairment, and "serious bodily injury" which includes a substantial risk of death, or serious or permanent disfigurement, or loss of body organ. "Substantial bodily injury" has been added to account for injuries which are far more serious than mere bodily injury but do not approximate a risk of death or permanent loss or disfigurement. Your Committee amended the bill by changing grave bodily injury back to serious bodily injury. Your Committee did not believe it was necessary to change the terminology.

The definitions of "recklessly" and "negligently" contained in section 702-206(3) and section 702-206(4) were amended in 1985. Although the 1985 supplemental commentary indicates that the changes were made to correct grammatical inaccuracies, the 1985 amendments substantively change the definitions from requiring a conscious disregard of a risk that the actor engages in a type of conduct to a conscious disregard of a risk created by the actor's conduct. Your Committee has amended the section to its original meaning with changes to correct the grammatical awkwardness.

In chapter 704, responsibility and fitness, the numerous references to "certified clinical psychologists" were amended to read "licensed psychologists". Chapter 465 requires licensure, not certification of psychologists and the term "clinical" does not accurately describe persons qualified to make determinations of fitness. Additionally, an exception to licensure is provided since, under section 465-3(3), Hawaii Revised Statutes, psychologists who are employed under government certification or civil service regulations are exempt from the requirement of licensure.

Section 704-406, Hawaii Revised Statutes, requires that upon a finding that a defendant lacks fitness to proceed, the defendant be committed to the custody of the director of health "for as long as unfitness shall endure." The Hawaii supreme court held in *State v. Raitz*, 63 Hawaii 64 (1980), that when it appears a defendant is unlikely to become fit to proceed, due process requires that: (1) following commitment, there be a timely determination of the likelihood of the defendant regaining fitness, and (2) if the court determines the defendant will probably remain unfit, the defendant be released or civilly committed. The amendments to section 704-406, Hawaii Revised Statutes, implement the holding in the *Raitz* case.

The crimes of rape and sodomy have been eliminated as well as the "voluntary social companion" distinction between first and second degree rape and sodomy offenses. All of the sexual offenses have been incorporated into five degrees of sexual assault. The creation of the intermediate level of bodily injury allows for a graduated, five-level sexual assault scheme running from class A to a petty misdemeanor which provides punishment which reflects the seriousness of the offense committed. The prosecutor's office of the respective counties raised concern that if the present rape and sodomy offenses are deleted and degrees of sexual assault are used, they may lose the ability to multiple count a defendant where the victim is both raped and sodomized. However, your Committee amended the definition of "sexual penetration" to make it clear that even though rape and sodomy are renamed sexual assault offenses, the prosecutors can still multiple charge a defendant for each act of penetration.

A new chapter is added to the penal code by incorporating the provisions of Chapter 851, relating to credit card offenses. The offenses provided in Chapter 851 are essentially types of theft, fraud or forgery which can be classified as property crimes and thus properly belong within the penal code.

Your Committee recognizes that the prolific use of credit in consumer purchasing also marks an increase of criminal abuse of credit cards involving fraud, theft and forgery. Your Committee consequently believes that the penalties in this area need strengthening.

The amendments to section 706, disposition of convicted defendants, demonstrate a shift from the present approach of sentencing which emphasizes rehabilitation toward achieving the goal of just punishment. The corresponding deletion of section 706-620, Hawaii Revised Statutes, which requires the court to withhold imprisonment unless circumstances mandate otherwise, and the addition of a new section, section 707-606, outlining sections to be considered when imposing sentence, including the need to afford deterrence and to provide just punishment, establish a different view of both incarceration and probation.

The repeat offender statutes, section 706-606.5, Hawaii Revised Statutes, has been amended by incorporating the changes recommended by the Honolulu Prosecuting Attorney Association. The changes are intended to provide sentencing of repeat offenders which is commensurate to the severity of the crime committed. Thus, a class A offender with a prior conviction is sentenced to a mandatory minimum term of six years, eight months, a class B offender receives half that amount, and a class C offender receives one year and eight months. The period of time during which a person is considered to have a prior felony conviction is made

commensurate to the seriousness of the prior felony offense. The current definition of a prior felony conviction is now included in section 706-606.5(3)(a) which states, "A prior felony conviction is a conviction for a felony offense which was committed after a previous felony offense."

Your Committee amended the bill to provide that only certain enumerated class C felonies be subject to the repeat offender statute. Your Committee believed that the legislature should retain some latitude in the C felony area as to which of those crimes should be in the repeat offender category.

Under section 706-610, any felony defined outside of the penal code is designated as a class C felony. The section has been amended to allow provisions enacted subsequent to 1973 to specifically designate crimes as class A or B felonies.

The maximum levels of fines authorized under section 706-640, Hawaii Revised Statutes, have been raised in order to allow the court discretion to impose severe fines as penalties, particularly where the criminal activity results in great financial gain to the offender.

In the area of theft offenses, the dollar amount for theft in the first degree was increased and the offense was raised to a class B felony. There was some reluctance on the part of the Committee to rely solely on the consumer price index to determine dollar threshold amounts and therefore, the theft offense limits were reduced from the proposed values based on the consumer price index.

Currently, under the offense of custodial interference in the second degree, a person who knowingly takes or entices a person less than eighteen years old from that person's lawful custodian is guilty of a misdemeanor. A new offense has been added to custodial interference in the first degree, section 707-726, Hawaii Revised Statutes, which makes the knowing taking or enticing of a person less than eleven years old from that person's lawful custodian, accompanied by the knowledge that the actor had no right to do so, a class C felony.

Under a new section of endangering a minor in the first degree; a person who is entrusted with the care or custody of a minor, without violating a duty of care or directly causing harm to the minor, shall be criminally responsible for intentionally failing to prevent the infliction by another person of serious or substantial bodily injury on the minor. However, the section provides a defense for failing to act where the person reasonably fears they would incur serious or substantial bodily injury by acting to prevent the abusive behavior. Section 709-904, Hawaii Revised Statutes, provides misdemeanor penalties for persons who recklessly permit a minor to incur serious or substantial bodily injury by another. The same defense of reasonably fearing personal harm commensurate to that inflicted on the minor is available to such persons.

A new section entitled "Compensation by an adult of minors for crimes" provides for enhanced sentences where an adult offers to pay a juvenile to commit a crime. Juveniles are frequently used by adults in the commission of crimes because juveniles are generally given lesser punishment for the same crime committed by an adult. The new offense provides that the penalty assessed for the offender shall be more severe than that assessed for the commission of the crime in order to deter adults from inducing juveniles to participate in criminal activity.

Your Committee amended the commercial promotion of marijuana to one degree. There was concern that a person who grows one plant on another person's land or on government land would be guilty of a class B felony. Since the concern was the commercial grower, your Committee amended the bill by adding the amount of twenty-five plants for cultivation on another person's land or on government land.

The proposed amendments relating to the insanity defense were deleted from the bill. While there was some support for restructuring the insanity defense and eliminating physical disease as an exculpatory condition, your Committee recommended that further investigation be made before the law is amended.

The offense of ignorance or mistake of law was deleted from the bill. Your Committee was concerned that this defense may create a problem for the prosecution since a defendant may claim that he or she was not aware that his or her conduct was a crime. The supplemental commentary points out that the legislature had considered the mistake of law defense but deleted the defense, "thereby avoiding a major dilemma with respect to the enforcement of the Code. The defenses of ignorance of the law afforded by 702-218 and -220 would have been available, to a degree, under any given set of circumstances and as such, would have constituted a major encumbrance to enforcement of the substance and spirit of the Code." Conference Committee Report No. 2.

Your Committee amended the bill to retain the present crime of manslaughter. Under the two degrees proposed, manslaughter in the first degree would be a separate crime but a defense to murder. Your Committee was reluctant to make a certain type of manslaughter a class A felony.

Your Committee amended the bill to take effect on January 1, 1987. The amendments to the penal code contained in this bill will become effective on January 1, 1987. The delayed date of effectiveness is intended to afford various criminal justice agencies and organizations, including the department of social services, the judiciary, and public and private practitioners of criminal law, an opportunity to determine how the amendments will affect their areas of concern and responsibility and to allow those parties to make provisions for the changes.

Your Committee also recommended that a commentary be prepared to discuss in further detail the amendments to the penal code proposed in this bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 100, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 100, H.D. 1, S.D. 2, C.D. 1.

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

Senator Kuroda did not sign the report.

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

Conf. Com. Rep. No. 52-86 on H.B. No. 2561-86

The purpose of this bill is to amend and clarify the state election laws.

The bill amends section 11-118, to authorize the chief election officer or county clerk in county elections to waive requirements in special circumstances where a vacancy occurs and the filing deadline is less than fifty days prior to primary or special primary election or less than forty days prior to a special, general, or a special general election.

The bill also amends section 11-151, HRS, to provide that if a contest or question requires a majority of votes, blank, spoiled, or invalid ballots shall not be tallied as votes cast except that said ballots shall be counted as votes cast in ratification of a constitutional amendment.

Section 11-155, HRS, is also amended 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 further 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 amended the bill to clarify that blank, spoiled, or invalid ballots should not be tallied in determining whether a contest or question received a majority of votes for passage.

Your Committee further amended the bill by amending section 17-2, Hawaii Revised Statutes, to delete a provision that required the Governor to make an appointment to fill a vacancy in the United States House of Representatives if the unexpired term is less than one hundred eighty days. Your Committee finds that the attorney general has held this provision to be in conflict with article I, section 2, clause 4, of the United States Constitution.

Your Committee also made a technical, non-substantive amendment.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2561-86, S.D. 1 as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2561-86, S.D. 1, C.D. 1.

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

Senator Kuroda did not sign the report.

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

Conf. Com. Rep. No. 53-86 on S.B. No. 1831-86

The purpose of this bill is to establish procedures for providing appropriate care and treatment to certain mentally ill individuals who suffer from a disabling mental illness that requires medical treatment. Your Committee realizes that it is essential to respect the personal freedom of such individuals, and to guard against measures that are shaped more by social convenience than by the needs of the mentally ill. The bill applies only to individuals who suffer disabling mental illnesses, and require medical treatment.

The bill addresses the needs of those mentally ill individuals, including schizophrenics, whose distinctive illness can be largely controlled with medication, but who may suffer relapse that without medical intervention, are virtually certain to produce severe or extreme disability in a short time.

Your Committee upon further consideration has amended S.B. No. 1831-86, S.D. 2, H.D. 1, by revising the definition of "obviously ill" to assure that it is legally sufficient to sustain involuntary hospitalization for treatment. The definition now focuses on individuals who cannot appreciate the serious and highly probable risks to their health and safety that will follow from refusing treatment, and also cannot comprehend the advantages of accepting medication.

Too often, mentally ill individuals are ignored until their conduct can be described as criminal and their condition requires lengthy hospitalization. The police, called upon to control the mentally ill individual, may easily recognize that the misconduct reflects illness rather than criminal intent. Under the Act proposed by the bill, mental health workers will be summoned and the degrading process of criminalization can be avoided. Other equally but not necessarily obviously ill individuals may have to undergo an unfortunate process of further deterioration before they can be hospitalized for treatment.

Your Committee finds that the bill as amended meets an important need, and reflects the best current information about the mental conditions to which it could be applied.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1831-86, S.D. 2, H.D. 1, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1831-86, S.D. 2, H.D. 1, C.D. 1.

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

Senator B. Kobayashi did not sign the report.

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

Representative Liu did not sign the report.

Conf. Com. Rep. No. 54-86 on S.B. No. 2266-86

The purpose of this bill is to amend section 291-7, Hawaii Revised Statutes, relating to driving under the influence of drugs, and to include consent to urinalysis and testing for drugs as part of the implied consent law.

While recognition of the high levels of alcohol-related driving injuries and deaths has led to refinement of the driving under the influence of alcohol laws in recent years, section 291-7, driving under the influence of drugs, has not been amended since 1955. Section 291-7 provides for a maximum one thousand dollar fine or one year of imprisonment, or both. The penalties for driving under the influence of alcohol have been strengthened and specifically tailored to address the problem of driving while intoxicated. Since these penalties provide punishment and deterrence appropriate for penalizing driving under the influence of drugs as well as alcohol, the penalties under section 291-7 have been made commensurate with those under section 291-4.

Section 291-7 has also been amended to specify drugs as any controlled substance defined under the Uniform Controlled Substance Act, chapter 239, Hawaii Revised Statutes.

While it is recognized that the prosecution of driving under the influence of drugs would be aided by the inclusion of testing for blood drug content under the implied consent law, concerns

have been raised regarding the availability of the facilities required to conduct such test. Testing for drug content in a person's blood is a more complex and expensive process than testing for the presence of alcohol. The city and county department of health currently does not have the facilities to perform tests for blood drug content. All such processing is done on a contract basis with private companies. The neighbor islands are even less equipped to implement chemical testing for drugs. Thus, it appears that without the proper mechanisms for testing blood drug content the inclusion of such testing in the implied consent law may be premature. The bill has been amended by deleting such provisions.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2266-86, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2266-86, S.D. 2, H.D. 1, C.D. 1.

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

Senator George did not sign the report.

Representatives Tom, Blair, Metcalf, Tungpalan and Medeiros
Managers on the part of the House

Representative Blair did not sign the report.

Conf. Com. Rep. No. 55-86 on H.B. No. 1680-86

The purpose of this bill is to provide the Family Court with discretionary power to make parents liable for the support of children of their unmarried minor children.

This bill is prompted by a distressingly large number of births to unmarried minor parents who have neither the ability nor the inclination to assume the full responsibility of parenthood. Your Committee believes that minor parents and parents of minor parents should support these children, not the taxpayers of the State.

Your Committee agrees that a judgment or order for support should be made against the parent or parents of the minor, only to the extent that the minor parent is unable to provide full support for the child.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1680-86, H.D. 1, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1680-86, H.D. 1, S.D. 1, C.D. 2.

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

Representatives Gaulty, Metcalf, Hirono, D. Ige, Leong, Menor, Tungpalan, Jones and Liu
Managers on the part of the House

Conf. Com. Rep. No. 56-86 on H.B. No. 2348-86

The purpose of this bill is to clarify current provisions relating to enforcement of department of transportation motor carrier safety rules and the inspection powers of the director or designated delegates.

Your Committee, upon further consideration, finds that the department of transportation has some concerns that the phrase "and other documents" on page 2, line 6, is too broad a category and may possibly cause certain documents to be inspected unnecessarily. The department of transportation, with the concurrence of the Hawaii Transportation Association, felt the inspection of shipping papers and hazardous waste manifests would be sufficient to determine the compliance with Federal Safety Standards. The phrase "and other documents" has, therefore, been deleted.

Your Committee has also amended the bill by deleting on page 2, line 2, the phrase "enter upon" and inserting "(1) inspect".

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

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2348-86, H.D. 1, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2348-86, H.D. 1, S.D. 1, C.D. 2.

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

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

Conf. Com. Rep. No. 57-86 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.

Under this bill, individuals insured with similar types of operations, are permitted to cooperatively provide insurance for their group. H.D. 2 amended this bill to establish annual standard premium at a minimum of \$500,000 and appropriated \$97,000 to implement the licensure and regulation of workers' compensation self-insurance. S.D. 2 deleted the \$500,000 minimum for standard annual premium and increased the amount to carry out the purpose of the bill to \$153,000.

Your Committee upon further consideration has deleted the appropriation of \$5,000,000 for the fiscal year 1986-87, for the operation of the Hawaii Workers' Compensation state fund.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2549-86, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2549-86, H.D. 2, S.D. 2, C.D. 1.

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

Representatives Tungpalan, Shito, Kiyabu, Bunda, Crozier, Oshiro, Souki, Takamine, Isbell and Jones
Managers on the part of the House

Representative Bunda did not sign the report.

Conf. Com. Rep. No. 58-86 on H.B. No. 1857-86

The purpose of this bill is to assure that all persons in the State of Hawaii are free of unfair discrimination in their use of public accommodations.

Hawaii is well known for its cultural diversity and the uniqueness of its people. In keeping with the Aloha Spirit, this bill clearly proclaims the State's policy of prohibiting all unfair discrimination in public accommodations. The bill also will provide the legislature with needed information about the extent and focus of any unfair discriminatory practices which may serve as a basis for future legislative action.

Your Committee upon further consideration has made the following amendments to H.B. No. 1857-86, H.D. 2, S.D. 1, C.D. 1:

- (1) Inserts the word "unfair" before the word "discriminatory" on page 4, line 4; and
- (2) Deletes the word "age" on page 4, line 8; and
- (3) Substitutes the word "or" for the word "and" on page 4, line 9.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1857-86, H.D. 1, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1857-86, H.D. 2, S.D. 1, C.D. 2.

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

Representatives Tungpalan, Souki, Metcalf, Lardizabal, Leong, Takamine, Anderson and Jones
Managers on the part of the House

Conf. Com. Rep. No. 59-86 on S.B. No. 1843-86

The purpose of this bill is to assure that vigorous assistance in obtaining support will be available to all children for whom such assistance is requested, by substantially increasing the effectiveness of the state child support enforcement program.

The program of child support enforcement shaped, in large part, by 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. These amendments imposed many new requirements upon the states and by this bill, it is intended that Hawaii will achieve full compliance with Title IV-D.

Federal law requires that the State's child support enforcement agency (hereinafter "Agency") must be a single unified entity. The functions of the agency at present are not unified under a single department. In order to meet the federally-imposed deadline of October 1, 1986, it is necessary for the functions of the agency to be consolidated under the Department of Social Services and Housing, effective July 1, 1986. No later than July 1, 1987, however, your Committee believes that the agency should be placed within the Department of the Attorney General.

Your Committee believes that the exercise of discretion to prosecute nonsupport claims is an executive function which should remain in the executive branch. It is presently the statutory duty of the Attorney General to initiate and pursue nonsupport actions and your Committee believes that the goal of child support enforcement for those children whose families are receiving public assistance and for those whose families are not receiving public assistance would be well-served by the Department of the Attorney General.

This bill also establishes the position of "special court trustee" to assist any parent, guardian, or custodian materially affected by a court order or decree in approaching the court to modify any provision of the order or decree pertaining to support payments or to enforce visitation rights. These special court trustees, to be distinguished from other court trustees, would have the primary duty of assisting non-custodial parents in facilitating the often complicated and costly process of modifying their child support orders or enforcing their visitation rights. Your Committee emphasizes that although the special court trustees will be working on child support orders and on visitation rights, the two are not connected in any way, and are totally independent and exclusive of each other. Difficulties with visitation rights do not affect the responsibility of a parent to fulfill a child support order. Your Committee amended the bill to emphasize this important distinction.

Your Committee amended Section 27 of the bill to make the duties of the special court trustees discretionary rather than mandatory.

Your Committee also amended this section of the bill to clarify its intention to have the special court trustee placed in the Judiciary branch. The function of recommending reductions in child support payments made it inappropriate to place the special court trustee in the Child Support Enforcement Agency.

Your Committee has appropriated the sum of \$51,561 for the fiscal year 1986-1987, to carry out the functions of the special court trustee. Your Committee has further appropriated the sum of \$2,341,456 for the fiscal year 1986-1987 to provide the necessary resources to implement the state child support enforcement program as it is described in this bill.

Your Committee amended Section 2-11, of this bill to clarify the powers and duties of the child support enforcement investigators.

Your Committee has provided in Section 26 for the smooth transfer of all functions and responsibilities embodied in this Act by affording the Governor the power to oversee the logistics of the transition. It is your Committee's intent that agreements be reached by the relevant agencies which will enhance the timely implementation of the Act.

To this end review of the progress made shall be reported to the next session of the Legislature.

In addition, various technical nonsubstantive amendments have been made for purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1843-86, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1843, S.D. 2, H.D. 2, C.D. 1.

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

Representatives Gaulty, Metcalf, Kiyabu, Andrews, Apo, Cachola, D. Ige, Kihano, Leong, Isbell and Jones
Managers on the part of the House

Representative Jones did not sign the report.

Conf. Com. Rep. No. 60-86 on H.B. No. 1741-86

The purpose of this supplemental appropriations bill of 1986 is to amend the General Appropriation Act of 1985, which appropriates funds for the 1985-87 fiscal biennium.

FINANCIAL AND BUDGETARY OVERVIEW

After several consecutive years of uncertainty, the State's fiscal health can be regarded as stable and improving. Among the vital signs are the latest revenue projections which indicate that the State's general fund tax revenues will be higher than the estimates which underlie the financial plan for the current fiscal year. According to the March 14, 1986 report of the Council on Revenues, the growth rate of general fund tax revenues can be revised upward to 6.3 percent, which in dollar terms, means an increase of \$20 million from the previous, official estimate of 4.8 percent for fiscal year 1985-86.

The increase in the growth rate of general fund tax revenues is based on the actual performance of general fund tax revenues during the first eight months of this fiscal year. The department of taxation has reported that general fund tax collections ran \$64.8 million or over 7.5 percent ahead of collections for the corresponding period a year ago.

Additionally, falling interest rates in the credit markets will result in a lower debt service budget to the State. For 1986-87 the department of budget and finance will reduce its interest expense estimates by \$9.2 million as a result of the interest savings obtained in the recent March 1 general obligation bond issue.

While the revenues and long term financing for the State's operating and capital investment costs should safely meet current expenditure levels, other issues remain unresolved. The threat to the State's fiscal health comes from the expenditure side of the ledger and because its origins are in policies of the federal government, it lies beyond the immediate control of the State. After round one of the deficit reduction provisions of the Gramm-Rudman-Hollings Act, round two which involves automatic across the board spending cuts, has been temporarily side-tracked by a constitutionality issue.

Even though its key provision is clouded by questions of constitutionality, the impact of Gramm-Rudman-Hollings as reflected in President Reagan's fiscal 1987 budget (now before Congress) will test Hawaii's capacity to fund federally supported programs.

Your Committee believes this challenge can be met through several revenue enhancement measures which are now under consideration by the legislature.

In considering the supplemental appropriations bill and related measures, your Committee has reviewed all the conditions, internal and external, affecting government expenditure and has designed a budget which provides a substantive basis for the achievement of state program goals and objectives in the remainder of the fiscal biennium.

The remainder of this report highlights a number of the decisions made by your Committee.

ECONOMIC DEVELOPMENT

Tourism. Your Committee has reaffirmed its commitment to tourism promotion and marketing in 1986-87. These activities are designated for the Asian, Pacific, and Western United States, our primary visitor markets.

As revenue raising measures are being considered in this session, an additional \$2.0 million is being designated for tourism promotion by the Hawaii Visitors Bureau. For the counties, an additional \$12 million in grants-in-aid is included. This revenue-sharing is provided exclusively for the counties to strengthen activities related to tourism such as the beautification and security of park facilities, easy accessibility and safety of public beaches, and the creation and maintenance of an aesthetically pleasing environment.

Business Development. Almost eighty percent of Hawaii's economy now consists of small businesses. This year, your Committee has provided full funding for a Small Business Information Service (SBIS). The SBIS will provide entrepreneurs and small business owners pertinent information needed to establish a business, market feasibility data, and an assistance referral serve. In addition, money was provided to establish a small business procurement assistance program to assist local businesses in competing for federal, state, and county contracts. These contracts will provide additional jobs and revenue to the economy.

Funds for the Hawaii capital loan program were increased to meet the expanded capital needs of small businesses. Moneys have also been appropriated to automate the loan accounting system.

Industry Promotion. Your Committee recognized that the different geographic areas of Hawaii are subject to varied economic pressures. Funds have been provided to assist the county economic development organizations in their efforts to promote industrial activities consistent with their plans for economic development. To encourage the development of a promising and multi-faceted industry, your Committee provided additional funds to promote 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.

In addition money has been designated for plans and for land acquisition for a film studio facility.

High Technology. A key element of Hawaii's future economic design is the development of a viable 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.

Additional funds have also been provided for the Pacific International Center for High Technology Research, a major research and development organization for high technology.

Hawaii Products Promotion. Funds for promotion of Hawaii products including seafood, pineapple, papaya, and anthuriums were provided. These funds will further industry marketing efforts in domestic and international markets.

Alternate Energy. Increased energy self-sufficiency has been a continuous objective of the State. 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 meet its energy needs.

Funding for operations of the Hawaii Ocean Science and Technology Park will continue to support commercialization of Hawaii's ocean resources.

Hawaiian Ocean Awareness Center. The establishment of an ocean awareness center is the culmination of many years of exploration and review of the subject. Your Committee supports the concept, but it believes that there is a better alternative to the construction of a major facility at Kewalo Basin which the State administration has proposed. The Kewalo site is small and narrowly circumscribed, its use as a tourist attraction would impact negatively on the adjacent Ala Moana Beach Park, and being closer to Waikiki, it would very likely cause the decline and demise of Sea Life Park. The alternative which your Committee proposes is a combined Hawaii Ocean Awareness Center — Sea Life Park facility which would provide a potential for exhibition and research far greater than what each facility could singly provide. Appropriate language has been included to direct the State administration to enter into negotiations with Sea Life Park officials to reach agreement on the financial, management, and operating arrangements for a combined facility.

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 efficiently expended.

Harbor Promotion. Promoting usage of harbor facilities was forwarded by providing funds for a marketing program.

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.

HEALTH

Acquired Immune Deficiency Syndrome Services (AIDS). Concerned over the recent incidence 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 myths that lead to erroneous conclusions and discrimination. Because the cause and cure for this disease are 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 into 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 federal matching funds and accelerate community placements.

Your Committee is disturbed 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 the related projected cost reductions.

Sex Abuse and Child Abuse and Neglect (CAN). Your Committee has in the past recognized that Sex Abuse and Child Abuse and Neglect (CAN) cases are major areas of concern, and it has provided funds to allay the suffering of its victims. Unfortunately, incidence in both areas, instead of decreasing, is actually on the rise, and your Committee once again has provided funds and positions where necessary to meet the greater caseload.

Subsidies to Private Hospitals. Your Committee has provided funds for the Waianae Coast Comprehensive Health Center to expand its services to become a 24-hour, 365-day-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 increased accessibility to quality medical services.

In addition, your Committee has added extra funds to subsidize Molokai General Hospital so as to maintain the current level of acute care services on the island of Molokai.

SOCIAL SERVICES

Child Protective Service. In response to public awareness and concern over child abuse and neglect, your Committee provided additional funds for the child protective services computer tracking system to better identify and monitor child abuse and neglect cases. Moneys were appropriated for additional child abuse and neglect crisis intervention services.

Public Welfare. Your Committee recognizes the need for additional personnel to manage the caseload, reduce error rates, and comply with timely federal requirements for eligibility determination for the various payment programs. Therefore, funds are provided for income

maintenance workers to address this immediate temporary need. Supplemental funding has been provided for an automated welfare information system to ensure that eligibility standards are upheld and to reduce determination errors to meet the required acceptable federal standards.

Your Committee continues to support preventive measures in health care. Therefore, funds were provided for early prevention and screening diagnostic treatment to identify as early as possible, children with handicapping conditions. This early identification program will contribute to reducing later treatment costs.

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.

Other Regular Instruction. Your Committee recognizes the value of programs which enrich and broaden the basic instruction of our students. Funds have been provided for the Hawaiian studies, Pacific area concentration in education, and artists-in-the-schools programs. These programs explore relevant and fascinating subjects which will encourage students to learn and appreciate the cultures and arts of Hawaii and its neighboring societies.

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, educational assistants, and additional transportation services 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 catalogue 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.

Repair and Maintenance of School Facilities. Your Committee is fully committed to maintaining our school facilities. Recognizing the need for the State to ensure that existing facilities are safe and functional and that schools should be a source of pride for students, teachers, and the community, a total of \$31 million has been authorized for the purpose of repair, maintenance, and renovation of school facilities.

Higher Education

A commitment to the quality of higher education in Hawaii has guided your Committee's funding decisions in this area. As with its emphasis in lower education, additional funding support focuses on instruction, academic support, and student services which directly affect the student-teacher environment.

Computer Based Education System. Personnel and equipment have been provided for the expansion of the PLATO computer based education system at the University. 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 the graduate assistantship program at the University of Hawaii.

West Hawaii Programs. Increased demand 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 access 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 interconnect with the \$4.2 million state-funded Instructional Television Fixed Service system to be constructed by the Hawaii Public Broadcasting Authority.

Asian/Pacific Focus. An emphasis has been placed on the Asian and Pacific areas. Your Committee has provided funds to establish a foreign language interpretation/translation center to enhance future job opportunities for students.

Facility Improvement Projects. Your Committee recognizes the need for instructional and educational facilities to further facilitate the reorganization of the University. Funding requests for needed improvements and renovations to old structures such as Bilger Hall, George Hall, and Castle Memorial Annex building have been accommodated. Also, to provide for greater accessibility and improved safety to the Mauna Kea observatory, funds for the first phase of the access road have been authorized.

For Kapiolani Community College, additional funds have been appropriated to continue the design and construction of the new Diamond Head campus. For Maui Community College, additional funding to expedite the construction of the nursing and learning skills laboratory has been provided.

CULTURE AND RECREATION

State Park Improvement. In an effort to improve the quality of 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.

Film and Video Archives. Preservation of video and films depicting Hawaii's ethnic traditions is important to a full appreciation of the culture of our islands. Therefore, your Committee has established through a supplemental appropriation, a film and video archive under the direction of the Hawaii Public Broadcasting Authority.

Ethnic Celebrations. Funds for the celebration of the arrival of the Sakadas and the Chinese to Hawaii have been included in this year's budget. In addition, a grant to trace the Portuguese voyage and navigational practices has been funded.

PUBLIC SAFETY

Consent Decree. The Consent Decree agreement, which was entered into by the American Civil Liberties Union (ACLU), and the State of Hawaii is the overriding factor affecting the public safety program budget. This agreement is the result of settlement of the lawsuit filed against the State by the ACLU and the National Prison Project (NPP) for unconstitutional conditions at the Oahu Community Correctional Center (OCCC), and the Hawaii Women's Correctional Facility (HWCFF). These conditions include inadequate medical and mental health staff and services; environmental conditions; security staffing and staff training; and classification and inmate activities.

Your Committee recognizes the legal requirement and adverse situation the prison system is currently facing and accordingly, has provided the resources necessary to alleviate the over-crowding and deficient conditions cited by the Consent Decree and the three expert panels.

Additional resources were granted to fund (1) salary adjustments for adult corrections officers to attract better qualified individuals; (2) additional mental health and medical

services for inmates; (3) construction of Keehi annex at Oahu Community Correctional Center Facility which will alleviate the overcrowding; and (4) expansion of other facilities at Kulani, Maui, Waiawa, and Hawaii's Women's Correctional Facility.

In addition, funds are provided for the Waiawa Correctional Facility to comply with the State's Quitclaim Deed agreement with the U.S. Department of Education to establish a fully operational education-agriculture program by April 1988. Further, funds are included to staff and operate the Halawa Medium Security Facility by July 1, 1987.

INDIVIDUAL RIGHTS

Commerce and Consumer Affairs. Increasing consumer use of government services and deregulation at the federal level have led your Committee to be concerned with the current and future demands on the department of commerce and consumer affairs. Funds have been provided to the divisions of consumer advocacy for communication, utilities, and transportation services, banking, and insurance to provide continuity of and retain quality in-house services.

Complex banking and insurance conditions necessitate training, funds, and added support personnel to effectively handle major monitoring and litigation functions. Funds have been provided to meet these needs.

Legal and Judicial Protection of Rights. Your Committee has acknowledged the increase in caseload requiring services of the public defender and has provided funds for an additional deputy public defender for the second circuit.

GOVERNMENT-WIDE SUPPORT

Distributed Information Processing and Information Resource Management (DIPIRM). Significant progress has been made in the implementation of the State DIPIRM plans. Your Committee has appropriated additional funds to support continued implementation based on the strategic and operational timetables which have been developed by the department of budget and 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 properly managed by the department of the attorney general. Your Committee strongly recommends that an accurate projection of litigation and special deputy expenses be made based on historical or other relevant data, for the purpose of future appropriations.

Data Processing Services. The extremely dynamic nature of data processing has resulted in an increased need for competent professional and technical positions. Funds have been provided to allow for this as your Committee recognizes its importance in providing the services which are currently being demanded.

Your Committee is also aware of the problem in recruiting experienced personnel to fill vacant positions and has therefore provided funds to establish a cooperative education program. Your Committee feels that the establishment of such a program will provide a stable recruitment base.

Workers' Compensation Unit. The success of the workers' compensation unit of the department of personnel services in controlling the spiraling cost of workers' compensation has been recognized by your Committee. To support progress in this area, your Committee has provided funds and 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.

Additional Medicare Contributions. Due to federal legislation, your Committee has provided moneys to fund employer Medicare contributions for all state employees who are not currently covered by Social Security.

PURCHASES OF SERVICE

This year, your Committee has added \$2.1 million in purchase of service moneys for child abuse and neglect, spouse abuse, elderly services, and culture and recreation. This brings the total statewide purchase of service program to \$24 million in general funds and \$12 million in federal funds. Your Committee has provided this year's appropriation for purchase of service to each department's administration as a lump sum to be used for all purchases of service throughout each department. It is suggested that the departments, in allocating the amounts to various program areas, consider augmenting present services or fill service gaps according to the priorities stated in the budget.

In looking ahead to the next biennium, your Committee requests that each department, in its budget preparation and review of purchase of service funding, exercise restraint in expanding current levels of services. Further program usage of purchase of service should be thoroughly reviewed to ensure that funding is consistent with program direction and emphasis, and the programs being purchased are appropriate to the culture of the clientele being served.

Your Committee also encourages the executive departments to begin to emphasize preventive services so that over time, the high cost of treatment can be reduced.

Finally, your Committee requests that the department of health and the department of social services and housing develop a person abuse and neglect program plan based on assessed need and a funding approach that will effectively alleviate the problem.

CONCLUSION

In conclusion, your Committee has thoroughly reviewed the competing demands and concerns of our State and strongly believes that this budget bill has addressed these major concerns.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1741-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1741-86, H.D. 1, S.D. 1, C.D. 1.

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

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

Representative Manegdeg did not sign the report.

Conf. Com. Rep. No. 61-86 on S.B. No. 2048-86

The purpose of this bill is to provide appropriations to meet the needs of the State through various capital improvement projects. As received, this bill appropriates the sum of \$12,702,000 to satisfy this purpose.

This bill in its amended form, appropriates an additional \$9,989,000 in general obligation bonds for capital improvement projects. Therefore, as amended, this bill appropriates the sum of \$22,691,000.

Your Committee has further amended this bill by adding thirteen additional projects to the lapsing section of this bill. These projects have been identified as low priority or have been deferred such that reductions will not have an adverse impact on the planned capital improvement program.

Your Committee believes that the projects contained herein reflect the legislature's continued commitment to projects which reflect the needs and desires of the people of the State of Hawaii.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2048-86, S.D. 1, H.D. 1, as amended herein, and recommends it pass Final Reading in the form attached hereto as S.B. No. 2048-86, S.D. 1, H.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 62-86 on H.B. No. 1856-86

The purpose of this bill is to authorize the issuance of general obligation bonds to finance projects authorized in the Supplemental Appropriations Act of 1986 and the General Improvements Act of 1986.

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

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

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

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

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

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1856-86, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1856-86, S.D. 1, C.D. 1.

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

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

Senator Manegdeg did not sign the report.

Conf. Com. Rep. No. 63-86 on H.B. No. 1961-86

The purpose of this judiciary supplemental appropriations bill is to amend the Judiciary Appropriations Act of 1985, which appropriates funds to the judiciary for the 1985-87 fiscal biennium.

In reviewing the Judiciary's supplemental budget request for fiscal year 1986-87, your Committee has carefully examined the purposes and amounts of the requested additional funds. In light of current court operations and support service activities, your Committee recognizes the increasing demands placed on the judiciary's existing programs, particularly in the areas of court filings, juvenile and family services, and related facility and administrative supportive services.

Your Committee has found that over the past few years the judiciary has made a concerted effort to deal with the added responsibilities and has made significant advances in developing and implementing new methods and techniques to reduce court operating costs. The nationally recognized decrease in case backlogs and the use of arbitrators for resolving civil cases known as the "Alternative Dispute Resolution" program are examples of achievements of our court

system.

Yet the judiciary is still faced with major program and operational problems. Of significance are the problems identified in the recent report issued by the Citizens' Panel on Judicial Administration. The chief justice has made a timely initial response to some of its recommendations, and has announced that every effort will be made to review and implement the recommendations contained in the report.

Another concern of the judiciary is the need to evaluate the current activities of the office of the public guardian to determine the future development and services within the judiciary.

Also, during the course of the examination of the supplemental budget request, your Committee noted that the budget does not clearly represent a formulation of projected plans with resource requirements. Accordingly, the detailed displays of the judiciary budget documents should be similarly formatted to those displays contained in the executive budget details accompanying the executive budget. Despite these shortcomings, your Committee was able to gather sufficient information for analysis of the budget requests.

It is apparent that the judiciary should improve and develop an effective program planning and budgeting system. Emphasis must be given to program planning to effectively determine immediate and future resource requirements in relation to the short and long-range plans developed for the judiciary system.

Therefore, your Committee requests the judiciary to do the following:

1. Pursue the implementation of the recommendations submitted by the Citizens' Panel and request that the chief justice submit an implementation report to the legislature twenty days prior to the convening of the 1987 legislative session. The report should identify the administrative changes made and those statutory matters requiring legislative consideration and action.
2. With respect to the pilot project utilizing arbitrators, analyze the cost effective results of the project, and submit a report containing the findings and recommendations regarding the future potential and merits to continue the project on a regular program basis.
3. Develop operational and strategic plans for the judiciary system. In conjunction with these plans, formulate a six-year financial plan, specifying the program activities and resources required for presentation to the legislature prior to the next legislative session.
4. Consolidate the operational plans, which describe the programs and tasks to be performed, with the budget request for each fiscal year for consideration by the legislature. Also provide the legislature with detailed budget information utilizing the budget justification (BJ) document system for presentation of the 1987-89 judiciary biennium budget identical to the budget details of the executive branch.

Included in this bill are the supplemental request items which your Committee has found to be most urgent. Additional funds are provided to meet the increase in services to children and the demand for added counseling and mediation services under the purchases of service program. Funds are made available for the repair and maintenance and telephone costs transferred from the department of accounting and general services to the judiciary. Also included are funds to cover the cost of moving and renting temporary office space during the renovation of the Ali'iolani Hale building.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1961-86, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1961-86, H.D. 2, S.D. 2, C.D. 1.

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

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

Representative Manegdeg did not sign the report.

Conf. Com. Rep. No. 64-86 on H.B. No. 2122-86

The purpose of this bill is to authorize the Hawaii housing authority to issue capital

appreciation bonds under the Hula Mae program.

A capital appreciation bond, which is similar in concept to a savings bond, is purchased at a discounted price and redeemed for its full face value at maturity. During the period between the bond's purchase and redemption, a capital appreciation bond accretes in value. The principal of accretion is important since capital appreciation bonds (1) are considered to bear no interest (they increase in principal value), and (2) have no regular payments of interest. These two technical deviations from the typical characteristics of bonds are addressed 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 per cent. The advantage or benefit of capital appreciation bonds to the authority is lowered bond issuance costs.

Your Committee finds that the benefits derived by authorizing the Hawaii housing authority to issue capital appreciation bonds will accrue to both consumer and investor.

Your Committee upon further consideration has amended the bill by deleting the appropriation to the Hawaii housing authority and renumbered the sections appropriately.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2122-86, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2122-86, H.D. 1, S.D. 2, C.D. 1.

Senators Yamasaki, Aki, Young and George
Managers on the part of the Senate

Representatives Hashimoto, Kiyabu, Kihano, Leong and Liu
Managers on the part of the House

Conf. Com. Rep. No. 65-86 on H.B. No. 2595-86

The purpose of this bill is to amend the definition of gross income in the public service company law to provide that gross income from tourism related services is divided between the travel agent or packager and the provider of the services.

This amendment addresses the gross up methodology used by the department of taxation and 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 other business related reason. The agent in turn markets the service, adding a charge or fee for a profit for the agent. If the gross up methodology is used by the department of taxation, the provider in this case would be responsible for the public service company tax on the gross receipts of the advertised price of the tourism related service even though the total advertised price of the service was not received by the provider.

Your Committee has amended this bill by:

- (1) Removing the brackets around the words "the sale or transfer of materials or supplies," on lines 20 and 21 of page 2 of the bill.
- (2) Inserting a new section that directs the department of taxation to submit to the legislature ten days before the regular session of 1987, rules which have been adopted under chapter 91, Hawaii Revised Statutes, that clarify the operation of, and notify the public of the department's interpretation of, section 239-2, Hawaii Revised Statutes, as amended by this bill.
- (3) Renumbering the sections of the bill where applicable.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2595-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2595-86, H.D. 1, S.D. 1, C.D. 1.

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

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

Conf. Com. Rep. No. 66-86 on H.B. No. 2805-86 (Majority)

The purpose of this bill is to: (1) amend section 237-24, Hawaii Revised Statutes, to exempt amounts received by common paymasters which are disbursed as remuneration to employees of two or more related corporations on behalf of the related corporations and to exempt amounts received as dues by an unincorporated merchants' association from its membership for advertising media, promotional, and advertising costs for the promotion of the association for the benefit of its members as a whole and not for the benefit of an individual or group of members less than the entire membership; (2) amend section 237-18, Hawaii Revised Statutes, to split the transaction and the general excise tax on certain tourism-related services; (3) delete the provision in section 237-20, Hawaii Revised Statutes, presuming certain gross proceeds or gross income not to have been received by a tour provider from the general excise tax law; (4) amend the provision in section 237-20, Hawaii Revised Statutes, 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; and (5) add a new chapter to the law to impose a four per cent tax on the gross income or gross proceeds derived from the furnishing of transient accommodations.

Your Committee concurs that a separate tax on transient accommodations will lessen the income loss of transient accommodation operators. Presently, under the general excise tax, if a person prices an item at \$100, the person generally charges \$104 in order to pass on the 4 per cent general excise tax. However, the general excise tax is on gross collections, which means the person must pay 4 per cent on \$104, or \$4.16. This means that for every \$100 transaction a person loses 16 cents. If the general excise tax itself was increased to 8 per cent, then on a \$100 price, the person would charge \$108, pay taxes on \$108 or \$8.64 in taxes, and lose 64 cents. By creating a new transient accommodations tax at a 4 per cent rate and providing that the general excise tax passed on and collected is not included in the gross proceeds which are taxed under this tax and similarly providing that the gross proceeds subject to the general excise tax do not include collections under the new tax, the amount of the loss is reduced to 32 cents per \$100—total tax paid of \$8.32 composed of the general excise tax of \$4.16 and the transient accommodations tax of \$4.16. The savings under the two-tax system to the industry is appreciable for businesses making thousands of dollars a year. In this manner, the State is able to tax the industry for the benefit of the State, while at the same time minimizing the impact of the tax on the industry.

Your Committee upon further deliberation, has increased the tax on transient accommodations provided in this bill from 4 per cent to 5 per cent. Your Committee has determined that the added one per cent will not only provide additional revenues sorely needed by the State, but will also offset any cost to the State for the implementation and enforcement of the new tax.

Your Committee has amended this bill to provide that the tax revenues derived under the proposed chapter shall be deposited into the general fund. Accordingly, references to the earmarking of collected tax revenues and the visitor industry assistance fund have been deleted. It is the intent of your Committee that a portion of such revenues be appropriated for the promotion, stimulation and development of visitor assistance programs which may include, but are not limited to, the development of a convention center, the Hawaii Visitors Bureau for increased promotion of the visitor industry, and grants to the counties for the construction of recreational and other infrastructure to enhance visitor satisfaction.

Your Committee agrees with the department of taxation that the present provisions of section 237-20, Hawaii Revised Statutes, as amended by Act 303, Session Laws of Hawaii 1985, must be amended. The department pointed out that a substantial loss of revenues will result if the provisions regarding reimbursement are not replaced as they read before Act 303. The department also made a telling statement regarding the possibility of fraud inherent in the provisions presuming that certain gross proceeds or gross income have not been received by a tour provider. Your Committee notes that Act 303 and the applicable provisions of this bill would not have become necessary if the department of taxation was correctly carrying out its administration of the general excise tax law and enacting necessary rules to aid the public in paying the appropriate taxes under that law. Proposed rules regarding reimbursement have been in existence since 1968 and yet they have never been adopted as required by chapters 91 and 237, Hawaii Revised Statutes. It is this failure to adopt appropriate rules which led to the section in this bill that requires the department to submit properly adopted rules to the legislature before the 1987 regular session. These rules regard the operation of the reimbursement provisions of the general excise tax law and the taxation of tourism-related services as provided by this bill.

In reviewing the provisions regarding the presumption against a provider receiving certain income commonly known as the gross up provisions, your Committee agrees with the department regarding the possibility of abuse, tax evasion, or revenue loss resulting from that provision. Your Committee after reviewing the law in this area agrees, with reservation, that

under the reasoning of the general excise tax law the need for a gross up provision or the ability to gross up is required. On the other hand, the use of gross up in the area of certain tourism-related services does not serve the interests of the State in encouraging tourism. Therefore, this bill proposes to amend section 237-18, Hawaii Revised Statutes, to place these tourism-related services in the position they are in under Act 303, but without its unhappy aspects. This amendment provides for a split of the gross proceeds from tourism-related services between the travel agency or tour packager and the tour provider. For example, if the tour provider furnished tickets to the travel agency for \$80 which normally sell for \$100, the tour provider will only be taxed on the \$80 received. The travel agency or tour packager will be taxed on the commission it receives. Your Committee also notes that it appears that the financial operations of the industry in this area of taxation could use some improvement.

The concept of gross up being restored to the general excise tax law leads your Committee to note again the lack of rules under the general excise tax law and directs the department of taxation to develop and submit rules on the practice of gross up to the next session of the legislature. While such rules are being written, the department should not consider expanding the use of gross up past its present practice or apply it retroactively to any business until such rules have been adopted. Further, it is the intent of your Committee, in passing this measure, to hold the department to its pledge to the legislature that, as an administrative matter, "it will not pursue the matter of 'grossing up' for those taxpayers who have failed to do so based upon an honest belief that they were unaware of such a requirement, as a result of which the appropriate amount of taxes were not passed on to be collected from the consumer."

While your Committee has restored the law of reimbursement to its pre-Act 303 language, it finds that the amendment would have helped certain businesses or business practices in this State and finds that such businesses should not lose the benefits of Act 303 altogether. These businesses and business practices are particularly affected by the reimbursement provisions of the general excise tax law due to different provisions in the income tax law. In addition, in complying with the general excise tax law, businesses are operating inefficiently with resultant cost increases.

Your Committee has also amended this bill to delete the exemption provided for common paymasters under the general excise tax. However, your Committee has retained the exemption provided for unincorporated merchant associations as they were under Act 303. The exemptions exempts the advertising media, promotional, and advertising costs of such associations. In 1968, the department of taxation advised the Ala Moana Center Association that dues contributed for these costs were considered by the department as reimbursements and not subject to the general excise tax. Again, in 1973 the department informed the Pearlridge Center Association of such exemption. In 1979, the department of taxation issued Tax Information Release 67-79 superseding these two prior opinions and made such dues contributions taxable.

The effective date of this bill to provide repeal of the reimbursement and gross up amendments made by Act 303, Session Laws of Hawaii 1985, is retroactive to the effective date of Act 303. Further, the effective dates of this bill with respect to the transient accommodations tax and the exemption provided for merchant associations are January 1, 1987 and June 30, 1986, respectively.

Your Committee has provided the sum of \$779,920 to be expended by the department of taxation to implement the tax on transient accommodations.

Other nonsubstantive, technical amendments have been made for purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2805-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2805-86, H.D. 1, S.D. 1, C.D. 1.

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

Senators Henderson and Soares did not concur.

Senator Kuroda did not sign the report.

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

Conf. Com. Rep. No. 67-86 on H.B. No. 1990-86

The purpose of this bill is to authorize an appropriation to provide for payment of judgments against the State, settlements, and other miscellaneous claims as provided by section 37-77, Hawaii Revised Statutes. As received, this bill lists forty-eight claims for payment and appropriates the sum of \$3,291,550.80 to satisfy them.

Your Committee has amended page 3 of this bill to delete the appropriation provided in the case of DANG, Kim-Ngoc, et al, Civil No. 7266(1), First Circuit, in the amount of \$16,500. As of this writing, court approval for the aforementioned case has not been received.

Your Committee has further amended this bill to include appropriations for nine additional cases recently settled or resolved by the department of the attorney general. Therefore, as amended, this bill lists fifty-seven claims for payment and appropriates the sum of \$5,188,520.82.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1990-86, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1990-86, H.D. 2, S.D. 2, C.D. 1.

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

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

Conf. Com. Rep. No. 68-86 on H.B. No. 1764-86

The purpose of this bill is to provide for the taxation of the gross income from the business of selling interstate common carrier telecommunications services.

Historically, the Bell Telephone system was the sole provider of interstate common carrier telecommunication service. Recent federal regulatory and judicial rulings have caused a restructuring of the telecommunications industry and have opened this service to competition among a number of companies. At the present time, several common carrier providers of such service compete and constitute a new industry in this State. Although the Bell Telephone system did not pay a general excise tax on its revenues from long-distance telephone calls billed in the State, your Committee is informed that the department of taxation is proposing to impose the general excise tax on the gross income of the new providers of such service.

Your Committee believes that these new providers should be made to pay the general excise tax and that the method of apportioning the gross income made by the department in determining the measure of tax should be the same for each provider of such service.

Your Committee recognizes that, without such a provision, each company may argue for a different apportionment formula making it difficult to administer the tax. Also, to the extent that different formulas are used, some companies may be disadvantaged as compared to other companies and customers will be confused by billings at different effective tax rates.

Since the general excise tax is a separately stated tax which is customarily passed on to consumers, the Committee concluded that it was appropriate to commence collecting the tax upon the effective date of the Act and not to seek taxes for the period prior to that date. Your Committee believes that the apportionment formula should be developed before the taxation of these companies occurs. Therefore, the bill is effective on July 1, 1986, if an apportionment formula is developed sixty days before that date. If no formula has been developed by that date, then the bill is effective on the first day of the third month after the month in which the department has determined the formula.

Your Committee has amended this bill as follows:

- (1) The application of the tax has been expanded to include those engaged in sales of "foreign" as well as interstate common carrier telecommunication services.
- (2) The words "except for the exemption under section 237-23(a)(2)" have been added to line 17 on page 15 of the bill to alleviate the concern that the instant exemption may be broadly interpreted to negate the current exemption from the general excise tax for public utility companies and require such companies to pay both general excise and public service company taxes.

- (3) The last sentence of the added language in the bill has been modified to clarify the intent that the "apportionment factor and formula" and not the "apportionment" of the gross income shall be the same for all persons providing such services in the State.
- (4) Technical, nonsubstantive amendments have been made to the bill for purposes of style and clarity.

In summary, it is the intent of your Committee that the tax imposed by this bill be on a fairly apportioned percentage of the gross income of persons engaged in the business of selling interstate or foreign common carrier telecommunication services. In its apportionment of the gross income which is taxable, the department of taxation has been directed to: (1) tax that portion of the gross income received by any person from interstate or foreign common carrier telecommunication service which is originated or terminated in this State and is charged to a telephone number, customer, or account in this State; or (2) as applicable, and pursuant to section 237-21, Hawaii Revised Statutes, tax that portion of the gross income which is derived from activities within the State, to the extent that the apportionment is required by the Constitution or laws of the United States; or (3) as applicable, and pursuant to sections 237-21, Hawaii Revised Statutes, if and to the extent that the apportionment cannot be accurately made by separate accounting methods, apportion to the State and include in the measure of this tax that proportion of the total gross income, so requiring apportionment, which the cost of doing business within the State, applicable to the gross income, bears to the cost of doing business both within and without the State, applicable to the gross income.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1764-86, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1764-86, H.D. 2, S.D. 2, C.D. 1.

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

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

Conf. Com. Rep. No. 69-86 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 alternative 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.

Past research efforts on the development of disease-resistant and high-yielding varieties of cane have greatly benefited 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 upon further consideration has made the following amendments to H.B. No. 1697-86, H.D. 2, S.D. 2:

- (1) The sum of \$2,000,000 has been appropriated for sugar research and development.
- (2) Of the amount appropriated above, \$250,000 shall be used for research and development of alternate crops and by-products.

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

Senators Yamasaki, Solomon, Hagino, Machida and Soares
Managers on the part of the Senate

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

Conf. Com. Rep. No. 70-86 on S.B. No. 2308-86

The purpose of this bill is to propose a gallonage tax on the sale of liquor in addition to the present excise tax. The tax on gallonage would tax distilled spirits at \$5.20 per wine gallon, sparkling wine at \$2.00 per wine gallon, still wine at \$1.30 per wine gallon, and beer at 81 cents per wine gallon. The bill additionally repeals the exemption of liquor sales to the military and provides the county liquor commissions with the authority to assist the department of taxation in the enforcement of the liquor tax law.

Your Committee finds that the assistance of the county liquor commissions is purely discretionary and that being discretionary is not a mandated program within the meaning of Article VIII, section 4, of the Hawaii Constitution. The assistance of the liquor commissions in this area of taxation should prove to be invaluable. Your Committee is aware of the concern of the department of taxation regarding the IRS-State Exchange Program, but finds that the provisions of the bill clearly limit the county liquor commissions to access to documents relating only to the liquor tax. These documents are not part of the IRS-State Exchange Program, and if these documents include information that might be the subject of that program as well as of the liquor tax, then the department should keep such documents separate or eliminate such information from the documents before allowing the liquor commission to view them. Your Committee finds that the incorporation of the liquor commission in the Liquor Tax Law brings the essence of a free audit program to the department in an area in which more audit capacity and review are necessary. Your Committee encourages the department and the commission to make every attempt to work together within the constraints of confidentiality.

Your Committee has amended this bill by providing for the repeal of the excise tax on liquor. Although called by some an ad valorem tax, this tax is more accurately and legally termed an excise tax. Your Committee finds that the constitutionality of the excise tax on liquor has been in question in the courts since 1979 and, in 1984, the predecessor to the current law was declared unconstitutional. The present law is also being challenged in court on constitutional grounds. The liquor tax moneys from the 1979 court case and other moneys, because of the present court case, have been deposited in escrow and are not available to the State. Your Committee does not agree that the present excise tax on liquor is unconstitutional, but does find that in order to avoid further court challenges, the loss of revenues during such challenges, and the use of state money to defend these challenges, the taxation of the sale of intoxicating liquor should be changed to a tax on the gallonage sold.

The repeal of the excise tax necessitates the deletion of the purpose discussion in section 1 of the bill as being no longer relevant. Your Committee has added a new section 1 to the bill which provides for automatic adjustment to the tax rates in the bill under certain circumstances. This adjustment is applied to each separate category of tax in each paragraph of section 244D-4(a), Hawaii Revised Statutes. The use of this adjustment provision will allow the State to retain some of the state revenue increases which occur under the excise tax but without the problems inherent in that tax in this State. The following are examples of how this section will work.

<u>EXAMPLE 1:</u>	<u>YEAR 1</u>	<u>YEAR 2</u>	<u>% INCREASE</u>
Unit Price	\$5	\$7.50	50%
Gallons sold	2	2	—
Total Dollar Volume	\$10	\$15	50%
Liquor Tax Rate	\$2/gallon	\$3/gallon	50%
Liquor Tax Revenue	\$4	\$6	50%

In year 2, there has been a 50% increase in the unit price, and gallonage sold has remained the same, so the liquor tax rate applicable to the category has been increased by 50%. The result is that the gallonage tax revenue increases by the same percentage as the dollar increase in sales.

<u>EXAMPLE 2:</u>	<u>YEAR 1</u>	<u>YEAR 2</u>	<u>% INCREASE</u>
Unit Price	\$5	\$5	—
Gallons sold	2	3	50%
Total Dollar Volume	\$10	\$15	50%
Liquor Tax Rate	\$2/gallon	\$2/gallon	—
Liquor Tax Revenue	\$4	\$6	50%

In year 2, the increase in dollar volume is due solely to an increase in gallonage sold. Unit price and tax rate remain the same, and liquor tax revenues increase in the same proportion as gallons sold without any change in rates.

<u>EXAMPLE 3:</u>	<u>YEAR 1</u>	<u>YEAR 2</u>	<u>% INCREASE</u>
Unit Price	\$5	\$7.50	50%
Gallons sold	2	1.33	-33-1/3%
Total Dollar Volume	\$10	\$10	—
Liquor Tax Rate	\$2/gallon	\$2/gallon	—
Liquor Tax Revenue	\$4	\$2.67	-33-1/3%

In year 2, the 50% increase in unit price is due solely to a decrease in gallonage sold; so there is no increase in the liquor tax rate. This example corresponds to an increase in cost with concurrent loss in sales volume, and no increase in total dollar volume.

<u>EXAMPLE 4:</u>	<u>YEAR 1</u>	<u>YEAR 2</u>	<u>% INCREASE</u>
Unit Price	\$5	\$7.50	50%
Gallons sold	2	4	100%
Total Dollar Volume	\$10	\$30	200%
Liquor Tax Rate	\$2/gallon	\$3/gallon	50%
Liquor Tax Revenue	\$4	\$12	200%

In this example, gallonage has doubled and unit price has gone up by 50%. The liquor tax rate therefore goes M = up by 50%, and the increase in gallonage sold means that the State's revenues increase by the same percentage as dollar volume.

In addition the new provision provides for automatic adjustment to the tax rate in instances where the prices decrease after automatic adjustment of the tax rate upwards. This provision does not allow the tax rate to decrease below the rate set in section 244D-4(a), Hawaii Revised Statutes. The following examples show how this provision will work and it is assumed that the tax rate has previously been automatically increased over the statutory rate.

<u>EXAMPLE 1:</u>	<u>YEAR 1</u>	<u>YEAR 2</u>	<u>% DECREASE</u>
Unit Price	\$5	\$2.50	50%
Gallons sold	2	2	—
Total Dollar Volume	\$10	\$5	50%
Liquor Tax Rate	\$4/gallon	\$2/gallon	50%
Liquor Tax Revenue	\$8	\$4	50%

In year 2, there has been a 50% decrease in the unit price, and gallonage sold has remained the same, so the liquor tax rate applicable to the category has been decreased by 50%. The result is that the gallonage tax revenue decreases by the same percentage as the dollar decrease in sales.

<u>EXAMPLE 2:</u>	<u>YEAR 1</u>	<u>YEAR 2</u>	<u>% DECREASE</u>
Unit Price	\$5	\$5	—
Gallons sold	2	1	50%
Total Dollar Volume	\$10	\$5	50%
Liquor Tax Rate	\$4/gallon	\$4/gallon	—
Liquor Tax Revenue	\$8	\$4	50%

In year 2, the decrease in dollar volume is due solely to an decrease in gallonage sold. Unit price and tax rate remain the same, and liquor tax revenues decrease in the same proportion as gallons sold without any change in rates.

<u>EXAMPLE 3:</u>	<u>YEAR 1</u>	<u>YEAR 2</u>	<u>% DECREASE</u>
Unit Price	\$5	\$2.50	50%
Gallons sold	2	1	50%
Total Dollar Volume	\$10	\$2.50	75%
Liquor Tax Rate	\$4/gallon	\$4/gallon	—
Liquor Tax Revenue	\$8	\$4	50%

In year 2, there is a 50% decrease in unit price with a concurrent decrease in gallonage sold; so there is no decrease in the liquor tax rate.

<u>EXAMPLE 4:</u>	<u>YEAR 1</u>	<u>YEAR 2</u>	<u>% CHANGE</u>
Unit Price	\$5	\$2.50	-50%
Gallons sold	2	6	+150%

Total Dollar Volume	\$10	\$15	+50%
Liquor Tax Rate	\$4/gallon	\$2/gallon	-50%
Liquor Tax Revenue	\$8	\$12	+50%

In year 2, there is a 50% decrease in unit price, but an increase in gallonage sold; so the liquor tax rate decreases while the liquor tax revenues increase.

<u>EXAMPLE 5:</u>	<u>YEAR 1</u>	<u>YEAR 2</u>	<u>% DECREASE</u>
Unit Price	\$5	\$2.50	50%
Gallons sold	2	2	—
Total Dollar Volume	\$10	\$5	50%
Liquor Tax Rate	\$3/gallon	\$2/gallon	33%
Liquor Tax Revenue	\$6	\$4	33%

In year 2, there is a decrease in unit price, but the gallonage sold remains the same. Application of the automatic adjustment to the tax rate would result in a reduction to a tax rate of \$1.50; however, the tax rate cannot be reduced below the statutory tax rate of \$2.00.

The automatic adjustment is applied to each tax category individually. For example, if the department of taxation determines that distilled spirits showed an increase in unit price then only the tax rate for distilled spirits should be adjusted.

Your Committee has further amended this bill by taking the definition of wine with blending materials and low alcohol out of the definition of beer and creating a separate definition of cooler beverages. This definition contains such blended wines and in addition the definition includes malt beverage coolers which are like wine beverage coolers except they are composed of beer, blending materials, and are of low alcohol content. A new definition of draft beer has been added and a definition of unit price has been added for the purposes of the new section. Other definitions have been amended to reflect these amendments. The definition of sparkling wine has been clarified to provide that it is wine charged with 0.392 grams of carbon dioxide per 100 milliliters of wine, and still wine has been amended so that it is wine that contains less than such charge.

The taxation of wine gallons has been amended by adding one new category—draft beer, taxed at a rate of 50 cents per wine gallon. Cooler beverages are taxed at a rate of 81 cents per wine gallon. The taxation of cooler beverages is the same as in the S.D. 1 and H.D. 1 versions of this bill which taxed them at the same tax rate as beer—81 cents. The lower tax rate for draft beer reflects the lower price at which beer sells in kegs. The tax rate for beer has been amended by excepting draft beer.

Your Committee has amended the reporting requirements by liquor category to require that permittees report on the gallonage and dollar volume sold in each liquor category, i.e. for distilled spirits, sparkling wines, still wines, beer, cooler beverages, and draft beer. Such information is necessary for the automatic adjustment of the tax rate under the new section. A new section at the end of the bill requires the reporting of such information for the period beginning after March 31, 1986. The reporting of this information allows the automatic calculations to begin after July 1, 1987.

Your Committee has amended the amendment of section 281-79, Hawaii Revised Statutes, in the bill to add a missing paragraph in order to correct a drafting error. The requirement that the department of taxation report to the legislature before the convening of the regular sessions of 1987 and 1988 has been extended to include a report before the regular session of 1989. A provision has been added to provide that the amendments in this bill which create the gallonage tax are repealed on July 1, 1989, and the excise tax provisions of the Hawaii Revised Statutes they amended are reenacted as they read before such amendment. This will assist the legislature in determining how the automatic adjustment provisions of this bill are working. Other amendments have been made for style and clarity which do not affect the substance of the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2308-86, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2308-86, S.D. 1, H.D. 1, C.D. 1.

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

Representatives Kiyabu, Cachola, Crozier, Kihano, Lardizabal, Leong, Manegdeg, Nakata, Oshiro, Souki, Tajiri, Takamine, Anderson, Isbell and Kamali'i

Managers on the part of the House

Representative Manegdeg did not sign the report.

Conf. Com. Rep. No. 71-86 on H.B. No. 2580-86

The purpose of this bill is to: (1) add provisions for an increase in the excise tax credit, (2) adjust corporate income tax rates, and (3) provide the following amendments to the general excise tax law: (a) phase in the exemption of purchases of capital goods and exempt prescription drugs and prosthetic devices, exempt exports including computer software and storage media, and exempt federal contract work, (b) expand the shipbuilding and ship repair exemption and revise the scientific work exemption, (c) phase in the reduction of the tax rate on real property sublessors to the wholesale level, and (d) repeal the exemption of manufacturers of pulp and paper.

Your Committee has amended this bill to retain only those provisions exempting prescription drugs and prosthetic devices from the general excise tax. This exemption has been modified to read as follows:

"Amounts received by a hospital, infirmary, medical clinic, health care facility, pharmacy, or a practitioner licensed to administer the drug to an individual for selling prescription drugs or prosthetic devices to an individual. This paragraph shall not apply to any amounts received for services provided in selling prescription drugs or prosthetic devices. As used in this section:

"Prescription drugs" are those drugs required to be prescribed by a practitioner licensed under law to administer the drug and which are dispensed and sold by a licensed pharmacist under section 328-16.

"Prosthetic device" means any artificial device or appliance used to replace a missing or surgically removed part of the human body prescribed by a licensed practitioner of medicine, osteopathy, or podiatry; provided that "prosthetic device" shall not mean any auditory, ophthalmic, dental, or ocular device or appliance."

Section 1 of this bill has also been retained; however, it has been modified to reflect the amendments discussed in the previous paragraph.

Your Committee has also amended this bill to provide for an effective date of July 1, 1986.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2580-86, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2580-86, H.D. 1, S.D. 2, C.D. 1.

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

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

Conf. Com. Rep. No. 72-86 on S.B. No. 1496-86

The purpose of this bill is to clarify the basis for which the Board of Land and Natural Resources would consider and grant a conservation district use permit for geothermal development in a geothermal resource subzone located within a conservation district.

This bill provides that an application for a conservation district use permit shall be granted by the Board of Land and Natural Resources if the desired uses 1) would not have unreasonable adverse health, environmental, or socio-economic effects on residents or surrounding property and 2) would not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, and police and fire protection.

Your Committee finds that the guidelines provided by this bill will facilitate the orderly and timely development of geothermal energy in the State by establishing a consistent basis for approving geothermal development activities by the Board of Land and Natural Resources. This bill will also assist geothermal developers in the preparation of their applications by clarifying the basis upon which land use decisions will be made.

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

- (1) Added a third provision to provide that in addition to (1) and (2), if there are reasonable measures available to mitigate the adverse effects or burdens referred to in (1) and (2), the conservation district use permit shall be granted.
- (2) Added a six month time limit for the Board of Land and Natural Resources to issue a decision on a conservation district use permit application for geothermal development activities if no contested case hearing is held and a nine month time limit if a contested case hearing is held, provided that the time limits may be extended by agreement between the applicant and the Board.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1496-86, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1496-86, S.D. 2, H.D. 1, C.D. 1.

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

Representatives Andrews, Say, Metcalf, Tajiri, Tam and Pfeil
Managers on the part of the House

Conf. Com. Rep. No. 73-86 on S.B. No. 1933-86

The purpose of this bill is to allow any small business to recover attorney's fees from the state when a court finds that a state agency has sued the small business without sufficient reason. The state agency is allowed attorney's fees if a court concludes that a small business's lawsuit against the state was frivolous and wholly without merit. Fees are to be reimbursed at a specified rate up to a statutory maximum.

Your Committee upon further consideration has amended the bill to clarify the standards controlling awards of attorney's fees to small businesses. The bill now allows attorney's fees if a court finds that an agency's action lacked a reasonable basis. A technical amendment was also made to the language pertaining to the appropriations that the bill will necessitate.

Your Committee finds that small businesses are unusually vulnerable to the risks and costs of lawsuits initiated by state agencies. Small businesses are subject to regulations not applicable to individuals, and are ordinarily not eligible for publicly funded legal assistance when disputes arise concerning the interpretation of relevant rules and decisions. Judicial clarification of the propriety of an agency's regulatory conduct benefits the entire community although the costs may fall on a single business. Allowing attorney's fees to be awarded against state will assure that small businesses are not unfairly burdened by the costs of defending against baseless actions.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1933-86, S.D. 1, H.D. 2, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1933-86, S.D. 1, H.D. 2, C.D. 2.

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

Representatives Tom, Souki, Blair, Crozier, Lardizabal, Metcalf, Tungpalan, Anderson and Medeiros
Managers on the part of the House

Representatives Blair and Anderson did not sign the report.

Conf. Com. Rep. No. 74-86 on S.B. No. 2258-86 (Majority)

The purpose of this bill is to address several aspects of tort law that are viewed as causes of the high cost and difficulty of obtaining liability insurance, while fully respecting victim's rights, and without encouraging carelessness on the part of those in a position to avoid accidents.

Your Committee is not yet convinced that modifying the tort system will affect the price or availability of liability insurance. Testimony on the relationship between tort recoveries and insurance rates was voluminous and strikingly defective in showing a cause and effect relationship.

However, testimony before your Committee did indicate several areas of the tort system where the potential for excess may exist. This bill addresses some of those areas that, on the basis of the somewhat limited analysis presented to the committee, may be of priority concern

to the community.

The bill, as it reached your Committee, contained provisions to discourage frivolous lawsuits, to inform jurors of the financial resources available to the parties in a lawsuit, and to routinely provide juries with instructions on comparative negligence and its effects on the amounts recovered, in cases that present the issue. Instructions on joint tortfeasor liability also will be given in cases involving joint and several liability.

Your Committee upon further consideration has amended the bill so that it more accurately reflects the evidence presented to the Legislature.

The bill now allows judges to increase or reduce the damages awarded to tort victims for pain and suffering, but imposes no absolute limit on the amounts awarded. The available information does not demonstrate that jury verdicts are generally excessive. Indeed, some testimony suggests that the most severely injured plaintiffs, who would be most affected by a statutory limit on damages, are already undercompensated. Consequently, your Committee concluded that the reasonableness of damages should be determined on a case by case basis rather than through legislation. Frequent modification of awards under the new provision may suggest a need for further action by the Legislature. This provision now applies to all tort actions, including those founded on medical torts.

The bill imposes no ceiling on attorney's fees. Your Committee concluded that attorney's fees should not be limited without limiting the fees charged by doctors and others who are compensated for the services they provide to accident victims. All such costs affect the amount ultimately recovered by tort plaintiffs. Further, restrictions on fees are difficult to enforce, especially against individuals who charge by the hour. Finally, disparities in the quality and efficiency of legal services would make statutory limits arbitrary. The most capable practitioners would in a sense be penalized for their speed and effectiveness in resolving disputes.

The bill contains a collateral source rule that is amended only by restricting disclosure of the amount of insurance available to a defendant to cases in which all defendants are insured. Otherwise the provision remains unchanged and permits informing juries of some of the sources that may cover certain of the plaintiff's losses. Plaintiffs are also allowed to introduce evidence showing the cost of their coverage and which collateral sources they must reimburse.

Your Committee also amended the bill by deleting a provision limiting the tort liability of state and county governments.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2258-86, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2258-86, S.D. 1, H.D.1, C.D. 1

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

Senator Cobb did not concur.

Senator Toguchi did not sign the report.

Representatives Tom, Bunda, Hashimoto, Hirono, Kiyabu, Metcalf, Shito, Taniguchi, Cavasso and Medeiros
Managers on the part of the House

Representatives Bunda, Hashimoto, Kiyabu and Cavasso did not sign the report.

Conf. Com. Rep. No. 75-86 on S.B. No. 471

The purposes of this bill are to adjust the salaries or maximum salaries of certain public officers and employees, state explicitly that certain public officers and employees who are exempt from civil service are also exempt from the classification and collective bargaining laws, and make the requisite appropriations.

The salaries of most of the public officers and employees who are subject to this bill were last adjusted in 1982. Your Committee finds that increases to the salaries as proposed under this bill are appropriate at this time.

Your Committee has amended the bill by providing the governor with a salary of \$80,000 retroactive to January 1, 1986. Your Committee considers this amount to be appropriate when compared to the salaries of other elected executive officers in this State.

Your Committee has also amended the bill by inserting salary increases for other public officers and employees in various amounts retroactive to January 1, 1986. The salary increases represent \$80,000 for the governor and \$76,000 for the lieutenant governor and superintendent of education. Salaries for those below the lieutenant governor and superintendent of education are based on approximately 90 per cent of those above each category. Salary adjustments for all positions are not similar in percentage increases. Specific amounts are identified in the bill. For example, the salary of department heads are 90 per cent of the lieutenant governor's salary.

Your Committee has also amended the bill by including salary increases for justices and judges. The chief justice's salary is increased from \$56,430 a year to \$80,000 retroactive to January 1, 1986. Your Committee intends that the chief justice's salary be equal to the governor's. The intention reflects the co-equal nature of the judicial and executive branches.

The salaries of subordinate justices and judges retroactive to January 1, 1986 have been established to reflect your Committee's conception of the appropriate ranking within the judicial structure. In addition, your Committee has included in this bill language in sections 571-8.2 and 604-2.5, Hawaii Revised Statutes, to stipulate that district court and district family court judges assigned temporarily to circuit court duties are to be paid at the rate based on the salary of a circuit court judge. Your Committee feels that this amendment makes the temporary assignment process more equitable.

Your Committee notes that the administrative director and deputy administrative director of the courts will continue to receive the same salaries as a department head and a first deputy, respectively, and effective July 1, 1985 the salary of the federal programs coordinator is reduced to zero.

As amended, this bill increases the salaries or maximum salaries of the following public officers and employees. The public officers and employees are the: governor, lieutenant governor, superintendent of education, department directors, adjutant general, first and second deputies and assistants to department directors, administrative director of the State, members of the Hawaii labor relations board, chief negotiator, stadium manager and deputy stadium manager, special assistant to the governor for agriculture, commissioners of the public utilities commission, assistant, district, and deputy district superintendents of education, state librarian, executive director of the Hawaii public broadcasting authority, director of the executive office on aging, members of the Hawaii paroling authority, executive director of the Hawaii housing authority, members of the labor and industrial relations appeals board, deputy commissioner of credit unions, director of the office of consumer protection, director of the office of children and youth, state public defender, supreme court justices, intermediate appellate court judges, circuit court judges, district court judges, district family court judges, administrative director and deputy administrative director of the court, legislative auditor, director of the legislative reference bureau, and ombudsman and their deputies or assistants, and executive director of the state ethics commission. Your Committee also notes that, because of sections 401-1 and 431-33, Hawaii Revised Statutes, the maximum salaries of the bank examiner and insurance commissioner are increased. The necessary appropriations are also inserted.

Your Committee finds that the salary amounts proposed under this bill are fair and will assist the State in recruiting and retaining qualified, competent, and motivated public officers and employees.

In addition, your Committee has made technical, nonsubstantive amendments.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 471, S.D. 2, H.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 471, S.D. 2, H.D. 1, C.D. 2.

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

Representatives Kiyabu, Yoshimura, Crozier, Kihano, Lardizabal, Souki, Takamine and Anderson
Managers on the part of the House

Conf. Com. Rep. No. 76-86 on S.B. No. 1831-86

The purpose of this bill is to establish procedures for providing appropriate care and treatment to certain mentally ill individuals who suffer from a disabling mental illness that requires medical treatment. Your Committee realizes that it is essential to respect the personal freedom of such individuals, and to guard against measures that are shaped more by social convenience than by the needs of the mentally ill. The bill applies only to individuals who

suffer disabling mental illnesses, and require medical treatment.

The bill addresses the needs of those mentally ill individuals, including schizophrenics, whose distinctive illness can be largely controlled without medication, but who may suffer relapses that, without medical intervention, are virtually certain to produce severe or extreme disability in a short time.

Your Committee upon further consideration has amended S.B. No. 1831-86, S.D. 2, H.D. 1, by revising the definition of "obviously ill" to assure that it is legally sufficient to sustain involuntary hospitalization for treatment. The definition now focuses on individuals who cannot appreciate the serious and highly probable risks to their health and safety that will follow from refusing treatment, and also cannot comprehend the advantages of accepting medication.

Too often, mentally ill individuals are ignored until their conduct can be described as criminal and their condition requires lengthy hospitalization. The police, called upon to control the mentally ill individual, may easily recognize that the misconduct reflects illness rather than criminal intent. Under the Act proposed by the bill, mental health workers will be summoned and the degrading process of criminalization can be avoided. Other equally but not necessarily obviously ill individuals may have to undergo an unfortunate process of further deterioration before they can be hospitalized for treatment.

Your Committee finds that the bill as amended meets an important need, and reflects the best current information about the mental conditions to which it could be applied.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1831-86, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1831-86, S.D. 2, H.D. 1, C.D. 1.

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

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

Representative Liu did not sign the report.

STANDING COMMITTEE REPORTS

SCRep. 1-86 Legislative Management

Informing the Senate that Senate Bill Nos. 1488-86 to 1492-86 have been printed and were distributed to the members of the Senate on January 17, 1986, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 2-86 Legislative Management

Informing the Senate that Senate Bill Nos. 1493-86 to 1518-86 have been printed and were distributed to the members of the Senate on January 20, 1986, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 3-86 Legislative Management

Informing the Senate that Senate Bill Nos. 1519-86 to 1549-86 have been printed and were distributed to the members of the Senate on January 21, 1986, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 4-86 Legislative Management

Informing the Senate that Senate Bill Nos. 1550-86 to 1555-86 have been printed and were distributed to the members of the Senate on January 22, 1986, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 5-86 Legislative Management

Informing the Senate that Senate Bill Nos. 1556-86 to 1593-86 have been printed and were distributed to the members of the Senate on January 23, 1986, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 6-86 Legislative Management

Informing the Senate that Senate Bill Nos. 1594-86 to 1612-86 have been printed and were distributed to the members of the Senate on January 24, 1986, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 7-86 Legislative Management

Informing the Senate that Senate Bill Nos. 1613-86 to 1741-86 have been printed and were distributed to the members of the Senate on January 27, 1986, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 8-86 Legislative Management

Informing the Senate that Senate Bill Nos. 1742-86 to 1818-86 have been printed and were distributed to the members of the Senate on January 28, 1986, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 9-86 Legislative Management

Informing the Senate that Senate Bill Nos. 1819-86 to 1858-86 have been printed and were

distributed to the members of the Senate on January 29, 1986, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 10-86 Legislative Management

Informing the Senate that Senate Bill Nos. 1859-86 to 1906-86 have been printed and were distributed to the members of the Senate on January 30, 1986, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 11-86 Legislative Management

Informing the Senate that Senate Bill Nos. 1907-86 to 2073-86 have been printed and were distributed to the members of the Senate on January 31, 1986, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 12-86 Ways and Means on H.B. No. 1779-86

The purpose of this bill is to authorize funds for the expenses of the Legislature up to June 30, 1987, and also for the expenses of the Legislative support agencies during the 1986-1987 fiscal year.

Your Committee has provided the following specific appropriations:

SENATE AND HOUSE OF REPRESENTATIVES

The amount appropriated for the Senate is \$2,475,524 and the amount appropriated to the House of Representatives is \$3,213,695. Your Committee finds that the amounts are necessary to meet operating costs of the Legislature covering such items as equipment, supplies, staff services, and other fundamental expenses.

LEGISLATIVE AUDITOR

Your Committee approves the appropriation of \$1,589,000 to meet the basic operating budget of the Office of the Legislative Auditor. The amount includes funds for special studies and other purposes to be jointly determined by the President of the Senate and the Speaker of the House of Representatives.

STATE ETHICS COMMISSION

Your Committee approves the appropriation of \$277,549 to the State Ethics Commission. This appropriation represents a \$91,973 increase over the amount approved for the Commission's budget for fiscal year 1985-1986. This increase is due primarily to the Commission's need for adequate space and for an additional staff attorney.

LEGISLATIVE REFERENCE BUREAU

Your Committee approves the appropriation of \$1,353,491 for the Legislative Reference Bureau. The total includes \$25,000 to be utilized as initial seed money for the 1987 Western Legislative Conference of the Council of State Governments to be held in Hawaii.

OMBUDSMAN

Your Committee approves the appropriation of \$390,400 for the Office of the Ombudsman.

LAPSE OF FUNDS

Appropriations under this bill are subject to lapse as of June 30, 1987.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1779-86, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 13-86 Legislative Management

Informing the Senate that Senate Bill Nos. 2074-86 to 2527-86 have been printed and were distributed to the members of the Senate on February 3, 1986, prior to the 11:30 o'clock a.m. session.

Signed by all members of the Committee.

SCRep. 14-86 Higher Education on S.R. No. 23

The purpose of this Resolution is to request the board of regents of the University of Hawaii to name the University's Mauna Kea Observatory facilities after Hawaii's first astronaut, Ellison Shoji Onizuka.

Your Committee has received testimony from the board of regents which reflects strong support for the concept of honoring Ellison Shoji Onizuka by appropriately naming the Mauna Kea Observatory facilities in his memory. In addition, the Chairman of the board of regents expressed a personal feeling which is shared by your Committee that: "...the linkage of the name of Hawaii's highest mountain, Mauna Kea, with that of the name of Hawaii's first explorer in space is aptly symbolic of the heights of gratitude and admiration we all share today, as will generations to come, in memory of the life and deeds of Ellison Shoji Onizuka."

Your Committee on Higher Education concurs with the intent and purpose of S. R. No. 23 and recommends its adoption.

Signed by all members of the Committee except Senators Abercrombie, Machida and Young.

SCRep. 15-86 Energy on S.B. No. 1496-86

The purpose of this bill is to clarify the basis for which the board of land and natural resources would consider and issue a conservation district use application permit for geothermal development in a geothermal resource subzone located within a conservation district. This bill also establishes time limits within which the board of land and natural resources would be required to make its decision on applications for conservation district use permits.

Your Committee finds that the guidelines provided by this bill will facilitate the orderly and timely development of geothermal energy in the State by establishing a consistent basis for approving geothermal development activities by the board of land and natural resources or the county, whatever the land district may be. This bill will also assist the geothermal developers in the preparation of their applications by clarifying the basis upon which land use decisions will be made. The proposed time limits for decision-making by the board of land and natural resources are also consistent with those specified for county action in non-conservation districts.

The director of the department of planning and economic development testified that under Section 205-5.1, Hawaii Revised Statutes, the board of land and natural resources is assigned the responsibility for governing geothermal development activities in a conservation district through the conservation district use application process, while in other districts the appropriate county is responsible and determines whether to issue a geothermal resource permit.

In order to avoid confusion, your Committee has amended this bill by changing "geothermal resource permit" on page 1, line 11, to "conservation district use permit." Your Committee has further amended this bill to conform the statutory language of this subsection to subsection (e).

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 1496-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1496-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 16-86 Energy on S.B. No. 1495-86

The purpose of this bill is to provide for sharing of geothermal royalty payments between the State and the county in which the geothermal mining takes place.

Your Committee finds that the counties in which geothermal mining takes place are responsible for providing and maintaining infrastructure such as roads, water, sewerage, and so on, which the geothermal development utilizes, while the entire amount of royalties received from geothermal mining is deposited into the State general fund.

Your Committee concurs with the intent of this bill to provide a percentage of royalty payments to the counties to at least offset the costs of providing infrastructure. Your Committee believes, however, that some type of direction should be given on how the funds are to be used. Accordingly, your Committee has amended this bill to provide that "the funds shall be used for the improvement of infrastructure of geothermal development and related services. 'Services' may include applied, adapted, or direct uses of geothermal energy and areas of cultural and historical value to the State affected by geothermal development."

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 1495-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1495-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 17-86 Energy on S.B. No. 1595-86

The purpose of this bill is to amend the definition of "geothermal development activities" to include the direct use, or non-electric application of geothermal resources as an activity that may be permitted in a geothermal resource subzone.

Presently the definition of "geothermal development activities" includes the exploration, development, or production of electrical energy from geothermal development. This may be construed to exclude non-electrical applications of geothermal energy as an authorized use of this source of energy.

Your Committee believes that the expansion of this definition to include direct use applications of geothermal resources would provide additional incentives to geothermal developers, enhance the viability of existing industries and lead to the establishment of new ventures.

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 1595-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 18-86 Ways and Means on S.B. No. 1965-86

The purpose of this bill is to amend chapter 237, Hawaii Revised Statutes, and is a short form bill.

Your Committee has amended this bill to provide for a general excise tax rate of per cent to be levied on the business of performing tourism related services as defined in the bill. The bill further amends section 237-20 to provide that gross income shall include reimbursements made for advances and costs if other consideration is received.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1965-86, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1965-86, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 19-86 Judiciary on S.B. No. 1023

The purpose of this bill is to amend the laws of Hawaii and is a short form bill.

Your Committee has amended the bill so that its purpose now is to prevent harassment that cannot be effectively controlled by criminal processes and penalties. There is presently no civil statute that can be used to interrupt systematic and continuous intimidation that stops short assault or threats.

This bill now allows victims of harassment to obtain temporary restraining orders and injunctions against harassment, but does not curtail or deter conduct that has a legitimate purpose. Because the proposed law is a new approach to a significant problem, your Committee desires to reconsider the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1023, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1023, S.D.1, and be recommitted to the Committee on Judiciary for further consideration.

Signed by all members of the Committee except Senators Aki, Kuroda and Young.

SCRep. 20-86 Labor and Employment on S.B. No. 1033

The purpose of this bill is to amend the laws of Hawaii. It is a short form bill.

Your Committee has amended the bill so that its purpose now is to permit the board of trustees of the Employees' Retirement System to consider certain overpayments of retirement benefits resulting from the system's error and decide whether to recoup such overpayments.

There are occasional miscalculations of retirement benefits which result in small incremental overpayments to retirees. When the system discovers these errors, the accrued overpayments may be somewhat substantial in relation to the retirees' incomes. Recoupment of such amounts may unduly burden system beneficiaries who are already financially strained.

The bill affords discretion to the board of trustees to decide whether to waive recoupment on a case by case basis, considering the totality of the circumstances in each case.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 1033, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1033, S.D. 1, and be recommitted to the Committee on Labor and Employment for further consideration.

Signed by all members of the Committee except Senators Cobb, Holt and Henderson.

SCRep. 21-86 Health on S.B. No. 1522-86

The purpose of this bill is to protect hospitals, health care facilities, and health care providers, who authorize workers' compensation claimants to return to work, from civil liability (except in cases of gross negligence), in cases where subsequent work aggravates the old injury or causes a new injury to arise out of the old one.

Your Committee heard testimony from the Department of Health and others in favor of this measure and finds that even the slightest prospect of civil action against a health care provider for authorizing return to work, even if the decision was made on the basis of sound medical judgment and in good faith, can have a deleterious effect on the workers' compensation system and the ability of providers to best serve their patients. Freeing health professionals from civil liability would allow them to exercise their best medical judgment, to the benefit of their patients, which in turn would help to ensure that healthy workers would not remain off the job longer than necessary.

Your Committee, upon further consideration, has amended the bill by deleting "Hospital, health care facility," from the title of the proposed new section and the words "hospital or other health care facility or" from lines 6 and 7, and adding the words "or any hospital or other health care facility connected with the medical examination" after the word "person" on line 11, in order to clarify that the intent of the bill is to exempt the individual provider who made the return to work authorization and the hospital or health care facility at which the examination took place. Your Committee has further amended the bill by adding the words "in emergency care" after "good faith" on line 16 in order to clarify that this measure does not relate to emergency treatment, but only to authorizations to return to work.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1522-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1522-86, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Solomon.

SCRep. 22-86 Health on S.B. No. 1504-86

The purpose of this bill is to reduce the costs of health care in Hawaii by providing that any malpractice dispute arising out of a contract for medical services or insurance shall be resolved by arbitration rather than court action if the contract provides for arbitration.

Hawaii currently has a program for mandatory arbitration in certain civil cases which is scheduled to begin on February 15, 1986. This bill would relate specifically to medical malpractice claims where the aggrieved party has entered into a contractual agreement with a health provider or insurance underwriter.

Your Committee received supporting testimony from the Department of Health, the Hawaii Federation of Physicians and Dentists, the Hawaii Medical Association, HMSA, and others, and finds that the increasing costs of malpractice insurance in Hawaii has caused many health care providers to practice defensive medicine or even discontinue certain types of services in order

to minimize the risk of litigation. Your Committee also finds that medical liability claims can currently be arbitrated in at least thirty states under general arbitration statutes, and that fourteen states specifically provide for medical liability arbitration. This bill will reduce the number of malpractice claims in the courts, speed up the resolution process, and reduce the overall costs of litigation, all of which should impact favorably on the costs and quality of health care in the State without jeopardizing an injured party's right to a full and just recovery.

Your Committee wishes to note that it is the intent of this legislation to allow the patient the option to sign or not sign a contract calling for mandatory arbitration, rather than to make such contracts obligatory in any patient-provider relationship.

Your Committee has amended the bill by providing that any contract for medical services or insurance may include a clause relating to mandatory arbitration and by clarifying the proposed wording of the arbitration provision in the contract so that the typical person will be able to read and understand what they are being asked to sign.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1504-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1504-86, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Solomon.

SCRep. 23-86 Health on S.B. No. 1609-86

The purpose of this bill is to allow evidence of economic damages paid or payable to the plaintiff by sources other than the defendant to be admissible for consideration by the court in a medical liability suit.

Under existing law, information regarding the amount the plaintiff has or will be compensated from other sources such as health insurance plans, social security, temporary disability insurance, sick leave and sick pay, and life insurance and accident insurance policies is not available to the jury. This may result in a significant duplication of benefits due to the overlapping of awards and payments from both defendant and the collateral sources. This bill will allow the court to consider the plaintiff's other sources of compensation before awarding damages.

Your Committee heard supporting testimony from the Department of Health, the Hawaii Federation of Physicians and Dentists, the Hawaii Medical Association, HMSA, The Hawaii Independent Insurance Agents Association, and others, and finds that the nineteen states that have changed their collateral source rules have experienced an average decrease of fifty percent in the severity of their awards within two years. Considering the high awards currently being made by Hawaii's juries and the exorbitant cost and increasing unavailability of medical malpractice insurance in the State, your Committee finds that this measure will have a significant effect in reducing malpractice awards and insurance premiums which in turn will serve the public interest by helping to reduce health care costs for the entire community.

Upon further consideration, your Committee has amended the bill by providing that the evidence of collateral sources shall be admissible for consideration by the jury as well as the court, in order to strengthen the effect this tort reform is intended to produce in terms of lowering awards for economic losses and impacting favorably on the availability and cost of medical malpractice insurance in the State.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1609-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1609-86, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Solomon.

SCRep. 24-86 Health on S.B. No. 1548-86

The purpose of this bill is to limit contingency fees for plaintiff's attorneys in medical malpractice tort actions.

Section 671-2, Hawaii Revised Statutes, currently limits a plaintiff's attorney's contingency fees to "a reasonable amount as approved by a court of competent jurisdiction". This bill would provide for a sliding scale and caps on contingency fees as follows:

- (1) Forty per cent of the first \$50,000 the plaintiff recovers;
- (2) Thirty-three and one-third per cent of the next \$50,000;
- (3) Twenty-five per cent of the next \$100,000; and

- (4) Ten per cent of any recovery which exceeds \$200,000.

Your Committee heard supporting testimony from the Department of Health, the Hawaii Federation of Physicians and Dentists, the Hawaii Medical Association, HMSA, the Hawaii Independent Insurance Agents Association, and several other groups and individuals, and finds that the prospect of large contingency fees bears a relationship to the frequency of tort actions which in turn tend to deplete the resources available for compensation to victims and increase the cost of malpractice insurance premiums. This bill would result, in many instances, in a larger share of the recovery going to the injured party, as well as improve the predictability of awards, and therefore would impact favorably on the availability and cost of malpractice insurance premiums without prohibiting a successful plaintiff's attorney from realizing a reasonable fee for services.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1548-86 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Solomon.

SCRep. 25-86 Health on S.B. No. 1842-86

The purpose of this bill is to enable any adult to execute a declaration directing the withholding or withdrawal of life-sustaining treatment if the adult is in a terminal condition. The bill was originally drafted by the National Commission on Uniform State Laws.

Your Committee heard supporting testimony by the Department of Health, the Executive Office on Aging, the Hawaii Medical Association, the American Association of Retired Persons, and the Protection and Advocacy Agency of Hawaii, among others, and finds that declarations of the kind provided by this measure, commonly referred to as "living wills", are well established in Anglo-American legal traditions. They are vehicles to insure that a person's expressed wishes are followed by formally acknowledging the patient's central role in decision-making and recognizing an adult's right to die naturally and accept or refuse treatment. They also provide a substantial measure of protection against litigation for physicians who carry out the wishes of the patient. Thirty-seven states already have this kind of legislation, in one form or another.

After considering all the testimony, your Committee has amended this bill by:

- (1) Providing that a declaration may be in any written form or writing;
- (2) Providing that a health-care provider, for the purposes of this chapter, must be either licensed or certified by the laws of the State;
- (3) Adding the word "medical" to modify "life-sustaining treatment" throughout the bill, in order to clearly differentiate between treatments of a medical nature and other forms of treatment, and to be consistent with the definition of "life-sustaining treatment" as a medical procedure;
- (4) Clarifying that physicians, within the meaning of the chapter, are individuals licensed under Chapters 453 or 460, Hawaii Revised Statutes;
- (5) Strengthening the definition of "terminal condition" by providing that it means the "final stage" of an incurable or irreversible "medical" condition which will result in "imminent" death;
- (6) Adding a new section -2 providing that the chapter does not curtail or limit informed consent or any oral declaration made to a patient's health-care provider, and renumbering the former sections -2 to -15 accordingly;
- (7) Providing that additional space be allowed on the declaration form for additional directives by the declarant;
- (8) Clarifying that a declaration may be revoked either in writing or orally; and
- (9) Changing the penalties for tampering with, or concealing knowledge of, or fraudulently inducing the execution of a declaration from a misdemeanor to a class C felony.

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

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1842-86, as

amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1842-86, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Solomon.

SCRep. 26-86 (Majority) Health on S.B. No. 1521-86

The purpose of this bill is to exempt from the general excise tax revenues received by various health and medical care institutions and by practitioners of health and medical care, including the drugs prescribed by such practitioners.

The bill exempts amounts received by all hospitals, infirmaries, medical clinics, and sanatoria for furnishing medical or health care, including room, board, and prescription drugs, and amounts received by licensed practitioners of medicine, chiropractic, naturopathy, acupuncture, osteopathy, podiatry, dentistry, psychology, optometry, and pharmacy for professional services rendered and prescribing medications.

Current law provides an exemption from the general excise tax for hospitals, infirmaries, and sanatoria provided that such have been registered with the Department of Taxation. This bill would include other health facilities and licensed practitioners under the general excise tax exemption, regardless of whether or not they operate for profit or on a nonprofit basis.

Your Committee considered testimony from several physicians and medical groups and societies, including the Hawaii Medical Association, the Hawaii Dental Association, and Hawaii Dental Services, and finds that the general excise tax is generally passed on by the facility or practitioner to the consumer, thus adding to the already high cost of health care throughout the State and impacting most negatively on low income and elderly people who can afford it least. Your Committee further finds that Hawaii is one of the few states which still places a general excise tax on health care services. Therefore, it is the opinion of your Committee that this measure, by reducing the cost of providing health care, is in the public interest in that it will impact favorably on the overall cost of health care in the State in the form of a savings passed on to the consumer.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1521-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Solomon.
Senator Kawasaki did not concur.

SCRep. 27-86 Tourism and Recreation on S.B. No. 1617-86

The purpose of this bill is to provide funds for the purchase of real property adjacent to Kawainui Marsh on Windward Oahu.

Your Committee finds that the operation of an automobile salvage yard on property adjacent to the Kawainui Marsh is a hazard to the marsh ecosystem. The Kawainui Marsh Resource Management Plan, prepared by the Department of Planning and Economic Development, recommended acquisition and removal of the automobile salvage yard by the purchase of the site identified by tax map key no. 4-2-17-20 (Division 1).

Your Committee adopted the recommendations of the Kawai Nui Heritage Foundation and the Department of Land and Natural Resources by inserting the amount of \$450,000 as the sum appropriated for the purpose of the bill. At the time of the Kawainui Marsh Resource Management Plan, the site was appraised at \$306,000. The foundation and the department were in agreement on the sum of \$450,000 to allow for inflation since the time of the appraisal.

Your Committee also amended the bill by inserting the proper tax map key which identifies the property, and by inserting fiscal years 1986-1987 and 1987-1988 for the period of the appropriation.

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

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1617-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1617-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee

SCRep. 28-86 Tourism and Recreation on S.B. No. 1910-86

The purpose of this bill is to provide funds for the planning and construction of the Hawaii Veterans Hall and Peace Garden, to be located at the Aiea Bay State Recreation Area, to honor the memory of Hawaii's men and women who served in the armed forces.

The Department of Land and Natural Resources is currently developing a Masterplan for park improvements at Aiea Bay. The Department supports the concept of this bill. However, to provide better vehicular access, the department has identified a potential site for the Veteran's Hall on land owned by both the State and the U.S. Navy. The Navy, citing security concerns, does not currently intend to make this area available for public recreational use.

Although the Navy's current position of not allowing a park development poses a problem for any construction of the Hawaii Veterans Hall and Peace Garden, your Committee supports the intent of the bill.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1910-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 29-86 Tourism and Recreation on S.B. No. 1959-86

The purpose of this bill is to formally establish a tourism training council within the Department of Labor and Industrial Relations.

The State Tourism Functional Plan, adopted as H.C.R. No. 26 in April, 1984, recommended the establishment of a tourism training council to promote training and educational programs for visitor industry employees.

There currently exists an informal tourism training council, as appointed by the Governor in January, 1985, under the State Tourism Functional Plan. The informal council currently operates within the Department of Labor and Industrial Relations.

Your Committee is in agreement with the Department of Labor and Industrial Relations, the Department of Planning and Economic Development and the Hawaii Visitors Bureau, that there is a need for statutory recognition of the tourism training council as a permanent State entity. Programs to maintain and improve the quality of the industry work force are necessary because of the importance of the tourist industry in this State.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1959-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 30-86 Tourism and Recreation on S.B. No. 2014-86

The purpose of this bill is to provide funds for plans and construction of a baseball park in Kaunakakai, Molokai, to include three baseball fields and public restrooms.

There is a stipulation that the funds appropriated by this bill shall not be made available unless funds from the County of Maui and Community Development Block Grant are also provided for the purpose of this bill.

Your Committee made a technical non-substantive amendment to the bill.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2014-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2014-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 31-86 Energy on S.B. No. 1614-86

The purpose of this bill is to appropriate funds for the training of present State and County agency personnel and the hiring of additional personnel, as necessary, to expedite the processing of geothermal energy resource development permit applications.

Your Committee finds that there is a need to provide regulatory agencies with technical

expertise in all aspects of geothermal development. These agencies may not have sufficient personnel with the requisite technical knowledge and experience to effectively evaluate the technical merits and concerns of a geothermal project. Consequently, agency personnel must acquire this knowledge while rendering a decision, and as a result the permitting process is delayed.

Your Committee has amended this bill to provide the hiring of consultants along with additional personnel trained and knowledgeable in geothermal resource operations, if necessary. Your Committee believes that these regulatory agencies should have the option to obtain needed expertise from consultants until their own staffs have gained the requisite knowledge and experience.

Your Committee has further amended this bill to include the Department of Land and Natural Resources, the Department of Health, the University of Hawaii, the County of Hawaii and the County of Maui as expending agencies. Your Committee believes that all of these agencies would benefit from the funds appropriated.

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

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 1614-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1614-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 32-86 Energy on S.B. No. 1678-86

The purpose of this bill is to provide for owners of land within 1,000 feet of proposed geothermal resource subzones to be notified of public hearings on the designation of such zones.

Your Committee finds that the bill would ensure that landowners in the vicinity of proposed geothermal resource subzones are provided with adequate notice of public hearings and with the opportunity to express their views.

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 1678-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 33-86 Higher Education on S.B. No. 994

The purpose of this bill is to amend the laws of the State of Hawaii.

Your Committee has amended this short form bill to establish a revolving fund for an Interpretation and Translation Center at the University of Hawaii.

Revenues for this revolving fund will be derived from fees for services and materials provided by the Interpretation and Translation Center. Allowable expenditures from this fund will be restricted to those which are necessary for the operation of the Center.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 994, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 994, S.D.1, and be recommitted to the Committee on Higher Education for further consideration.

Signed by all members of the Committee except Senators Abercrombie, Machida and Mizuguchi.

SCRep. 34-86 Consumer Protection and Commerce on S.B. No. 2346-86

The purpose of this bill is to amend the laws of the State of Hawaii relating to escrow depositories.

Your Committee has amended this short form bill to amend section 449-16, Hawaii Revised Statutes, to prohibit escrow depositories from commingling deposits. The present practice among mortgage companies is to present to escrow depositories checks, drafts or other items drawn on institutions outside Hawaii. In addition, parties to escrow are making deposits by personal or corporate checks. These items take several days to clear after they are deposited, yet the parties to the transactions expect escrow to close as soon as the items are tendered.

These situations cause escrow depositories 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. This causes a great risk should the items fail to clear.

The proposed amendments essentially bar an escrow depository from disbursing until cash or items have been received and final settlement has been made or the escrow depository has verified with the financial institution upon which the item was drawn that there are sufficient funds in the drawer's account to cover the item.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2346-86, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 2346-86, S.D. 1, and be recommitted to the Committee on Consumer Protection and Commerce for further consideration.

Signed by all members of the Committee except Senators Cayetano, Chang, Kawasaki, McMurdo and Young.

SCRep. 35-86 Consumer Protection and Commerce on S.B. No. 2349-86

The purpose of this bill is to amend the laws of the State of Hawaii relating to gasoline dealers.

Your Committee has amended this short form bill to amend the definition of "good faith" in Section 486H-1, Hawaii Revised Statutes.

Presently the definition of "good faith" provides that no standard of conduct be imposed on a gasoline dealer which is not reasonable or significant to the franchise relationship. Upon consideration, your Committee believes that this definition should be expanded to include that no liability for conduct by indemnification or other provision may be imposed on a gasoline dealer which is not reasonable or significant to the franchise relationship.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2349-86, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 2349-86, S.D. 1, and be recommitted to the Committee on Consumer Protection and Commerce for further consideration.

Signed by all members of the Committee except Senators Cayetano, Chang, Kawasaki, McMurdo and Young.

SCRep. 36-86 Consumer Protection and Commerce on S.B. No. 2350-86

The purpose of this bill is to amend the laws of the State of Hawaii relating to the sale of gasoline.

Your Committee has amended this short form bill to include a new section to Chapter 486H, Hawaii Revised Statutes, requiring that gasoline dealers post the price of gasoline per gallon.

Present statutes do not require gasoline dealers to post the price of gasoline per gallon. Upon consideration, your Committee believes that requirements should be imposed on gasoline dealers to post the per gallon price of gasoline on the pump, as well as on outside signs which indicate the price per liter.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2350-86, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 2350-86, S.D. 1, and be recommitted to the Committee on Consumer Protection and Commerce for further consideration.

Signed by all members of the Committee except Senators Cayetano, Chang, Kawasaki, McMurdo and Young.

SCRep. 37-86 Ways and Means on S.B. No. 1963-86

The purpose of this bill is to conform the Hawaii income tax law with the Internal Revenue Code, and is a short form bill.

Your Committee has amended the bill to amend section 235-2.3, Hawaii Revised Statutes, by changing the date December 31, 1984, to December 31, 1985, thereby making amendments to the Internal Revenue Code for the calendar year 1985 operative for Hawaii income tax purposes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No.

1963-86, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 1963-86, S.D. 1, and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 38-86 Energy on S.B. No. 2016-86

The purpose of this bill is to appropriate funds for the development of the Maui Renewable Research Facility at Kealia, Maui.

Your Committee finds that the County of Maui is richly endowed with various indigenous energy resources. The location of this facility is ideal because of the closeness to the Maui Electric Company Maalaea power plant and because of the resources available to conduct research and development of wind, solar and biomass technologies. This facility will also complement the research in ocean and geothermal technologies conducted at the Natural Energy Laboratory of Hawaii and the Puna Research Center.

Your Committee believes that the activities that can be conducted at this facility will contribute positively to the development of Hawaii's indigenous renewable energy resources to reduce our dependency on imported petroleum, and promote economic development through the creation of new energy related industries. It is the intent of your Committee to eventually consolidate this facility with the Natural Energy Laboratory of Hawaii to promote research and development of renewable energy resources on a statewide basis.

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 2016-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 39-86 Energy on S.B. No. 2002-86

The purpose of this bill is to add certain conditions, based on actions of the federal government, to the present law which would increase the state tax credit for installation of solar or wind energy devices or heat pumps.

Presently, Section 235-12 (a), Hawaii Revised Statutes, provides that if federal energy tax credits are not extended beyond December 31, 1985, the state tax credit shall be increased from ten to fifteen percent of the total cost from the time of expiration of the federal tax credit to December 31, 1992.

The federal tax credits for solar and wind energy devices and heat pumps expired on December 31, 1985 and no action has been taken by Congress to reenact such a federal tax credit. However, Congress might reenact a federal energy credit and retroactively apply the old federal credit or establish a new credit. This bill provides that in the event that Congress does enact legislation that would again provide for a federal tax credit, the state tax credit would remain at ten percent.

Your Committee on Energy 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 Ways and Means.

Signed by all members of the Committee.

SCRep. 40-86 Energy on S.B. No. 1942-86

The purpose of this bill is to add a new chapter to Title 6 of the Hawaii Revised Statutes which would authorize any county to issue special purpose revenue bonds to finance the cost of an energy project.

The bill provides that these bonds and the income therefrom shall be exempt from all state and county taxation except estate and transfer taxes. It further provides that revenues derived by a county from any project agreement shall be exempt from all state and county taxation, and any right, title, and interest of the county in any project shall also be exempt.

Your Committee received testimony from the State Department of Taxation and the Planning Director of the County of Hawaii and finds that with this legislation, the counties will be better able to encourage projects which will furnish electric energy or gas at the local level, which is consistent with declared state and county objectives to promote and facilitate energy self-sufficiency throughout Hawaii, and is therefore in the public interest.

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

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 1942-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1942-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 41-86 Consumer Protection and Commerce on S.B. No. 1550-86

The purpose of this bill was to relieve officers and members of boards of directors of nonprofit corporations of civil damages and criminal penalties for their good faith actions on behalf of the nonprofit corporations. Not included were the consequences of actions in extension of their gross negligence, or wanton acts or omissions.

Your Committee heard the testimony of many witnesses representing nonprofit corporations detailing the problems such organizations have in obtaining adequate insurance coverage for their board members and officers. Without such coverage, recruitment of qualified personnel becomes increasingly difficult which will cause the services provided by the organizations and their effectiveness to be curtailed.

While your Committee understands the scope and impact of these problems upon nonprofit corporations (many of which are in the human services field), it also takes notice of the fact that this is but one aspect of a widespread liability insurance emergency facing consumers in Hawaii and elsewhere in the nation. Your Committee believes that the broader problem, at least as it affects Hawaii, will require a comprehensive analysis of such factors as the investment income and general profitability of insuring companies, disclosure requirements, and a more substantial accounting of actual costs incurred by the insurers. In brief, all elements of the liability insurance problems have yet to be completely identified and evaluated, and remedial action projected.

Peripheral but still closely related is the matter of the legal fee contingency structure. In this respect, your Committee views the standards enunciated by the American Bar Association as pertinent and another basic element to be considered in any comprehensive review of the current liability insurance emergency.

Notwithstanding the broader aspect of this matter, your Committee concludes that the vulnerability of officers and members of boards of directors of nonprofit corporations requires early action, and therefore upon review of testimony has elected to delete from the bill language affording protection from criminal liability, and to limit to "administrative services" those good faith activities for which officers and directors may be held harmless, but retaining the exceptions relating to damages arising from gross negligence or wanton acts or omissions.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1550-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1550-86, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 42-86 Consumer Protection and Commerce on S.B. No. 1539-86

The purpose of this bill is to restrict the transfer of credit card lists without the express written permission of the issuer and the cardholders.

Your Committee is informed that nationwide credit card scams involving counterfeiting credit cards and unauthorized purchases, cost consumers millions of dollars annually. Your Committee concurs with the intent of this legislation and believes it will aid in protecting the consumer from persons who may fraudulently use credit card lists.

Testimony was heard from Hawaii Bankers Association and the Office of Consumer Protection in support of this bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1539-86 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Kawasaki and Young

SCRep. 43-86 Tourism and Recreation on S.B. No. 2080-86

The purpose of this bill is to appropriate \$169,800 for staff positions and other program needs

for the tourism impact study center, to develop an ongoing system to follow the general trends, opinions of residents, perceived impacts and actual impacts of tourism over time. The funds appropriated by this bill shall be expended by the Department of Planning and Economic Development for the purposes of this bill.

Your Committee finds that Act 300, Session Laws Hawaii 1985, directed the Department to conduct a study on establishment of a system to monitor the impact of tourism on the quality of life of Hawaii's residents. The study recognized the need for a tourism impact study center.

Your Committee is in agreement that the funds appropriated by this bill are necessary to begin the implementation of staff and activities for such a center.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2080-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 44-86 Tourism and Recreation on S.B. No. 1901-86

The purpose of this bill is to provide funds for plans and construction of a swimming pool, as detailed by the Lahaina Recreation Center Phasing Plan. Funds appropriated by this bill will be expended by the County of Maui.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1901-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 45-86 Tourism and Recreation on S.B. No. 2065-86

The purpose of this bill is to provide funds for land excavation, planning, design, and construction of a multi-use dancing and cultural center to be located in Honolulu. The center is to include a wooden dance floor capable of accommodating 1,200 to 1,600 ballroom dancers.

Your Committee finds that there is a need in the community for a non-profit multi-use dance facility as an alternative to hotel ballrooms, that can accommodate a large number of dancers.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2065-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 46-86 Tourism and Recreation on S.B. No. 2108-86

The purpose of this bill is to appropriate \$50,000 out of the general revenues of the State for planning, design and construction of improvements at the Waipahu Cultural Garden Park. The funds appropriated by this bill shall be expended by the Department of Accounting and General Services for the purposes of this bill.

Your Committee finds that the Waipahu Cultural Garden Park has, for the past twelve years, been preserving artifacts from the sugar plantation era of Hawaii's history. The Park currently has a sizeable collection of photographs, documents, buildings and other artifacts that are a resource for scholars and lay persons interested in this phase of Hawaii's history.

Your Committee also finds that the Friends of Waipahu Cultural Garden Park are seeking to develop the Park as a tourist attraction, with enlarged displays of restored buildings. To facilitate tourist usage of the park, physical improvements including a paved entrance and exit road, an enlarged parking lot, improved lighting, a pedestrian footpath, a chain link fence and landscaping are needed.

Your Committee is in agreement with the Friends of Waipahu Cultural Garden Park that there is a need for improvements to facilitate promotion of the Park, both as a tourist attraction and as a display of part of Hawaii's history for Hawaii's people.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2108-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 47-86 Tourism and Recreation on S.B. No. 2187-86

The purpose of this bill is to appropriate \$200,000 out of the general revenues of the State for design, construction, and equipment for rifle ranges and for a hunter safety area at Puuanahulu, Hawaii. The funds appropriated by this bill shall be expended by the County of Hawaii for the purposes of this bill.

Your Committee finds that there is a need in the community for rifle ranges and a hunter safety area, as provided for by this bill.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2187-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 48-86 Agriculture on S.B. No. 1641-86

The purpose of this bill is to prohibit the breeding of any animal while held under State quarantine. It also deletes the quarantine penalty provision in lieu of a stronger penalty provision applicable to all violations of Part I, Chapter 142, Hawaii Revised Statutes.

Current law specifically prohibits breeding during quarantine of domestic animals, but is silent relative to non-domestic animals held in quarantine.

Statements from the Board of Agriculture and the Department of Health indicate that the quarantine of non-domestic animals is sometimes necessary and breeding should be prohibited for this group as well, in order to prevent the transmission of disease.

Your Committee finds that this quarantine provision should be expanded to include non-domestic animals to protect the community from transmission of disease through animal breeding.

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. 49-86 Agriculture on S.B. No. 1647-86

The purpose of this bill is to consolidate penalties for harboring mongooses under section 142-12, Hawaii Revised Statutes, to effect uniformity and to facilitate enforcement. It also imposes stiffer penalties, for better compliance.

Your Committee is in agreement with the Department of Agriculture that mongooses are an agricultural pest as well as a potential threat in the spread of diseases, and for these reasons should not be harbored.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1647-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 50-86 Agriculture on S.B. No. 1643-86

The purpose of this bill is to delete the diseases of glanders and farcy from section 142-13 and to increase the fines within the penalty provision.

Present law requires reporting of any evidence of glanders, farcy, and any infectious or contagious disease afflicting any animal. It also provides a penalty of a fine from \$5 to \$100, for failure to report such disease.

The Board of Agriculture submitted testimony stating that glanders and farcy are diseases no longer found in Hawaii or in the United States, and are regarded as foreign diseases under the control of the U.S. Department of Agriculture inspection and quarantine requirements. The Department of Health concurs with the Board's proposal to increase the existing fines, in order to deter violations under this section.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1643-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 51-86 Agriculture on S.B. No. 1648-86

The purpose of this bill is to update the name of the Federal Bureau of Animal Industry to the United States Department of Agriculture, in section 142-21, Hawaii Revised Statutes.

Your Committee is in agreement with the Department of Agriculture that this bill is a necessary housekeeping measure.

Your Committee on Agriculture is in accord with the intent and 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. 52-86 Agriculture on S.B. No. 1649-86

The purpose of this bill is to clarify section 142-18, Hawaii Revised Statutes by substituting "Federal Bureau of Animal Industry" with "United States Department of Agriculture."

Testimony submitted from the Board of Agriculture indicates that this bill is a "housekeeping" measure to correctly identify the Federal agency responsible for meat inspection regulation.

Your Committee on Agriculture is in accord with the intent and 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. 53-86 Agriculture on S.B. No. 1625-86

The purpose of this bill is to amend Chapter 157, Hawaii Revised Statutes, by removing all references to the Milk Commissioner and the Division of Milk Control to permit the reorganization of the milk control division.

Your Committee received favorable testimony from the chairman of the board of agriculture stating that 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 Marketing and Consumer Services Division at substantial savings to the State and the dairy industry. The chairman further testified that placement in this Division is desirable because of homogeneity with other programs of 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 Ways and Means.

Signed by all members of the Committee.

SCRep. 54-86 Tourism and Recreation on S.B. No. 1880-86

The purpose of this bill is to provide funds to allow the State of Hawaii to be represented by a Hawaiian voyaging canoe in the Tall Ship Celebration procession in New York Harbor in July, 1986, as part of the ceremonies commemorating the centennial restoration of the Statue of Liberty.

Your Committee finds that the E'Ala Resource Center, a non-profit organization from Waianae involved in building and sailing Hawaiian voyaging canoes, was invited by Captain Harry Allendorfer, Tall Ships Chairman, and Mr. Lee Iacocca, Chairman of the Statue of Liberty Restoration Committee, to participate in the centennial celebrations with a Hawaiian voyaging canoe. Mr. Solomon Naone, president of the E'Ala Resource Center, confirmed that a written invitation had been sent by the Restoration Committee. The canoe will be the sole Hawaiian vessel present.

This appropriation will provide for the exhibition of the canoe in New York, advertisement of unique contributions from the State of Hawaii, production of a video-documentary of Hawaii's participation in this nationally important event, and the associated expenses of sending a group of twenty-five local residents to act as crew and goodwill ambassadors for the State.

Your Committee is in agreement that the participation of a canoe from Hawaii in the Tall Ship Celebration will be a valuable learning experience for the youth of Waianae who are involved in the E'Ala canoe project, as well as an opportunity to stimulate interest in Hawaii among the many visitors from all over the world who will be attending the Statue of Liberty celebration.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1880-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 55-86 Tourism and Recreation on S.B. No. 2113-86

The purpose of this bill is to appropriate funds out of the general revenues of the State for detailed studies of the sites that have been proposed for a convention center on Oahu.

The site studies, to be conducted by the Department of Planning and Economic Development, shall include but not be limited to analysis of, for each site area:

- (1) population characteristics;
- (2) immediate and future social impact of a convention center;
- (3) current and projected traffic conditions;
- (4) potential for hotel and business development;
- (5) potential for transportation systems development;
- (6) conformance with current and proposed land use and development policies; and
- (7) impact of a convention center on public services.

The department shall submit a report of its findings no later than twenty days prior to the convening of the Regular Session of 1987.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2113-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 56-86 Tourism and Recreation on S.B. No. 2116-86

The purpose of this bill is to appropriate funds for the acquisition of land for a park at Queen's Beach in East Oahu.

Your Committee finds that Queen's Beach has scientific, recreational and environmental preservation value, with an accessible estuary and tide pools, a coastal plant community including endemic Hawaiian plants, and traditional Hawaiian cultural connections. The acquisition of Queen's Beach would place almost all the ocean frontage from Koko Head to Lanikai Point under government control and thereby assure the preservation of this area.

Your Committee heard testimony from the Department of Land and Natural Resources and community groups in support of the intent of this bill and finds that acquiring Queen's Beach for public park use would be beneficial to the people of Hawaii.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2116-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 57-86 Tourism and Recreation on S.B. No. 2217-86

The purpose of this bill is to appropriate \$20,000 out of the general revenues of the State for restoration of the Prince Kuhio Canoe, "The Princess", located on the island of Kauai.

Your Committee finds that "The Princess" was a personal canoe of Prince Kuhio, and is over 100 years old. The canoe was damaged when the Kauai Canoe Club building, in which it was housed, collapsed during Hurricane Iwa. According to testimony received, personnel from Kamehameha School would be most qualified to handle the restoration of the canoe to its original condition. This would necessitate shipping the canoe from Kauai to Oahu, with the estimated total cost for the restoration being \$20,000.

Your Committee is in agreement that the Prince Kuhio Canoe, "The Princess", is a priceless legacy of Hawaii's history that should be restored and preserved for future generations.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2217-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 58-86 (Majority) Tourism and Recreation on S.B. No. 2304-86

The purpose of this bill is to authorize the issuance of general obligation bonds and make an appropriation of \$4,600,000 for the design and construction of improvements and public facilities for the general improvement of Waikiki. Financing of these projects is to be by State and City and County of Honolulu funds on an 80 to 20 ratio.

Your Committee finds that Act 285, Session Laws of Hawaii (SLH) 1984, appropriated \$3,840,000 for similar improvements of Waikiki as proposed by this bill, but with availability of funds to expire as of June 30, 1986. Due to necessary replanning of project studies to involve Waikiki community concerns, there is currently some question as to whether the June 30, 1986 deadline for expending the \$3,840,000 appropriated by Act 285, SLH 1984, can be met by the expending agency.

It is the intent of your Committee that the funds appropriated by this bill be a substitute for the funds appropriated by Act 285, SLH 1984, with availability of funds to expire as of June 30, 1987, should the original June 30, 1986 deadline for Act 285 not be met by the expending agency. It is not the intent of your Committee that this bill appropriate \$4,600,000 in addition to the \$3,840,000 appropriated by Act 285, SLH 1984, for the same intended purpose of general improvement of Waikiki.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2304-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator McMurdo did not concur.

SCRep. 59-86 Tourism and Recreation on S.B. No. 2107-86

The purpose of this bill is to appropriate \$50,500 for a grant-in-aid to the Friends of Waipahu Cultural Garden Park. The funds appropriated by this bill shall be expended by the State Foundation on Culture and the Arts for the purposes of this bill.

Your Committee finds that the Friends of Waipahu Cultural Garden Park have incorporated the Park to preserve artifacts from the sugar plantation era of Hawaii's history. The Friends have developed an education program including lectures, tours, workshops, publications, oral histories, in-house and traveling exhibitions, and media productions, using the artifacts in the Park collection.

Your Committee also finds that in order to further develop the Park to include a plantation village, restoration or construction of replicas of historic buildings will be necessary. The project will necessitate funds for professional restoration expertise, an additional staff position, and equipment for environmental controls to preserve the Park historical collection.

Your Committee is in agreement that the preservation of artifacts from the sugar plantation era of Hawaii's history will benefit all of Hawaii's people, both present and future generations.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2107-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 60-86 Tourism and Recreation on S.B. No. 2303-86

The purpose of this bill is to establish statutory authority and provide funds for a tourism impact management system, to continuously monitor the impact of tourism on the economic, social, and physical environment of the residents of Hawaii.

Your Committee finds that Act 300, Session Laws of Hawaii 1985, directed the Department

of Planning and Economic Development to conduct a study on establishment of a system to monitor the impact of tourism on the quality of life of Hawaii's residents. The study recognized a need for a mechanism to identify conditions relating to tourism that have negative effects on residents, and a way through which solutions may be sought.

The information gathered by the tourism impact management system would also be of assistance in planning proposed tourism-related projects that are in keeping with the needs of Hawaii's people, in refining social extension services currently being provided, and in developing a framework for comparing social, environmental and economic impacts of alternative development programs in the future.

Your Committee is in agreement that a tourism impact management system as established by this bill is necessary to assist tourism activities in obtaining the support of Hawaii's residents, in order for tourism to continue to thrive in the State.

Your Committee has amended the bill to make technical changes which has no substantive effect.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2303-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2303-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 61-86 Tourism and Recreation on S.B. No. 2443-86

The purpose of this bill is to provide funds for the Royal Hawaiian Band for a concert tour of key cities in Japan, People's Republic of China, Taiwan, and Korea to promote Hawaii's visitor industry in these Asian nations.

Your Committee finds that the Royal Hawaiian Band is a well-appreciated, historic representative of Hawaii that continues to play an important role in the visitor industry today. In 1983 the Band successfully completed a concert tour of seven European countries with a listener capacity of four million people, funded by the Legislature.

Your Committee is in agreement with the Hawaii Visitors Bureau that a concert tour of Asia by the Royal Hawaiian Band would make an important contribution to promoting Hawaii's visitor industry in Asia.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2443-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 62-86 Tourism and Recreation on S.B. No. 1886-86

The purpose of this bill is to impose a transient accommodations tax of two per cent on the gross proceeds of gross income of furnishing transient accommodations. Transient accommodations are defined as the furnishing of a room, apartment, suite, or the like customarily occupied by a transient for less than sixty consecutive days.

Your Committee finds that the tax imposed by this bill is a new tax. Prior impositions of a transient accommodations tax generally increased the general excise tax on transient accommodations. The reason for this separate tax on transient accommodations is to lessen the income loss of transient accommodation operators. Presently under the general excise tax, if a person prices an item at \$100, the person generally charges \$104 in order to pass on the 4 per cent general excise tax. However, the general excise tax is on gross collections, which means the person must pay 4 per cent on \$104, or \$4.16. This means that for every \$100 transaction a person loses 16 cents. If the general excise tax itself was increased to 6 per cent, then on a \$100 price, the person would charge \$106, pay taxes on \$106 or \$6.36 in taxes, and lose 36 cents. By creating a new transient accommodations tax and providing that the general excise tax passed on and collected is not included in the gross proceeds which are taxed under this tax and similarly providing that the gross proceeds subject to the general excise tax do not include collections under this tax, the amount of the loss is reduced to 20 cents per \$100 which is an appreciable difference for a business.

The moneys collected under this tax are to be used in the first year—75 per cent to be considered a user tax and to be paid into the convention center fund created in the convention

center commission bill (S.B. No. 1884-86) and 25 per cent is to be paid into the general fund for appropriation for contract purposes with the Hawaii Visitors Bureau. The second year and thereafter—75 per cent is to be paid into the convention center fund, 20 per cent is to be used to contract with the Hawaii Visitors Bureau, and 5 per cent is to be paid into the general fund.

After considering this arrangement, your Committee has amended this bill by providing that 90 per cent of the collections under this tax shall be paid into the visitor industry assistance fund for use for the purchase, design, and construction of a convention center and for appropriation for contract purposes with the Hawaii Visitors Bureau, and 10 per cent is to be paid into the general fund for appropriation by the legislature. An equitable portion is required to be appropriated to each county as a grant divided according to the proportionate share of the revenues generated by each county from the transient accommodations tax to be used for parks, community impacts, and infrastructure relating to such transient accommodations. As most persons agree that a convention center in Hawaii will benefit the tourist industry on all islands, your Committee finds it appropriate to share with all islands part of the revenues from the transient accommodations tax.

A new section has been added to this bill to create the visitor industry assistance fund which is established in the department of planning and economic development. The fund is to receive all private, public, federal, and other moneys received by the department for the promotion, stimulation, development, enhancement, or evaluation of the visitor industry and all moneys from the transient accommodations tax as discussed above. The moneys in the fund are to be expended by appropriation by the legislature—75 per cent is deemed user taxes for the purpose of any reimbursable general obligation or revenue bonds issued for the purchase, design, and construction of a convention center, and 25 per cent to contract for the services of the Hawaii Visitors Bureau.

In reordering the distribution of the funds in this manner, your Committee believes that both the public and the industry will benefit from this new transient accommodations tax.

Your Committee has also deleted the contingency of the effective date of this bill to other bills, and this bill shall take effect on January 1, 1987. Other technical amendments have been made.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1886-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1886-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 63-86 (Majority) Tourism and Recreation on S.B. No. 1885-86

The purpose of this bill is to provide for the site of a convention center in Hawaii. The bill provides that the site of the convention center shall be Fort DeRussy, Oahu, if a contract to obtain Fort DeRussy is entered into by October 1, 1986. If such a contract is not entered, then in order of priority the sites for the convention center shall be the Honolulu Zoo, Shell/Kapiolani Park, the Ala Wai Golf Course, and Fort Armstrong.

Your Committee heard extensive testimony regarding all of the proposed sites contained in this bill and differing orders of priorities were suggested. The Fort DeRussy site appears to be the best situated of all the suggested sites. This site is within a twenty-minute walk from seventy-five per cent of the hotels in Waikiki.

While a convention center in Hawaii should not be for, and it is not the intention of your Committee to restrict the use of the center to, nonresidents, it is clear that the large majority of the participants in activities at such a center will be tourists. That being the case, a convention center site to which the users may walk is a better choice than a site which will generate transportation requirements. The further away from a concentration of hotels the bigger the transportation requirements. Furthermore, it appears that the DeRussy site will become available from the federal government either through lease or through sale. Finally, it appears that the use of the Fort DeRussy area will result in more green space, as the bulk of the center will be underground, than is presently the situation in that area.

Your Committee has amended this bill to allow for the lease of the Fort DeRussy site as it appears that the Congressional worries about losing the ultimate control over this area may preclude the purchase of the site. The bill has also been amended to allow the city and county of Honolulu to purchase or lease the Fort DeRussy site and to change the date by which this site may be obtained from October 1, 1986 to March 1, 1987. These amendments have been made to keep possible options open regarding whether the State or the county will be in control of the

site itself and the time in which the site may be obtained. The requirement that sites after Fort DeRussy be considered in order of priority has been deleted. This will allow the consideration of other sites in comparison to each other and in this manner the best site may be chosen. Finally, the contingency of the effective date for this bill to other bills has been deleted, and this bill shall take effect upon its approval.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1885-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1885-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

Senators McMurdo, Chang and B. Kobayashi did not concur.

SCRep. 64-86 Tourism and Recreation on S.B. No. 1884-86

The purpose of this bill is to enact legislation providing for a convention center commission to acquire, develop, construct, and operate a convention center in Hawaii. The commission is to 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 Committee heard extensive testimony regarding the establishment of the convention center commission. The time for a convention center in Hawaii is now, and in order to carry forward the decision to have such a center, the convention center commission is the vehicle. The need for a state-operated commission is due in particular to legislation pending in Congress which would prevent the issuance of bonds to support a private entity in operating the convention center. Operation of the center, as well as the purchase, design, and construction of the center, would be similar to the present stadium authority. The commission center bill addresses the federal questions as well as providing the necessary framework and legal foundation for the proper movement ahead of a convention center.

Your Committee heard testimony concerning the makeup of the commission and the failure to have community representation. As presently composed the commission would consist of six members recommended by the Hawaii Visitors Bureau; one member each recommended by the Speaker of the House of Representatives, the President of the Senate, and the Mayor of the City and County of Honolulu with the approval of the council; and one member at large; all to be appointed by the governor.

With six members of the commission to be representative of the tourist industry, there is a fear that the industry will look only to its own interests and not to the interests of the broader community. There is also a fear that the interests of the people in the geographical area in which the center is sited will not have input to the commission. Your Committee feels that the five members of the commission not suggested by the Hawaii Visitors Bureau will represent the broader interests of the community.

Mindful of the fears discussed, however, your Committee has amended this bill to reduce the number of members suggested by the Hawaii Visitors Bureau to five and increased the public members to two. It has further been provided that of the two one shall be appointed from the county neighborhood board for the area closest to the proposed or selected convention center site. In this manner the interests of the immediate community will be represented by a member on the commission and the assured control by the members recommended by the Hawaii Visitors Bureau will be reduced. In reducing the members submitted by the Hawaii Visitors Bureau it has also been provided that at least one such member shall not reside in the city and county of Honolulu in order to provide a broader view on the commission.

The list of members to be submitted by the Speaker of the House of Representatives, the President of the Senate, and the Mayor of the City and County of Honolulu has been reduced from three persons to two persons in order to reduce the burden of choosing such persons. Your Committee has also deleted the contingency of the effective date of this bill to other bills, and this bill shall take effect upon its approval.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1884-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1884-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 65-86 (Majority) Health on S.B. No. 1490-86

The purpose of this bill is to extend the prohibition of Honolulu Ordinance No. 85-60, preventing smoking in public places, to the rest of the State, and to repeal present state law.

The protection offered to non-smokers from tobacco smoke in public places other than state facilities is currently extended only to residents of the City and County of Honolulu. Repealing the existing state law and codifying the current Honolulu ordinance prohibiting smoking in public places, as proposed in this bill, would help to ensure uniform statewide protection of the non-smoking public.

Your Committee heard testimony in support of this measure by the Department of Health, the Honolulu Police Department, the Honolulu Fire Department, the American Cancer Society, the Hawaii Lung Association, and others, and finds that smoking in enclosed public places is deleterious to the health of smokers and non-smokers alike, and that prohibition thereof is consonant with the State's obligation to protect the public health and welfare and is therefore in the public interest.

Your Committee especially notes that the Honolulu Police Department has not received reports of violations of Ordinance 85-60 since its enactment on July 18, 1985. Your Committee finds that there appears to be a voluntary compliance by the public. It is the intent of your Committee in approving this legislation, that the State will follow mandates to counties and pay for reasonable costs involved, although the expectation is that there will be none.

After further consideration, your Committee has amended the bill by providing that smoking shall be prohibited in retail department stores with selling floor spaces of at least twenty-two thousand square feet, rather than in retail stores with more than five thousand square feet.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1490-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1490-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

Senators Machida and Kawasaki did not concur.

SCRep. 66-86 Higher Education on S.B. No. 1853-86

The purpose of this bill is to appropriate \$75,000 for the establishment of a Pacific/Asian Interpreter Training Program at the University of Hawaii.

Your Committee has received testimony from the University in support of the basic concept of this bill. In addition, a brief outline for implementation was also provided.

Based on the University's testimony, your Committee finds that the need for interpretation services as well as translation services as provided for in S.B. No. 1854-86, is great and largely unmet. Also, due to the extremely close affinity between interpretation and translation services, it would appear that the proposed Interpreter Program would, of necessity, include a translation component.

Your Committee believes that this is an area where the legislature is afforded a rare opportunity to take full advantage of existing educational resources which are available at the University to meet the State's need to interact and communicate more effectively with the rest of the nations of the Pacific Basin.

Your Committee has amended Section 2 of this bill to reflect a revised appropriation figure of \$175,000 in order to accommodate a translation component of this new program.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1853-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1853-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 67-86 Higher Education on S.B. No. 2329-86

The purpose of this bill is to appropriate funds for the planning and implementation of selected educational programs and offerings which are consistent with the goals and objectives of the University's Strategic Plan, with particular emphasis on the Pacific and Asian areas.

Your Committee has received testimony from the University in support of this bill to establish a proposed International Program Development Fund. The Fund would be administered by the Office of the President which would consider applications that would further the goal of

achieving leadership in international instruction, research, and service within the Asian-Pacific region. All proposals would be evaluated by a faculty committee to determine the potential of each project to contribute to the long-term development of international programs in the University of Hawaii System.

Your Committee has adopted the recommendation of the University by amending Section 2 of the bill to reflect an amount of \$100,000.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2329-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2329-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 68-86 Higher Education on S.B. No. 2411-86

The purpose of this bill is to appropriate funds out of the general revenues of the State for plans and construction work for child care facilities at all University of Hawaii campuses.

Your Committee has received an abundance of supportive testimony from the University and its students which demonstrates an established demand for child care facilities to meet the needs of students, faculty, and staff. In addition, the University of Hawaii has emphasized the fact that "child care centers meet the basic philosophy, values, and mission of the University of Hawaii in terms of access to education; faculty and staff development; and widening the pool from which students, faculty, and staff are selected."

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2411-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 69-86 Higher Education on S.B. No. 2422-86

The purpose of this bill is to authorize the issuance of general obligation bonds for the planning and design of the expansion of Kennedy Theatre at the University of Hawaii at Manoa.

Your Committee has received testimony in a public hearing which indicates that teaching facilities for the University of Hawaii Department of Drama and Theatre at Kennedy Theatre are inadequate for proper instructional use and are potentially dangerous to the health and safety of the students and faculty. The testimony also cited the lack of proper facilities as a major factor which has thus far prevented the dance program from receiving national accreditation.

Your Committee finds that if these conditions are allowed to continue, the internationally recognized prominence of such programs as Asian Theatre will be seriously compromised.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2422-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 70-86 Higher Education on S.R. No. 3

The purpose of this resolution is to request the Hawaii Commissioners of the Western Interstate Commission for Higher Education (WICHE) to work with the University of Hawaii in order to increase the number of openings for non-resident WICHE Professional Student Exchange Program (PSEP) students by:

1. Establishing a mutually acceptable number of openings for non-resident WICHE students in currently certified WICHE programs at the University of Hawaii, and
2. Expanding the number of WICHE certified PSEP fields of study which are eligible for support fees.

Your Committee has received testimony in a public hearing which indicates that the State currently supports approximately 112 resident WICHE students who are pursuing their education in certain fields of study not offered in Hawaii. In contrast, there are only 12 non-resident WICHE students enrolled at the University of Hawaii. The Hawaii WICHE Commissioners and

the University of Hawaii have both expressed their support for the intent and purpose of this resolution and agree that it would be in the best interests of the State and University to correct this imbalance.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 3 and recommends its adoption.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 71-86 Higher Education on S.R. No. 16

The purpose of this resolution is to request the University of Hawaii to conduct a study on the feasibility of establishing a summer foreign education program for teachers under the general jurisdiction of the College of Education. Students participating in this program would be required to pursue a prescribed course of study at a college or university in the Pacific Basin or Asia and would receive academic credits from the College of Education.

Your Committee has received favorable testimony on this resolution from the University of Hawaii, the Department of Education, and the Hawaii State Teachers Association. The University and the Department of Education in particular have emphasized the fact that the basic concept of this resolution is consistent with their mission, goals, and objectives as they relate to the Pacific Basin and Asia.

Your Committee has amended the resolution by including the Department of Education as a co-participant in the proposed feasibility study, in recognition of the fact that a joint effort in this endeavor will result in a more meaningful and mutually acceptable product which will be fully supported by the two major agencies involved. In light of this change, your Committee has also amended the last "Be It Resolved" clause to include the Superintendent of Education.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 16, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 16, S.D. 1.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 72-86 Health on S.B. No. 1549-86

The purpose of this bill is to limit awards for noneconomic losses such as pain and suffering to \$250,000 in medical tort actions against health care providers or health care professionals.

After hearing testimony by the Attorney General, the Department of Health, the Hawaii Federation of Physicians and Dentist, the Hawaii Medical Association, HMSA, the Hawaii Independent Insurance Agents Association, and several other groups and individuals supporting this measure, your Committee finds that enormous jury awards for noneconomic losses are a major factor in the escalating costs of medical malpractice premiums and are a prime contributing factor inhibiting insurance carriers from doing malpractice premium writing in Hawaii. Your Committee further finds that in California, where caps on noneconomic awards have been in place for some time, the high court found that such limits bear a rational relationship to a legitimate state interest and do not violate due process. In addition, a Rand Corporation Institute of Civil Justice report in 1982 found that states implementing a cap on noneconomic damages experienced a nineteen percent drop in the severity of awards within two years of enactment.

Considering the high noneconomic damage awards being made by Hawaii's juries, the conspicuous lack of medical malpractice insurance underwriters doing business in Hawaii, and the extremely high rates charged by the businesses which still do insure against malpractice, your Committee finds that this measure will tend to reduce future noneconomic awards and will ultimately encourage carriers to enter the Hawaii market and offer lower priced policies, without interfering with the rights of plaintiffs to fully recover for economic losses.

Your Committee has amended the bill by providing that the limit on noneconomic awards shall be reviewed ten years after enactment and every five years thereafter.

Your Committee has also amended the bill by providing definitions of "health care professional" and "medical tort" applicable to this section only.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1549-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1549-86, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 73-86 Health on S.B. No. 1741-86

The purpose of this bill is to provide \$247,000 in financial assistance to the sexual assault treatment and prevention programs throughout the State.

Currently, the Department of Health provides limited funding for such services on each island; however, a substantial amount of funding was inadvertently left out of the 1985-1986 budget, and as a result these programs have been operating on less than was intended by the Legislature. This measure is intended to a great extent to compensate for the oversight and to allow the programs to increase their efforts towards assisting victims of sexual assault and those at high risk of sexual assault.

Your Committee heard supporting testimony by the Department of Health, the Hawaii Coalition Against Sexual Assault, Kapiolani Women's and Children's Medical Center, the Sex Abuse Treatment Center, the Prosecuting Attorney's Office of the City and County of Honolulu, the Honolulu Police Department, and other groups and private citizens, and finds that incidents of sexual assault are on the increase and constitute a substantial danger to the public health and safety. Your Committee further finds that prevention efforts and treatment services are in the public interest and should be encouraged and supported wherever they are needed and to the maximum extent that resources will allow.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1741-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 74-86 Health on S.B. No. 1858-86

The purpose of this bill is to expand the use of the public hospital special funds by providing that excess revenues shall remain in the funds to be used, at the discretion of the Director of Health, for purchase of equipment or needed improvements.

Although your Committee received no written testimony on this bill, the Department of Health indicated orally at a public hearing that it prefers the more inclusive version of this proposal as contained in H.B. No. 2270-86. Therefore, your Committee has amended this bill by interpolating the substance of H.B. No. 2270-86 which provides that expenditures from hospital special funds shall be deemed expenditures of general funds first and then special funds. It also provides that excess funds in a special fund may be used for operation and maintenance of public hospitals without specific legislative authorization, or may be retained in the fund for use by the hospital in another fiscal year.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1858-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1858-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 75-86 Health on S.B. No. 2029-86

The purpose of this bill is to provide resources to begin the development and implementation of a groundwater protection program.

Pesticides and other synthetic organic chemicals in drinking water supplies in Hawaii have been of considerable concern to health officials and the public in recent years. This concern can only be expected to grow as monitoring programs expand, new chemicals are introduced, methods of detection improve, and urban centers expand into areas previously used exclusively for agriculture.

Your Committee heard testimony in support of this bill by the Department of Health, the Office of Environmental Quality Control, the Honolulu Board of Water Supply, and others, and finds that the Department of Health is the appropriate public agency to assume leadership in establishing a groundwater protection program, including groundwater monitoring and enforcement and development and implementation of a risk assessment program, as a continuation and actualization of the recommendations and strategy currently being developed by the Office of Environmental Quality Control.

Your Committee has amended the bill by providing that the Department of Health shall consult with the water departments of the various counties in developing the draft groundwater quality strategy and plan.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2029-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2029-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 76-86 Health on S.B. No. 2030-86

The purpose of this bill is to establish a uniform system of accounting and financial reporting for hospitals to be implemented by the State Health Planning and Development Agency.

Your Committee, after considering testimony presented by the Department of Health, the State Health Planning and Development Agency, the Hospital Association of Hawaii, and others, finds that previous attempts at establishing uniform systems of accounting here and on the mainland have failed, and that this proposal would likely result in an increase in medical costs throughout the State, rather than a reduction, as was intended. However, your Committee believes that financial accountability by hospitals and similar facilities is essential to medical cost containment efforts by the Legislature and the State, and therefore your Committee has adopted recommendations made by the State Health Planning and Development Agency and amended the bill as follows:

- (1) Reference to a uniform system of accounting are deleted;
- (2) The provisions relating to financial reports to the state agency are retained and the proposed new Part under Chapter 323D, Hawaii Revised Statutes, is renamed "Financial Report by Health Care Facilities;"
- (3) References to hospitals are changed to health care facilities, and the definition section is deleted;
- (4) The section on penalties is amended to refer to administrative penalties, with increased scope and definition of the state agency's enforcement powers;
- (5) The appropriation for the state agency's review of hospital rates is deleted; and
- (6) The effective date has been changed to July 1, 1986.

These amendments, especially the enforcement authority of the state agency, will encourage health care facilities to submit their financial reports as required by law, which should impact positively on efforts to contain the rising costs of medical care in the State. Therefore, your Committee finds the bill, as amended, to be consistent with declared public policies and in the public interest.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2030-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2030-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 77-86 Health on S.B. No. 2118-86

The purpose of this bill is to reorganize the current Commission on the Handicapped into an Office on Handicapped Persons, remaining as currently situated within the Department of Health for administrative purposes.

Your Committee received testimony in support of this measure from the Commission on the Handicapped, the Office of Human Services of the City and County of Honolulu, Mayor Fasi's Committee on the Handicapped, Mr. Robert Pittman, a longtime Commission member, the State Coordinating Council on Deafness, and several other groups and individuals, and finds that the "commission" model of responding to the needs of Hawaii's handicapped population is obsolete. An "office" model would function more effectively and efficiently in the coordination and delivery of services and would allow timely response to requests from private nonprofit agencies to endorse grant proposals, co-sponsor activities, and provide other immediate position statements. It would also facilitate communication with the state administration, the Advisory Council, the Legislature, and the general public.

Your Committee has amended the bill by including service as a public advocate on behalf of handicapped persons among the duties of the Office and the Director, and by providing that all present members and officers of the Commission shall constitute the new Advisory Council, with retention of their current terms of office.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2118-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2118-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 78-86 Ways and Means on S.B. No. 1743-86

The purpose of this bill is to allow the director of finance to reallocate general obligation bond proceeds which are in excess of project requirements and to provide a designation that certain current capital improvement appropriations qualify for federal aid financing or reimbursement.

The current reallocation provision in Act 301, Session Laws of Hawaii 1983, section 108, part VII, includes a clause that prohibits the reallocation of excess allocations made to projects after June 30, 1986, the lapse date of Act 108, which eliminates any opportunity to use the excesses resulting from lapses to satisfy other appropriations.

Your Committee is in agreement that the director of finance should be permitted to reallocate general obligation bond proceeds in excess of project requirements, and section 2 of this bill amends Act 301, section 108, Session Laws of Hawaii 1983, by deleting the clause providing that such allocations not be made subsequent to the lapsing date of June 30, 1986.

Capital project appropriations in Act 301, Session Laws of Hawaii 1983, as amended, and Act 287, Session Laws of Hawaii 1984, which have qualified for federal funding must be so designated as such by the legislature, to prevent the lapsing of the respective appropriation prior to their anticipated date of completion. Sections 3 and 4 of this bill amend provisions in Acts 301 and 287 relating to certain appropriations for recreation-related projects to make the required federal funding designation.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1743-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1743-86, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 79-86 Ways and Means on S.B. No. 1998-86

The purpose of this bill is to include the African Development Bank 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.

Testimony supporting this bill was received from the Department of Commerce and Consumer Affairs and the Employees' Retirement System.

Favorable testimony by the Hawaii Bankers Association was also received. However, the Association requested that the bill be amended to allow Hawaii banks to invest in captive insurance companies to address the high cost and availability of bonding and insurance coverages. It stated that the American Bankers Association intends to form a captive insurance company for its members (1) to offer an alternative to lessen members' dependence on a cyclical insurance marketplace, (2) to provide access to a long-term, stable insurance source at reasonably priced coverage, and (3) to promote cohesiveness between the American Bankers Association and its state bankers associations and member-banks. In order for Hawaii banks to participate in this or any captive insurance company that may be formed for banks, the Association stated that this bill must be expanded to permit such participation.

Your Committee adopted the recommendation of the Hawaii Bankers Association by amending section 3 of the bill by adding the following paragraph:

"(20) Capital stock of any captive insurance company which is incorporated under the laws of the United States or any state or territory thereof or the District of Columbia."

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1998-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1998-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 80-86 Ways and Means on S.B. No. 1999-86

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

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

This bill provides for a general income tax credit of \$1.00.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1999-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 81-86 Housing and Community Development 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 state and county taxation.

Presently, HCDA is authorized to establish a district-wide improvement program to develop needed public improvements in redevelopment districts such as Kaka'ako. The Authority is required to assess a portion of the improvement costs against those properties that specially benefit from the 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 up to twenty years. To provide financing for these property owners, HCDA is authorized under section 206E-6, Hawaii Revised Statutes, to issue improvement district assessment bonds.

The HCDA testified that Bond Counsel has determined the Authority's assessment bonds are not revenue bonds as defined in chapter 39, Hawaii Revised Statutes, and, therefore, are not entitled to an exemption from State and county taxes. Furthermore, chapter 206E, the Authority's enabling legislation, does not include specific language exempting these bonds from State and county taxation.

Your Committee finds that the proposed amendment would permit the assessment bonds to be exempt from State and county taxation and would place the Authority's bonds at parity with other revenue bonds of the State. Without this exemption, HCDA's assessment bonds would be at a competitive disadvantage to other comparable revenue bonds.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 1685-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 82-86 Housing and Community Development on S.B. No. 2090-86

The purpose of this bill is to appropriate \$20 million out of the general revenues of the State for the acquisition and master planning of land and major off-site infrastructure to be used for the development of new planned communities in Hawaii.

Your Committee finds that current estimates of housing unit shortages range from 30,000 to 60,000 units. In 1980, Hawaii's homeownership rate was less than 50 per cent. The decline in homeownership is made more acute by the increasing divergence between average incomes and average housing costs. Between 1970 and 1980, the average income on Oahu rose by 72 per cent while the cost of a single-family detached home increased by 220 per cent.

Since land acquisition is a major expense in the development of housing, the \$20 million will diminish the major obstacle in the development of housing for the low and moderate income buyers. The funds appropriated would be expended by the Hawaii Housing Authority (HHA) for the purposes of this bill. The HHA indicates that a purchase of 500 acres could be master planned to provide approximately 4,000 new homes, primarily for families of low and moderate incomes and the gap group.

Your Committee is in agreement with the Department of Social Services and Housing that this bill would be a major advancement in the resolution of Hawaii's housing crisis.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 2090-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 83-86 Housing and Community Development on S.B. No. 2106-86

The purpose of this bill is to make an appropriation of \$50,000 for a grant-in-aid to Neighborhood Housing Services, Inc. for neighborhood improvement projects.

Your Committee finds that Neighborhood Housing Services, Inc. (NHS) programs are developed and supported by the national public nonprofit corporation, Neighborhood Reinvestment Corporation (NRC). NRC was established by an Act of Congress in 1978 and is charged with implementing and expanding neighborhood revitalization demonstration activities. A major focus of the NRC is to assist local communities in revitalizing declining neighborhoods for the benefit of local residents. That goal is achieved primarily through NHS programs.

Each NHS is a locally initiated and funded, private nonprofit corporation. It is governed by a working partnership of residents, business leaders and government representatives. Through a broad range of organizational development assistance, training and on-site technical services, NRC assists each NHS partnership in working to achieve a substantially self-reliant neighborhood. The goal is to create a stable neighborhood characterized by a healthy real estate market, sound housing and other physical conditions, a positive community image and a core of neighbors committed to, and capable of, managing the continuing health of their neighborhood once NHS phases out.

The first NHS project in Hawaii is currently being developed. A site selection committee composed of community, business and government representatives has been formed to help identify the first neighborhood in which NHS will operate. The \$50,000 appropriation proposed by this bill will be used for improvement projects within that first neighborhood, once selected.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 2106-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 84-86 Housing and Community Development on S.B. No. 1968-86

The purpose of this bill is to appropriate \$25,000 for the support of the Main Street Task Force.

Your Committee finds that the Main Street Program is an effort to economically revitalize small towns through the cooperative participation of the private and public sectors. Each participating community develops its own program in accordance with established guidelines of the Main Street Program. Coordination of the State's overall program and the general direction of the local programs comes from the Historic Hawaii Foundation.

Your Committee is in agreement with the County of Hawaii Office of Housing and Community Development, the Hilo Downtown Improvement Association and Hawaiian Telephone Company that this bill will directly benefit the small town areas in neighbor island communities, and the rest of the people of the State as well.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 1968-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 85-86 Health on S.B. No. 1987-86

The purpose of this bill is to appropriate funds to allow for the transfer of jurisdiction over private wastewater treatment and disposal systems from the State to the counties.

In accordance with Act 282, Session Laws of Hawaii 1985, each county is required to implement a program for the regulation of private sewerage and wastewater treatment systems effective July 1, 1987. However, the program implementations are contingent upon state funds being appropriated to the counties to administer the programs. This bill would provide that funding in two stages, the first being for the development of each county's regulatory plan, and

the second for establishing and implementing the regulatory functions after the Department of Health has reviewed and approved the plans.

Your Committee reviewed supporting testimony submitted by the Department of Health, the City and County of Honolulu Department of Public Works, and the Hawaii State Association of Counties, and finds that the transfer of functions proposed in this measure will streamline land development by centralizing the approval processes for zoning, building, and installation of wastewater and sewerage treatment facilities at one level of government. Your Committee further finds that this appropriation is mandated by Article VIII, Section 5 of the State Constitution relating to cost sharing, if the transfer of functions is to be effected.

Your Committee has amended the bill by providing that the total appropriation shall be \$1,383,086, broken down as follows:

PART A: City and County of Honolulu	- \$ 0
County of Hawaii	- \$ 197,613
County of Maui	- \$ 100,000
County of Kauai	- \$ 80,000
PART B: City and County of Honolulu	- \$ 213,250 (unchanged)
County of Hawaii	- \$ 251,723 (unchanged)
County of Maui	- \$ 225,000 (changed from \$191,800)
County of Kauai	- \$ 315,500 (unchanged)

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

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1987-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1987-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 86-86 Tourism and Recreation on S.B. No. 1969-86

The purpose of this bill is to assist the visitor industry of Hilo by providing funding for the promotion and advertising of Hilo as the center of the east Hawaii visitor destination area.

Your Committee finds that currently there is an economic depression in the East Hawaii area centered around Hilo. Although close to 1.5 million people visited the Hawaii Volcanoes National Park in 1983, in Hilo that same year only 16,230 visitors toured the Lyman House Memorial Museum. The hotel occupancy rate in 1984 was 58 percent for Hilo which was 10.9 percent below the average of the other islands. If a larger portion of the visitors to Hawaii Volcanoes National Park also visited Hilo, the economic situation could be improved.

For these reasons, visitor destination groups and businesses in the East Hawaii area have formed the Hilo Hawaii Visitor Industry Association to promote Hilo as a visitor destination area.

The Hawaii Visitors Bureau (HVB) feels that a unified effort through the HVB would better serve the visitor industry, as the HVB has the organization already in place to promote Hawaii as a whole. The HVB expressed concern that this bill would "open the door" to other single-area destination appropriations, thus diffusing promotional funds and impact.

Your Committee feels that the current economic situation in the Hilo area warrants special legislative consideration. Your Committee views this bill as providing assistance in a unique situation, to help the Hilo area recover economically.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 1969-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 87-86 Health on S.B. No. 1831-86

The purpose of this bill is to permit emergency examination and treatment of "obviously ill" individuals, as well as continued involuntary hospitalization, if needed.

Current criterion for emergency examinations and treatment is that there must be probable cause that the individual is mentally ill or suffering from substance abuse and is imminently dangerous to self, others, or to property, and is in need of care or treatment. This bill would provide help for essentially non-violent individuals who nevertheless evince substantial mental disorders requiring treatment, but do not know it.

Your Committee heard testimony in support of this bill by the Department of Health, the Honolulu Police Department, and families and friends of schizophrenics, and finds that this measure will provide needed assistance to persons who otherwise would not receive it. Therefore, your Committee finds that this bill is consistent with the declared policy of the State to provide for the public health and welfare, and is in the public interest.

Your Committee has amended the bill by:

- (1) Amending the definition of "obviously ill" to mean a condition in which a person evidences a substantial "likelihood" of serious mental or emotional deterioration, rather than a substantial "probability", and by deleting the reference to developmental disability, which is inappropriate under Chapter 334, Hawaii Revised Statutes;
- (2) Deleting the criteria by which police officers would determine whether a person is obviously ill, because your Committee believes that such judgments are best made by health professionals during the examination process; and
- (3) Deleting Sections 3 and 4 of the bill which add "obviously ill" to the involuntary hospitalization criteria, because the intent of this bill is to provide emergency examination and treatment for non-violent persons, whereas involuntary hospitalization is intended to protect the public from dangerous persons and mentally ill persons from themselves.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1831-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1831-86, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 88-86 Energy 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 received favorable testimony from the Hawaiian Electric Company indicating that shifting these large air conditioning and commercial refrigeration loads would save from one to three times the oil saved by an equivalent tax credit for solar water heaters. Your Committee also received favorable testimony from private consultants Cedric D.O. Chong and Associates and Van Darrow, and ice storage supplier Richard McElhiney of Trane Air Conditioning.

Upon the recommendation of the Hawaiian Electric Company, your Committee has amended the definition of "ice storage system" to be more precise to insure that the intent of this measure is fully understood.

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

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 2471-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as

S.B. No. 2471-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 89-86 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.

Your Committee received favorable testimony from the Department of Accounting and General Services stating that presently, the Motor Pool Program has been operating under a revolving fund concept which has been most successful. However, a financial audit report completed in fiscal year 1985 on the program cited that while the legislature authorizes appropriations for the expenditures to be financed by a revolving fund, there is no such fund statutorily established.

The program's primary responsibilities are for the acquisition, operation, repair, maintenance, storage, and disposition of state-owned vehicles. Your Committee believes the revolving fund concept will encourage management to be directly responsible and more accountable for vehicular expenditures to meet their transportation requirements.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 2314-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 90-86 Government Operations on S.B. No. 2243-86

The purpose of this bill is to delineate the criminal and civil liability of persons who sell or furnish liquor to others.

Recent court decisions have held businesses and social hosts who serve liquor liable for the actions of intoxicated persons to whom they have provided liquor. These decisions have resulted in large increases in liability insurance premiums or unavailability of insurance coverage.

This bill is designed to meet the problem of obtaining liability insurance faced by businesses which serve or sell liquor while discouraging the selling or furnishing of liquor to persons to the point of intoxication by:

- (1) Making it a crime to sell liquor to a person who is addicted to liquor or obviously under the influence of liquor;
- (2) Insulating businesses and social hosts from civil liability for injuries caused by persons to whom they have provided liquor; and
- (3) Making businesses which sell liquor to an obviously intoxicated minor liable for injuries proximately caused by the sale of liquor to the intoxicated minor.

Your Committee notes that this bill will not leave victims without legal remedy as an intoxicated person who causes injuries will be liable for such injuries.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 2243-86 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 91-86 Government Operations on S.B. No. 2018-86

The purpose of this bill is to appropriate funds for improvements to the drainage system in Wailuku, Maui, provided that matching funds are appropriated by the county of Maui.

Your Committee received favorable testimony from the mayor and county council chairman of Maui stating that the Kanoa-Waiale-East main interceptor drain line is an important part of the Wailuku drainage master plan. It is the main trunk line for the various feeder lines to be constructed and upon completion, will relieve Spreckels Ditch of its current overflow. Presently the capacity of Spreckels Ditch cannot accommodate current usage, and the continued overflow has been a constant liability for damages. The improvements to the Wailuku

drainage system will reduce the current flow to Spreckels Ditch and divert any overflow to Iao Stream.

Your Committee finds that the improvements currently proposed will be the foundation of the future Wailuku town storm drain system.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 2018-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 92-86 Government Operations on S.B. No. 2017-86

The purpose of this bill is to provide \$100,000 from general revenue for the construction of a fire station on Lanai; provided that a match of \$100,000 is received from Community Development Block Grant (CDBG) funding. The appropriation shall be expended by the County of Maui.

Testimony submitted by the Mayor of Maui indicates that the residents of Lanai were able to purchase a new fire truck with Community Development Block Grant funds, and received a donation of land from Castle and Cooke, Inc. to construct a fire station.

Your Committee finds that this state appropriation is necessary to provide a match for Community Development Block Grant Funds, to construct the island's first fire station.

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

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 2017-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2017-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 93-86 Government Operations on S.B. No. 1799-86

The purpose of this bill is to reduce, from quarterly to annually, the number of required meetings of the county pension boards and to amend the period of action on applications from the second quarterly meeting to 90 days after filing.

Current law requires the County Pension Boards to meet once each quarter and to take action on any application at the second quarterly meeting following the filing.

Testimony submitted by the City and County of Honolulu supports this measure due to the declining number of pensioners and beneficiaries participating under this system. Benefits paid under this system are made to city employees and beneficiaries who were members prior to the transfer of city employees into the state retirement system.

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

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1799-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1799-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 94-86 Government Operations on S.B. No. 1798-86

The purpose of this bill is to remove certain restrictions on transfers from the City and County of Honolulu Improvement District Revolving Fund, and upon recommendation of the County Director of Finance allow permanent transfer of excess moneys to the general fund.

Current law provides that excess moneys may be transferred temporarily to the general fund but must be reimbursed within six months. Currently, approximately \$3.5 million is in the Improvement District Revolving Fund. A total of \$1.7 million is needed as additional security to bondholders of improvement district bonds. Your Committee finds that there is no need to retain a balance in excess of that amount and that the surplus should be used for other purposes.

Testimony received by the City and County of Honolulu supports this measure to allow excess moneys beyond the bond indenture amount be used for other purposes. An audit of the City's funds recommended the transfer of funds as proposed by this measure.

Your Committee finds that this proposal will allow for efficient use of City and County funds and provide for satisfaction of debts incurred.

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

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1798-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1798-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 95-86 Government Operations on S.B. No. 1797-86

The purpose of this bill is to require the legislature to reimburse the county for improvements on public or tax-exempt lands in the year following the assessment by the county.

Current law allows the legislature to reimburse local governments on a sporadic basis, "from time to time", such that an appropriation from general revenue for improvements may be several years old.

Testimony received from the city and county of Honolulu, indicated that last year the State made an appropriation of \$2,000,000 for reimbursements owed since 1970.

Your Committee finds that this measure is necessary to ensure timely reimbursement by the State of moneys owed to the counties as required by sections 67-8 and 70-111, Hawaii Revised Statutes.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1797-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 96-86 Government Operations on S.B. No. 542

The purpose of this bill is to provide, upon request, police funeral escort service for a fee using special duty police officers. Further, the established fees shall be adopted by each county pursuant to Chapter 91.

Current law provides that police departments, upon request, shall provide free of charge one or more officers for funeral escort service.

Testimony submitted by the Honolulu Police Department stated that escorting funerals consumes many staff hours leaving minimal time for regularly assigned police duties. During 1984, 1,430 officers were assigned to escort 1,188 funerals comprising a total of 1,710 staff hours, including 102 hours of overtime. Based on the average hourly wage of \$9.71 for an SR-18 officer, plus the 20 percent hazardous pay of \$1.94 an hour, the total cost of staff hours expended was \$41,625.

The Hawaii Funeral Directors Association submitted testimony in opposition to the bill "for the protection of the consumers."

Your Committee finds that police departments can no longer afford to continue providing free funeral escort services.

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

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 542, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 542, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 97-86 Agriculture on S.B. No. 1627-86

The purpose of this bill is to appropriate funds for the promotion of fresh Hawaiian pineapple in the United States west of the Mississippi River and in western Canada, provided that private contributions for a dollar-for-dollar match of funds is made.

Your Committee finds that in July, 1982, the Department of Agriculture and Pineapple Growers Association of Hawaii (PGAH) established and financed a comprehensive marketing and promotion program to increase the demand for Hawaiian fresh pineapple, particularly in the western United States and Canada. The primary objectives of the program are to increase consumer awareness and thus generate greater demand and loyalty for Hawaiian fresh pineapple, stimulate wholesale and retail trade support for Hawaiian fresh pineapple, strengthen the pineapple industry in Hawaii through effective marketing programs, and focus consumer attention on other Hawaiian agricultural products and the State as a tourist destination.

Your Committee received testimony from the PGAH emphasizing that one of the most important elements of the marketing program is consumer advertising in influential, upscale magazines. One advertisement published in five women's magazines during the spring and fall advertising periods could expose more than thirty-six million consumers to this particular ad campaign. Another element of the marketing program is the sending of food releases on a regular basis to newspapers in eleven western States. Food releases consist of recipes featuring Hawaiian fresh pineapple or information advising consumers how to select, prepare and serve fresh pineapple. The food releases generate articles in the food sections of newspapers and it is estimated that western newspapers devoted approximately 125,000 agate lines of space to Hawaiian fresh pineapple in 1985. Based on prevailing advertising rates this lineage is valued at an estimated \$500,000 at virtually no cost to the PGAH or the State of Hawaii.

The PGAH also testified that the retail pineapple trimmer program has been a successful device in promoting Hawaiian fresh pineapple. These hand-operated devices trim the outer shell of the pineapple, providing the consumer with a cylinder of ready-to-eat fruit. During a three-day sales promotion period in Phoenix, store personnel reported sales increases of one hundred ninety-eight percent over their weekly average, and in-store demonstrations boosted sales by two hundred sixty-two percent. Similar results were produced in Sacramento.

Overall, nearly seventy percent of all fresh pineapple reaching the U.S. Mainland market is from Hawaii. Looking at the eleven western states, Hawaiian fresh pineapple overwhelmingly dominates the market, accounting for ninety-eight percent of the business.

The PGAH further testified that the State and pineapple industry's \$350,000 joint investment produced a \$2 million marketing program in support of Hawaiian fresh pineapple. This represents a return on investment of more than five hundred percent. Continued support for this program will generate greater public awareness of the product and increase the consumer demand for Hawaiian fresh pineapple.

Your Committee has amended this bill to clarify that the funds must be matched by the pineapple industry.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1627-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1627-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 98-86 Government Operations on S.B. No. 1624-86

The purpose of this bill is to correct an imbalance in bidding for public contracts by adjusting bids from tax-exempt businesses to include the amount of applicable general excise tax in determining the lowest bid.

Currently, Section 103-53.5, Hawaii Revised Statutes, requires bids for public contracts by out-of-state vendors not doing business in Hawaii to be adjusted for the purpose of determining the lowest price bid, by increasing the bid by the applicable retail rate of general excise tax and the applicable use tax. This provision allows businesses which pay the Hawaii excise tax to compete on a more equitable basis with businesses which do not pay Hawaii taxes. This bill would amend Section 103-53.5 to extend this method of adjusting bids to include bids made by tax-exempt vendors. The amendment would allow tax paying businesses to compete on a more equitable basis with tax-exempt vendors for public contracts.

Testimony received from the Department of Accounting and General Services, the U.S. Small Business Administration, and various tax paying small businesses support this measure as a way

to provide a more equitable evaluation of bids received by the State.

Your Committee finds that this measure is necessary to bring into balance the evaluation method of bids for state contracts. Further, your Committee notes that this bill does not penalize the tax-exempt provider by making the provider pay the tax. Rather, the bid is only adjusted for bidding purposes.

Your Committee on 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 placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 99-86 Agriculture on S.B. No. 1730-86

The purpose of this bill is to appropriate funds to promote consumer acceptance of irradiated fruits, vegetables, and other agricultural products produced in the State of Hawaii.

Recently the Food and Drug Administration approved the usage of irradiation treatments for fruits, vegetables, and other agricultural products in controlling fruit flies. Margaret Heckler, former Secretary for Health and Human Services, stated that this treatment "is an important step forward for consumers—a proven, safe method to protect fresh fruits from insects and to inhibit spoilage and extend shelf life." (Committee on Radiation Applications, December 1985.)

In 1985 the U.S. Congress appropriated an initial \$5 million to construct demonstration irradiation facilities in five states, including Hawaii. In addition, a request for \$2 million for an irradiation facility in Hilo has been included in the supplemental CIP request. However, public acceptance of food irradiation will be an important factor in determining the extent to which this technology is adopted and the construction of these facilities warranted.

Your Committee received testimony from the Board of Agriculture, the Department of Planning and Economic Development, the University of Hawaii College of Tropical Agriculture and Human Resources, the Hawaii Farm Bureau Federation, and the Papaya Administrative Committee in support of this measure. Promoting consumer education on irradiated foods will resolve many of the questions consumers have regarding this relatively new process. Once these questions are addressed and answered, the consumer will be fully aware of all aspects of the quality of the treated food products.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1730-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 100-86 Agriculture on S.B. No. 1728-86

The purpose of this bill is to appropriate additional funds for the design and construction for the buildings, loading area, and access road for the Kona Marshalling area.

Your Committee finds that in 1979, the Kona County Farm Bureau began the Kona Marshalling Yard as a Farm Bureau project. This project focused on developing an agriculture consolidation, distribution, and growing facility for the west Hawaii farmers. A report by the Department of Agriculture done in 1979 revealed that there were some 1,000 plus farmers in the west Hawaii area growing coffee, macadamia nuts, papaya, vegetables and ornamental crops. The report further revealed that in 1979, farm produce shipment from west Hawaii by air and barge totaled three million pounds; this included avocado, cucumber, papaya, tomato, Chinese peas, dasheen, egg plant, ginger root, oranges, snap beans, bell pepper, etc. Macadamia nuts had a total of twenty-six million pounds and coffee 1.8 million pounds.

Your Committee received testimony from a representative of the Kona County Farm Bureau stating that because Kona has no seaport, all fresh commodities and dry goods must enter by air or land trucking. Kainaliu, Kona, Hawaii is the approximate center of the farming community, and from Kainaliu, Keahole Airport is some twenty miles away, Kawaihae Harbor is forty-five miles and Hilo Harbor is one hundred twenty-five miles away.

The farm bureau further testified that a round trip by a fully loaded two and a half ton truck from Kona to the closest seaport, Kawaihae Harbor totals from four to six hours, depending on traffic and the availability of unloading equipment at Young Brothers port. The Young Brothers barge leaves Kawaihae on Monday and Thursday. If a farmer has to make one or two trips a day to Kawaihae, considerable time is spent just in delivery alone.

Presently all produce is palletized and loaded on an open deck truck causing tremendous damage to commodities due to heat during transit. Also, there is no refrigeration. When this project is completed, products that require refrigeration will have adequate facilities.

Your Committee believes that the Marshalling Yard will be a tremendous benefit to the farmers and encourage the development of new and existing diversified agriculture in Kona.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1728-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 101-86 Agriculture on S.B. No. 2022-86

The purpose of this bill is to appropriate funds for the design and plans for an Agri-Tech facility at Hamakuapoko, Maui.

This facility, in coordination with the Maui Economic Development Board, would focus on the development, transfer, and use of new and improved methods and techniques derived from agricultural and bio-tech research in both the U.S. and developing nations throughout the world. An emphasis would be placed on analytical and economic studies, processes and equipment design, and implementation and training assistance in the technologies involved. The main objective of this facility is to foster economic growth by attracting and generating commercial agricultural and bio-tech training and technology transfer for developing countries in Asia and the Pacific area.

Your Committee received supporting testimony from the mayor and county council chairman of Maui stating that the proposed site for this facility is the campus of the old Maui High School at Hamakuapoko, Maui. This area affords a wide range of micro climates and elevations wherein a variety of agricultural and forestry products can be grown. In addition, the NifTAL program, which has gained an international reputation for agri-tech research and development is located in this area. This would provide synergistic opportunities in related fields and expand NifTAL research into potentially viable commercial activities.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2022-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 102-86 Ways and Means on S.B. No. 1060

The purpose of this bill is to amend the laws of the State of Hawaii.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1060, and recommends that it pass First Reading and be recommitted to the Committee on Ways and Means for further consideration.

Signed by all members of the Committee.

SCRep. 103-86 Economic Development on S.B. No. 2023-86

The purpose of this bill is to appropriate funds for the establishment of a revolving loan fund to assist agricultural and small businesses on Molokai.

Presently Molokai is plagued with a high unemployment rate due to the closure of Dole Company and the reduction of operations by Del Monte. The mayor and county council chairman of Maui testified that as the role of agriculture has shifted and declined, the visitor industry has emerged to the point where it is now the major provider of private sector employment on Molokai. This industry, however, is fragile and cannot be depended on as a major economic base.

The revolving loan fund will provide financing opportunities for start-up businesses in the hopes of stimulating economic growth on Molokai. Encouraging entrepreneurship and small business development, especially in Molokai where the major economic base was agriculture, may be the best possibility to realize long term economic benefits for the island.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2023-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 104-86 Economic Development on S.B. No. 1902-86

The purpose of this bill is to appropriate \$2,000,000 to the Department of Planning and Economic Development (DPED) and to the county economic development boards or corporations to market Hawaii as a place for business activity and to promote exported Hawaiian products and services.

Your Committee finds that promoting or marketing our State is an investment that pays us back many times over. Current marketing projects conducted by the DPED and the county development boards or corporations reveal interesting statistics and results.

According to the DPED, its Industry and Product Promoting Program spent \$3,500,000 from 1974 to 1984. It is estimated through surveys and general industry sales figures that 2,900 new jobs were generated with total sales of \$50,700,000. There was also additional payroll created of approximately \$31,000,000, and about 640 new market sources were developed. Additional State and County taxes from this increased activity are estimated to be \$4,300,000. One new job was created for each \$1,379 spent and those jobs continue, long after that money was spent.

The additional funding which this bill provides will allow the DPED to provide carefully designed media advertising, both domestic and international, and an increased participation in major trade shows, business missions and direct marketing efforts.

Your Committee further finds that the county economic development boards or corporations have also been successful in its endeavors to promote Hawaii as a business center. Several county programs and projects have not only introduced foreign investors to Hawaii, but have also increased revenues for the counties and State.

This bill will ultimately provide the State with a greater marketing campaign through the combined efforts of the DPED and the county economic development boards or corporations.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1902-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 105-86 Consumer Protection and Commerce on S.B. No. 1893-86

The purpose of this bill is to create a comprehensive framework within which to authorize foreign bank operations in the State of Hawaii, and a temporary commission with the responsibility for developing and implementing a promotional program to encourage foreign banks to establish offices in Hawaii.

In its consideration of this bill, your Committee heard testimony from members of the business community and the state government supporting its passage because it responds to the need for the State, if it is to fulfill its leadership role in the Pacific basin, to open its commercial process to foreign banks in order to attract capital, to provide full commercial services, and to enhance the State's geographically favored location in the consummation of trade and commercial transactions. It was noted also that the establishment of foreign banks in Hawaii would constitute positive evidence of a favorable business climate within the State.

The Department of Commerce and Consumer Affairs strongly endorsed this bill, and recommended the addition of technical safeguards to insure reciprocal treatment of American banks seeking to establish their own operations abroad as foreign banks, particularly in nations from which would come the foreign banks to operate in Hawaii.

There was also testimony to the effect that the basic proposition requires further study, however, your Committee concludes that the timing is right for this legislation, and accordingly recommends its passage, appropriately amended to insure the desired element of reciprocity. This has been accomplished by amending subparagraph (7), Section -33, Establishment of office, which deals with the matter of reciprocity, on line 9 of page 21. The definition of foreign bank activity has been expanded to include "an agency" as well as a branch office. Your Committee desires to make it clear that it seeks unquestioned reciprocity for American banks to operate in foreign countries from which come banking institutions to operate in the State of Hawaii.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1893-86, as amended herein, and recommends that it pass Second Reading in

the form attached hereto as S.B. No. 1893-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 106-86 (Majority) Economic Development on S.B. No. 1855-86

The purpose of this bill is to authorize the issuance of special purpose revenue bonds in an amount not to exceed \$2,000,000 for Cyanotech corporation.

Cyanotech corporation is one of Hawaii's first and most prominent aquaculture biotechnology firms, specializing in the growth and commercial production of high value microalgae (single celled aquatic plants) which contain a wide variety of chemicals, biochemicals, enzymes, lipids and vitamins. One of the microalgae that Cyanotech corporation is commercially producing is Spirulina which is closely related to simple bacteria and as such, are excellent candidates for the new wave of biotechnical and genetic engineering technologies aimed at developing new products and increasing organically pure yields of known chemicals.

Your Committee concurs with the testimony received, and finds that Cyanotech corporation would be an excellent candidate for special purpose revenue bonds to not only assist industrial enterprises and encourage economic growth, but to also establish Hawaii as the marine and aquacultural center of the Pacific and the United States.

Your Committee is confident that the issuance of special purpose revenue bonds for Cyanotech corporation will promote economic activity and is in the public interest, and has therefore agreed to a request by Cyanotech to increase the bond amount from \$2,000,000 to \$3,000,000. The bill has been amended accordingly.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1855-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1855-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 107-86 Labor and Employment on S.B. No. 1509-86

The purpose of this bill is to allow the Board of Trustees of the Employees' Retirement System to make investments in venture capital as a limited partner provided that such investments would be limited to a percentage of the total investment in such a vehicle.

Your Committee received supporting testimony from the Secretary of the Employees' Retirement System and the Director of Planning and Economic Development and finds that tax impediments and access to capital are two major factors which inhibit business start-up and expansion. This bill would allow Retirement System funds to be pooled with other investors in combinations formed to invest in small, local businesses which promise increased employment. In addition, your Committee finds that this bill complements and supports the Hawaii Capital Companies bill (S.B. No. 1749-86) by providing a new source of funds to pool with private investors, thus increasing access to venture capital by small businesses which will stimulate economic activity and employment opportunities.

Your Committee has amended the bill by providing that the System's participation in an investment vehicle shall be limited to one percent of the total investment in the vehicle. The bill has been further amended to make a technical change which has no substantive effect.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 1509-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1509-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 108-86 Labor and Employment on S.B. No. 1652-86

The purpose of this bill is to grant permanent civil service status to the Director of the Hawaii Criminal Justice Data Center.

The Hawaii Criminal Justice Data Center, previously known as the Statistical Analysis Center, was originally administratively located with the Judiciary and operated on federal

funds. In 1981 the Data Center was transferred administratively to the Department of the Attorney General, and all other positions except that of the Director have since been granted permanent civil service status.

Your Committee received testimony in support of this bill from the Office of the Attorney General, the Department of the Prosecuting Attorney of the City and County of Honolulu, and the Honolulu Police Department and finds that there is a need to provide for continuity in direction and programs affecting criminal justice agencies in the State, and that this bill would play a significant role in effecting such continuity.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 1652-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 109-86 Labor and Employment on S.B. No. 1949-86

The purpose of this bill is to supplement federal funds received under the Job Training Partnership Act (JTPA).

The purpose of JTPA is to provide job training and placement to economically disadvantaged individuals who are dislocated workers and/or senior citizens age 55 or older.

Your Committee received testimony in support of this measure from the Department of Labor and Industrial Relations, the Director of the Executive Office on Aging, and Joined Organizations for a Better State, and finds that with the anticipated effects of the Balanced Budget and Emergency Deficit Control Act of 1985, state funds will be needed to supplement the Job Training Program in order to maintain the present level of services to elderly and dislocated workers who need them.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 1949-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 110-86 Labor and Employment on S.B. No. 2041-86

The purpose of this bill is to increase the number of super class positions in the Judiciary from one to eight, the number permitted each of the four counties.

At the present the Judiciary is authorized only one position classified and paid within the SC-1, SC-2, and SC-3 salary ranges, while the counties are permitted eight and the State is permitted sixteen.

Your Committee received supporting testimony from the Judiciary and finds that the Judiciary, as a separate branch of government with personnel management responsibilities comparable to the counties and the Executive branch, needs the compensation flexibility which the added super class positions will permit, in order to best discharge its functions and mandates as required by law.

Your Committee has amended the bill by deleting the provision which would have authorized the Judiciary to utilize super class ranges for physicians and psychiatrists positions and by making technical changes which have no substantive effect.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 2041-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2041-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 111-86 Labor and Employment on S.B. No. 1033

The purpose of this bill is to provide that the Board of Trustees of the Employees' Retirement system shall correct any error leading to overpayments of retirement benefits and forgive such overpayments.

Your Committee received testimony in support of this bill from the Hawaii Government

Employees Association and the Secretary of the Employees' Retirement System and finds that there are occasional miscalculations of retirement benefits which result in small incremental overpayments to retirees. When the errors are discovered, the accrued overpayments may be somewhat substantial in relation to the retirees' incomes, and recovery of such amounts may unduly burden those receiving from the system who are already financially strained.

Your Committee has amended the bill by granting to the Board the flexibility to forgive or not forgive the overpayment, as warranted by the circumstances, and by adding the words "member, retirant, or" after the word "than" on line 5, the word "any" on line 11, and the word "the" on line 12, for the purpose of consistency. Your Committee has also amended the bill by making technical changes which have no substantive effect.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 1033, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1033, S.D. 2, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 112-86 (Majority) Economic Development on S.B. No. 1622-86

The purpose of this bill is to provide \$50,000 from the general fund for research and development of octopus as an aquacultural product for the State.

Your Committee finds that the development of aquaculture products will help to diversify the economic base in the State and is in the public interest.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1622-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 113-86 Labor and Employment on S.B. No. 2047-86

The purpose of this bill is to allow the exclusive representative of bargaining units, upon written request, to have the statutory monthly contribution for group life insurance benefits allotted to the exclusive representative's group life insurance program.

Your Committee received testimony in support of this bill and finds that although the Public Employees' Health Fund provides a group life plan for the employees, this amount is inadequate, especially for those employees in the 18-35 age bracket. Your Committee believes that it is at this age level that members need the most protection for the least amount of money. Permitting the exclusive representative of any bargaining unit who can provide higher coverage for its members to do so is in the best interest of all concerned.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 2047-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 114-86 Labor and Employment 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.

Your Committee received supporting testimony from the Director of Personnel Services and finds that under the provisions of section 89C-3, Hawaii Revised Statutes, the directors of personnel services of the State and counties have under study 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 such cost increases as may be necessary after the proposal and possible alternatives are considered, and is therefore in the public interest.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 2050-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 115-86

Economic Development on S.B. No. 1648-86

The purpose of this bill is to increase the scope of the High Technology Research and Development Fund to enable the High Technology Development Corporation to accumulate revenues and pursue other objectives for encouraging the growth of high technology industries in Hawaii.

Specifically, the bill would change the name of the High Technology Research and Development Fund to the High Technology Development Corporation Special Fund and would authorize deposits into the Fund of revenues generated by Corporation projects and expenditures for costs related to such projects.

Your Committee received testimony in support of this bill from the Executive Director of the High Technology Development Corporation and finds that the Corporation will soon begin operating the Hawaii Ocean Science and Technology (HOST) Park at Keahole Point, Kailua-Kona, Hawaii. The Corporation also has other projects in the works including Millilani Town and Maui High Tech Parks. Without the expansion of the current Fund, as proposed in this bill, revenues generated by these and other projects would be deposited into the general fund and would not be available to offset operating and management costs of the projects. Thus, the ultimate goal of self-sufficiency for the Corporation would be greatly inhibited. Your Committee finds that this bill would facilitate the mission and enhance the effectiveness of the High Technology Development Corporation and is therefore in the public interest.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1684-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 116-86

(Majority) Economic Development on S.B. No. 2015-86

The purpose of this bill is to appropriate funds to design and plan an aquatic resources research facility at Kealia, Maui.

Your Committee finds that Maui is a viable location to establish an alternate energy research and development program to develop and test new energy technologies for the purpose of increasing the economic viability of fish production systems and establishing innovative aquabusinesses.

Testimony submitted by the Mayor and County Council Chairman of Maui stated that the establishment of this facility will support energy/aquaculture related research and development activities, and act as a "stepping stone" for promising new products, production systems, and appropriate technology. Support for this program will foster economic growth and enhance Hawaii's ability to further establish itself as a center for technology transfer in the areas of alternate energy and aquaculture.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2015-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee
Senator Kawasaki did not concur.

SCRep. 117-86

Labor and Employment on S.B. No. 2134-86

The purpose of this bill is to provide an appropriation for the Hawaii Workers' Compensation State Fund which was created by Act 296, Session Laws of Hawaii, 1985.

Your Committee finds that the present burden on employers due to high priced workers' compensation insurance premiums in the State could be significantly eased by implementation of the State Fund, as provided by Act 296. Therefore, your Committee finds that it is consistent with declared public policy and in the public interest to approve this appropriation so that the proposal may be given appropriate consideration and full access to the legislative process. It is the intent of your Committee that the full appropriated amount should be determined by the Ways and Means Committee in context of the full supplemental budget for fiscal year 1986-1987.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 2134-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 118-86

Labor and Employment on S.B. No. 2142-86

The purpose of this bill is to appropriate \$620,000 to the Office of Community Services to restore cuts in federal funds which are anticipated to be forthcoming under application of certain provisions of the Gramm-Rudman Act.

Your Committee received supporting testimony from the Executive Director of the Office of Community Services, the Hawaii Community Action Program Directors Association, and the Legal Aid Society of Hawaii, and finds that in addition to probable Gramm-Rudman cuts, the Community Services Block Grant is scheduled to expire on September 30, 1986 with Reagan Administration recommendations against reauthorization. This bill would allow the Office of Community Services to contract with the Community Action Agencies to maintain current services despite these obstacles and is therefore in the public interest.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 2142-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 119-86

Economic Development on S.B. No. 2083-86

The purpose of this bill is to authorize the issuance of special purpose revenue bonds for the purpose of funding a film production facility.

The film and television industry has great economic potential for the State of Hawaii. The continuous production of locally-based television series, such as "Hawaii 5-0" and "Magnum, P.I.," has proven to be a significant source of revenue for the State. Currently, however, the only studio facility that is adequate to house a television series is the Diamond Head studio facility that is leased to Universal Studios, the producers of "Magnum."

Your Committee received testimony in support of this bill from the Director of Planning and Economic Development and Yvonne Perry, a local record company owner, singer, and actress, and finds that the construction of a new film production facility is in the public interest in that it would encourage other television and motion picture projects to consider using Hawaii as a filming location, which would mean more jobs for Hawaii's people, an increase in tax revenues, and inflow of new capital into the State.

Your Committee further finds that the use of special purpose revenue bonds to fund the film production facility has considerable advantages over other forms of financing in that revenue bonds are currently exempt from state and federal taxes, which means they can be issued at a lower interest rate from that of conventional loans.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2083-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 120-86

Labor and Employment on S.B. No. 2166-86

The purpose of this bill is to establish in the State and its political subdivisions a public policy prohibiting sex-based wage discrimination, in order to achieve an equitable relationship between the comparability of the value of work performed by persons within the State and its political subdivisions, and to establish a pay equity task force, consisting of nine members, to contract with a qualified consultant to conduct a job evaluation study of selected occupational classifications in the state civil service. The study would be based on a "comparable pay grade system" using a point factor method of job evaluation.

The task force established under this bill would be placed in the Industrial Relations Center of the University of Hawaii and would oversee and monitor the work of the consultant. It would approve the design of the job evaluation, prepare an interim report detailing the findings of the study, make recommendations for correcting any under-compensation in female-dominated job classes that the study may reveal, and prepare a final report of its findings and recommendations to the Governor and the Legislature in time for consideration in the 1988 Regular Session.

Your Committee considered voluminous written and oral testimony from a wide range of

agencies, groups, and citizens which substantiates and confirms its belief that equal protection under the law is indispensable to America's social and justice systems and that unlawful discrimination of any kind must be exposed and corrected. Your Committee further finds that there is sufficient reason to believe that pay discrimination, albeit unintentional, may exist in the public service. Therefore, your Committee finds that it is in the public interest and consistent with declared public policy to study public employment in order to rectify any inadvertent discrimination in pay between the sexes.

After further consideration, your Committee has amended the bill to reflect the intent of the Legislature, which is to examine and evaluate Hawaii's existing classification and compensation systems and laws and to recommend, if necessary, a point-weight job evaluation system. Specific amendments are as follows:

- (1) The pay equity task force is eliminated because your Committee finds it unnecessary to oversee the work of a consultant. Instead, detailed guidelines for the consultant study have been added into the bill.
- (2) Oversight responsibility has been placed with the Legislative Auditor rather than with the Industrial Relations Center at the University of Hawaii, Manoa.
- (3) The term "sex-based wage discrimination" is deleted because it suggests legal considerations which are beyond the scope or intent of this study.
- (4) The scope of the study has been streamlined to focus on nonsupervisory and supervisory employees in white collar positions and professional and scientific employees other than registered professional nurses.
- (5) The appropriation for the consultant has been amended to apply only to fiscal year 1986-1987. It is the intent of your Committee that additional funds for fiscal year 1987-1988 shall be provided through the budget process in the Regular Session of 1987, if needed.

Your Committee has further amended the bill to make technical changes which have no substantive effect.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 2166-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2166-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 121-86 (Majority) Economic Development on S.B. No. 1874-86

The purpose of this bill is to encourage state economic growth by providing exemptions to the general excise tax.

These exemptions are for:

- 1) gross receipts, gross income, gross proceeds of sales, and value of products resulting from transactions, payments, or transfers between members of an affiliated group or controlled group of corporations;
- 2) all of the gross proceeds or gross income arising from the sale of capital goods to certain businesses;
- 3) amounts received by general excise tax licensees for tangible personal property shipped or transported out of the State for sale in interstate or foreign commerce, to include computer software; and
- 4) taxes paid by sugar, pineapple, and pineapple juice millers, processors or canners for products sold to the federal government for use and consumption outside of the State.

The bill also defines or redefines "affiliated group of corporations," "controlled group of corporations," "capital goods," "computer software," "custom computer software," and "storage media."

Finally, the bill exempts the use of capital goods from the use tax law.

Your Committee finds that the tax incentives provided in this bill would encourage economic

growth and productivity. The exemptions would provide local businesses with additional capital to not only create jobs but to also increase tax revenues.

The exemption for the purchase of capital goods would go a long way in reducing the cost of establishing a new business or expanding an existing one. Similarly, the exemption for export sales would reduce export prices, making Hawaiian products more price competitive on the world markets. Finally, the exemption for transactions between affiliated and commonly controlled groups of companies would encourage efficiency in the operations of a business. By eliminating the tax on such transactions, businesses could be more cost efficient and productive. Thus, this measure goes a long way toward improving the State's business climate.

It has been estimated that the exemptions proposed in this bill could total as much as \$36 million. In weighing the potential revenue impact that this bill would have, critics often forget to evaluate the bill's positive effect on the overall economic environment. Losses attributable to the exemption of capital purchases would be a net loss to the state treasury if for example, a sewing machine was purchased and left idle. On the contrary, if the exemption of the sewing machine purchase resulted in one or two more jobs for a seamstress or a tailor, then the exemption would have added one more job to the market and another person to the payrolls. Eventually it would mean increased income taxes for the State and possibly one less person on public assistance.

Thus, exemptions such as those proposed in this bill would have a positive effect on the total revenue of the State.

Your Committee has amended the bill by correcting the reference to section 237-26 in section 9 of the bill which was inadvertently referred to as section 237-36 and by making a technical change which has no substantive effect.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1874-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1874-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 122-86 Labor and Employment on S.B. No. 2168-86

The purpose of this bill is to grant additional service credit in the State Retirement System to employees who are not covered by an approved sick leave accumulation system.

Presently, the instructional faculty at the University of Hawaii at Manoa, Hilo, and West Oahu College do not earn and accumulate sick leave and thus do not receive any retirement credits for unused sick leave as other government employees do. This bill would entitle such employees to an unspecified number of days of leave credits per year of employment for the purposes of computing additional service credits in the retirement system.

Your Committee has amended the bill by providing that the basis for computing credits for twelve month and nine month employees shall be eleven days and nine days per year respectively. Your Committee has also amended the bill by making a technical change which has no substantive effect.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 2168-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2168-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 123-86 Economic Development on S.B. No. 1868-86

The purpose of this bill is to establish a Film Industry Advisory Council to advise the Department of Planning and Economic Development, the Governor, and the Legislature on matters relating to the film industry in Hawaii. The bill also provides for an appropriation to the Department of Planning and Economic Development to implement the Council.

Your Committee finds that the film industry has great economic potential for Hawaii and that the State should provide an environment which is supportive of and conducive to it. Your Committee further finds that as economic activity in a new industry increases, there is a need for guidance and oversight to ensure orderly development. This bill would provide for that

oversight and development, which in turn should enhance the promotion of Hawaii as a film center and encourage the creation of new jobs for Hawaii's people.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1868-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 124-86 (Majority) Economic Development on S.B. No. 2172-86

The purpose of this bill is to establish a temporary revolving fund to match loans made by private lenders for the development of the motion picture and television industry in Hawaii. The fund would be repealed effective June 30, 1988, subject to recommendations from the Department of Planning and Economic Development as to whether it should be continued, modified, or terminated.

Your Committee received supporting testimony from the Screen Actors Guild and finds that this proposal is in the public interest in that it would enhance the potential for expansion of the local film activity, which in turn would tend to stimulate the local economy, provide jobs for Hawaii's people and increase the tax base.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2172-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 125-86 Labor and Employment on S.B. No. 2171-86

The purpose of this bill is to appropriate \$25,000 to provide full or partial scholarships for Hawaii residents to pursue study and training at the Pacific Film Institute in such fields as acting, screenwriting, directing, production, and other fields related to motion picture and television production.

The appropriated funds would be expended by the Department of Labor and Industrial Relations under application procedures and selection guidelines established by the Department.

Your Committee received supporting testimony from the Department of Labor and Industrial Relations and the Director of Planning and Economic Development and finds that training such as is proposed by this bill would support and complement Hawaii's growing importance and involvement in motion picture and television production, and would enable a larger number of people to seek jobs and careers in these fields. This bill would also advance the State's objective of broadening participation and enlightenment in culture and the arts.

Your Committee has amended the bill by deleting the reference to the Pacific film Institute so as to allow maximum flexibility in the choice of training programs for scholarship recipients.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 2171-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2171-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 126-86 Economic Development on S.B. No. 1613-86

The purpose of this bill is to implement the findings of a feasibility study regarding the development of a cargo distribution center in the County of Hawaii. The Department of Planning and Economic Development (DPED) will expend the funds as appropriated.

The 1985 Legislature appropriated \$100,000 for a feasibility study regarding a cargo distribution center in the County of Hawaii, and the study is presently being conducted.

Testimony provided by DPED indicates that the initial study will soon be completed, and the Department will then consult with the Mayor of Hawaii to implement the findings of the study.

Your Committee finds that these funds should be made available to develop this center, if so recommended by the study.

Your Committee has amended this bill by designating DPED as the expending agency.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1613-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1613-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 127-86 Economic Development on S.B. No. 1744-86

The purpose of this bill is to consolidate the Department of Hawaiian Home Land's (DHHL's) funding structure, by reducing the number of funds from fifteen to seven.

This bill amends the Hawaiian Homes Commission Act to abolish certain funds, merge existing funds, and rename one fund to serve as a holding account. A diagram of the proposed changes is attached.

Currently, DHHL is responsible for handling fifteen different funds which provide loans for the development and repair of home lands; assistance to farm land operations; operating moneys for the Department; trust funds for holding moneys received from other parcels; and assistance to native Hawaiian rehabilitation activities.

Testimony submitted by DHHL and the Office of Hawaiian Affairs supports this measure as a more practical and efficient funding structure which will enhance financial management.

Your Committee finds that this measure will facilitate more efficient financial administration within the Department.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1744-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 128-86 Economic Development on S.B. No. 2420-86

The purpose of this bill is to provide an appropriation of \$125,000 from the general fund, for a survey of potential water sources and development of a plan to provide water for revegetation and consumption on the island of Kaho'olawe.

The funds appropriated shall be expended by the Department of Land and Natural Resources, to conduct the study in cooperation with the Protect Kaho'olawe Ohana and the Navy. A report will be submitted to the Legislature on or before January 15, 1987.

Testimony submitted by Protect Kaho'olawe Ohana and the Office of Hawaiian Affairs supports the request for study and indicates efforts to rejuvenate the island are currently being undertaken.

Your Committee finds that the island of Kaho'olawe is in urgent need of water to revegetate the island and provide long-term protection of its other resources.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2420-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 129-86 Labor and Employment on S.B. No. 2293-86

The purpose of this bill is to provide for the preparation of a State Functional Plan for Employment.

Twelve State Functional Plans have already been prepared and adopted pursuant to the Hawaii State Planning Act of 1978. They cover the areas of agriculture, conservation lands, education, energy, health, higher education, historic preservation, housing, recreation, tourism, transportation, and water resources development. These existing Functional Plans are key elements in the State's overall planning and coordination process established under the Hawaii State Plan. They provide direction for governmental agencies and serve to link various agency programs and activities with the objectives, policies, and priority guidelines of the State Plan.

They also provide the framework and necessary guidance for improved planning and coordination.

Your Committee received supporting testimony from the Department of Labor and Industrial Relations, the Commission on Employment and Human Resources, and the Director of Planning and Economic Development, and finds that the interrelationship between employment and economic development opportunities is consistently emphasized in Parts I and III of the Hawaii State Plan. Your Committee further finds that although employment-related issues are addressed by several existing functional plans such as the Agriculture and Tourism Functional Plans, each document focuses on a relatively narrow aspect of the State's total employment picture. A separate functional plan would promote a more integrated approach to the consideration of state employment objectives and would enable the development of a systematic, cohesive set of policies and strategies to coordinate and guide public and private sector efforts and increase the State's overall effectiveness in responding to public needs in this area.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 2293-86 and recommends that it pass Second Reading and be referred to the Committee on Economic Development.

Signed by all members of the Committee.

SCRep. 130-86 Economic Development on S.B. No. 1946-86

The purpose of this bill is to authorize the counties to issue special purpose revenue bonds to finance not-for-profit corporations that provide health care facilities to the general public.

Presently, the counties do not have the authority to issue special purpose revenue bonds. Your Committee finds that authorizing the counties to issue special purpose revenue bonds will ultimately result in lower health care costs to the public.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1946-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 131-86 Labor and Employment on S.B. No. 2294-86

The purpose of this bill is to include technical employees within collective bargaining unit Thirteen.

Technical employees would include employees or supervisors who directly support a professional, or who inspect or evaluate products or services, or who examine, verify, and evaluate compliance with laws, rules, or public contracts, but does not include nonprofessional hospital and institutional workers.

Your Committee received testimony from the Hawaii Government Employees Association and the City and County of Honolulu, among others, and finds that technical employees, as defined in this bill, share a communality of interest with professional and scientific employees. In addition, these employees are often overlooked for promotional consideration on a non-competitive basis because non-professional employees are often deemed to be ineligible for professional vacancies. This bill corrects that discrepancy in public employee policy and provides an appropriate career ladder so that technical employees may compete for advancement with employees of similar skills, interests, and education.

Your Committee has amended the bill by changing the definition of technical employee to mean "(A) any employee or supervisor who bears the job title of technician, works in direct support of a professional, and who utilizes theoretical knowledge of scientific, engineering, or other professional field of specialization; or (B) any employee or supervisor bearing the job title of inspector who inspects and evaluates products or services to protect the public interest for compliance with regulations, codes, or specifications...."

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 2294-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2294-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 132-86

(Majority) Economic Development on S.B. No. 2096-86

The purpose of this bill is to provide funds to the Department of Planning and Economic Development to undertake a study, through a contract with a consultant, to determine what type of facilities will be needed to institute a program to assist the development of new products and technologies in Hawaii, including the location and organizational, technical and managerial support needed for such facilities.

The study will provide estimates of costs, including the potential State share, and how long the State would need to participate before such a facility becomes self-sufficient. The Department shall report the results of the study to the 1987 regular session of the legislature.

Your Committee finds that the establishment of "incubator facilities" has become common in some parts of the mainland. These facilities lease space to new operations and provide a variety of pooled services at economical rates, to assist new business ventures that would otherwise have difficulty getting started.

The High Technology Development Corporation is proposing that an "incubator facility" be established on University of Hawaii property in Manoa Valley to provide a facility for the commercialization of research started at the University. Your Committee finds that this would assist in the development of new high technology jobs for the people of Hawaii.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2096-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 133-86

Labor and Employment on S.B. No. 2468-86

The purpose of this bill is to establish a permanent job-sharing program in the public library system.

The Legislature established a pilot job-sharing program in the Department of Education in 1982 and subsequently went on to include libraries within the public library system. In 1984 the Legislature extended the project for two additional years.

Your Committee received testimony in support of this bill from the State Librarian, the Hawaii Government Employees Association, and several librarians, among others, and finds that converting the job-sharing project into a permanent program would create a more stimulating and healthy environment for all employees in their occupational capacities. In addition, implementation of this bill would allow employees more time to pursue training and education, and would create more employment opportunities for qualified persons who for one reason or another are unable to participate in the work force on a full time basis.

Your Committee has amended the bill by extending the job-sharing opportunity to all full-time employees of the public libraries rather than to just librarians, library assistants, and library technicians.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 2468-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2468-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 134-86

(Majority) Economic Development on S.B. No. 1838-86

The purpose of this bill is to appropriate funds for the purchase of Maunawili Valley on the island of Oahu.

Your Committee finds that this acquisition is necessary to: 1) provide a greater source of water to the Waimanalo irrigation system; 2) prevent urban encroachment in the area; and 3) protect the area from degradation and unnecessary depletion.

Your Committee also finds that previous appropriations providing for the purchase of Maunawili Valley were made for the acquisition of the marsh area only. This appropriation is for the acquisition of the watershed area.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1838-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 135-86 Government Operations on S.B. No. 1582-86

The purpose of this bill is to provide a state subsidy to reimburse counties for transporting handicapped persons participating as clients in state programs.

The Handi-Van service was initiated in 1977 by the City and County of Honolulu to meet special transportation needs of the mobility-handicapped population who are prevented from using regular bus transportation. The cost of operation in the first year was \$106,000 and ridership was 940 per month. Prior to the establishment of Handi-Van service by the City and County, the State Department of Health and the Department of Social Services and Housing (DSSH), provided state-funded transportation for their mobility handicapped clients.

In 1984, Senate Resolution No. 123 was passed, requesting "A Study for Sharing the Cost of Providing Handi-Van Special Transit Service for the Handicapped". The findings and conclusions reported to the Senate indicate that in fiscal year 1984, the Handi-Van provided approximately 205,000 trips to participants in state-administered programs serving the handicapped. This number was 55.3% of the total trips (370,600) provided by the Handi-Van service. Furthermore the study report indicates that state programs for the handicapped make maximum use of the Handi-Van service.

Testimony received from the Department of Accounting and General Services, and the DSSH, purports the bill is discriminatory under the Fourteenth Amendment of the U.S. Constitution, by allowing a higher assessment for transportation of handicapped persons participating in state programs.

Your Committee believes that the economic impact on the City and County's finances could severely limit continued operation of a worthy public service and feels that it is reasonable to request the State to contribute an equitable amount for service provided to its disabled clients. Your Committee also believes that the City and County's request for funds is not intended to be discriminatory against state clients, but to reflect the State's support for transportation services for the handicapped.

Your Committee finds that it is in the best public interest to continue to recognize and expand the present transportation system of the more severely disabled citizens in Hawaii. In addition the current services greatly enhance the handicapped individual's capacity to participate more fully in the daily activities and community resources afforded to the rest of the citizens of our State.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1582-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 136-86 Economic Development on S.B. No. 1895-86

The purpose of this bill is to provide an authorization for issuance of general obligation bonds to support a regional fisheries center. The appropriation from these bonds is to be expended by the Department of Land and Natural Resources (DLNR), for improvements to support facilities used by purse seining fleets.

The DLNR submitted testimony opposing this measure, citing the decline in the industry due to a current surplus of processed fish and also the movement of the purse seine fleets to other areas of the Pacific.

Your Committee believes that because of the growth rate in the value of fish, commercial fishing should be supported to diversify the State's economic base.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1895-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 137-86

Government Operations on S.B. No. 1800-86

The purpose of this bill is to provide an administrator to staff the State Fire Council; specify staff support from the City and County of Honolulu; designate the Honolulu Fire Chief as Chairperson of the Council; and appropriate funds to support the administrator's office.

Currently, Section 132-16, Hawaii Revised Statutes, establishes the State Fire Council, and provides its membership along with an advisory committee, to advise and assist the county fire departments and other functions. There are no provisions for state funding at this time.

Testimony submitted by the Chairman of the State Fire Council supports this measure as necessary to carry out the intent and purposes of the Council and its respective activities.

Your Committee finds that the administration and operation of the legislated responsibilities of the Council requires appointing a person experienced in fire prevention, fire codes, and building codes, as well as an appropriate clerical staff.

Your Committee has amended this bill to include an appropriation amount of \$49,995 required for operating expenses. Your Committee has also made clarifying language and technical changes which have no substantive effect.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1800-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1800-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 138-86

Economic Development on S.B. No. 1881-86

The purpose of this bill is to provide general funds to the Department of Land and Natural Resources for the improvement of water systems in the Waianae and Makaha Valley areas.

Testimony submitted by the City and County of Honolulu indicates the need to upgrade the system and tap into new water sources.

Your Committee finds that improvements to the water system in these areas is vital to alleviating water shortages for both residential and agricultural use.

Your Committee agrees with the Department of Land and Natural Resources that the funds appropriated be derived through general obligation bonds and be expended by the City and County of Honolulu, and has therefore amended the bill by recommending a \$2,000,000 appropriation through general revenue bonds to be expended by the City and County of Honolulu.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1881-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1881-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 139-86

Government Operations on S.B. No. 1804-86

The purpose of this bill is to provide a \$100,000 appropriation to the City and County of Honolulu, to establish state government services at the nine city and county satellite city halls.

Your Committee believes that it is an institutional fact of American government that each level of government has certain responsibilities for the performance of public functions. Historically, local governments have functioned as administrative arms (service units) of the state and federal governments. However, there is a growing trend for local governments to work with other units of government in coordinating, consolidating and sharing responsibilities in order to deliver services in the most efficient and economical fashion.

Your Committee finds that offering State services at the nine existing satellite city halls as proposed by this bill will make government services more readily accessible to the public and enhance the effectiveness of government operations.

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

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1804-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1804-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 140-86 Education on S.B. No. 2465-86

The purpose of this bill is to establish a libraries revolving fund.

Presently, all funds collected by the State Library generated by the overdue loan charge (of ten cents per day) is deposited into the general fund.

This bill would require that funds generated by the overdue loan charge would be deposited into the libraries revolving fund. The funds would be used to augment decreasing State Library allocations and replace or repair lost, stolen, or damaged library materials.

Your Committee finds that the intent of this bill is consistent with the State's efforts to not only retrieve and fine borrowers of overdue books, but to also utilize those funds to improve and expand the books and services offered by the State Library.

Your Committee has amended this bill by authorizing the Board of Education to adopt rules to effectuate the purposes of the proposed law.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2465-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2465-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Soares.

SCRep. 141-86 Government Operations on S.B. No. 1958-86

The purpose of this bill is to remove the statutory limitation of \$25,000 for petty cash accounts assigned to state agencies and allow the Comptroller to determine an appropriate amount.

Current law provides that the Comptroller may assign petty cash accounts to a state agency up to \$25,000. Additionally, Act 281, Session Laws of Hawaii 1985, requires that all payments for goods and services less than \$100 be paid from petty cash. Your Committee finds that the purpose of Act 281, 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 where payments are made by the issuance of State treasury checks issued by the Comptroller. Your Committee further finds that with the \$100 payment requirement under Act 281, Session Laws of Hawaii 1985, the statutory ceiling of \$25,000 in petty cash funds should be raised.

The Department of Accounting and General Services submitted testimony stating that because of the enactment of Act 281, Session Laws of Hawaii 1985 some agencies require more than \$25,000 in their petty cash account. For many agencies, payments through petty cash would immediately consume their entire petty cash account.

Although your Committee is in agreement that the present ceiling of \$25,000 for petty cash funds is too low, it feels that a reasonable ceiling should be maintained. The Comptroller has suggested that \$100,000 would be reasonable and, therefore, the bill has been amended to allow petty cash funds of up to \$100,000.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1958-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1958-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 142-86 Higher Education 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 has received testimony from the Board of Regents which cautiously supports

the basic intent of the bill but not its purpose. More specifically, the Board does not support a mere increase in the ceiling. Instead, the Board's position on the matter of the University President's salary is that "it is imperative that the Board of Regents should have the authority to set the President's salary without regard to a statutory ceiling."

Your Committee finds that the Board's strong position is based on certain fundamental principles which cannot be easily ignored. By statute, the Board is entrusted with the power to select and appoint a president for the University of Hawaii System. In close consonance with this power is the Board's responsibility to select, appoint, and retain the best possible candidate to head the State's entire post-secondary educational system. When seen in this light, it is clear that the public trust which is inherent in the Board's duties and responsibilities in this area is of statewide concern.

In recognition of this finding, it is the feeling of your Committee that this bill, in an appropriately amended form, 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 addressing a major deficiency which is not covered by the Administration's package of legislation relating to the University.

As a matter of statewide concern and appreciation for the difficulties that the existing law has placed on the University and the Board of Regents, your Committee has amended this bill to allow 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 is in accord with the intent and purpose of S.B. No. 2328-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2328-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 143-86

Government Operations on S.B. No. 2072-86

The purpose of this bill is to grant authority to the liquor commission 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.

Presently, Section 281-17, Hawaii Revised Statutes, provides the liquor commission with the exclusive jurisdiction to control, enforce provisions, and grant licenses for the manufacture and sale of liquor. Section 281-17.5, Hawaii Revised Statutes, restricts the use of liquor license fees for the operation and administration of the county liquor commissions.

Testimony submitted by various State and county government agencies indicate concern with the provision in the bill providing sole jurisdiction to the liquor commissions to provide and support alcohol related programs. Several agencies presently offer alcohol treatment and rehabilitation programs and want to continue these functions. Recent trends in alcohol abuse are related to many of society's problems such as traffic accidents resulting in injury and death; low productivity in business; spouse and child abuse; and teenage vandalism and delinquency.

Your Committee finds that the intent of this bill is to enable the liquor commission to expand its programs, to complement the traditional functions of the commission, and that surplus moneys from liquor license fees may be used for these programs.

Your Committee has amended the bill by removing the provision for alcohol related programs from the exclusive jurisdiction of the liquor commission, and providing that these programs will be funded only from surplus moneys not used for operational and administrative expenses.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 2072-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2072-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 144-86

Higher Education on S.B. No. 2332-86

The purpose of this bill is to amend sections 231-51 and 231-52, Hawaii Revised Statutes, to allow retention of state income tax refunds where a person has defaulted on an education loan note held by the United Student Aid Fund.

Your Committee has received supportive testimony from the Hawaii Educational Loan

Program (HELP) which indicates that such legislation is necessary if the \$3,695,000 in defaulted loans owed HELP is to be recovered. Continuing availability of educational loans is predicated on default rates acceptable to the federal government and to 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. The U.S. Department of Education is in turn encouraging states to implement a similar off-set program for its student loan defaulters. Fourteen states have done so, and all are maintaining that their efforts are successful.

Your Committee on Higher Education 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 Ways and Means.

Signed by all members of the Committee except Senator Young.

SCRep. 145-86

Economic Development on S.B. No. 2081-86

The purpose of this bill is to establish a Small Business Procurement Assistance Office in the Department of Planning and Economic Development to assist and encourage Hawaii's businesses to participate more in the federal procurement process and compete with mainland firms for federal government contracts and subcontracts for goods and services. An appropriation is provided for the establishment of the office.

Your Committee received testimony in support of this bill from the Director of Planning and Economic Development, the Chamber of Commerce of Hawaii, and Halawa Garden Products, and finds that the complexity of the federal procurement process requires that participants have specialized knowledge and expertise in order to compete successfully with more experienced mainland firms. This bill would assist Hawaii's businesses in participating effectively in the federal procurement process and would improve the competitive position of local businesses in relation to their mainland competition.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2081-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 146-86

Higher Education on S.B. No. 994

The purpose of this bill is to establish a revolving fund for the University of Hawaii's Interpretation and Translation Center.

Your Committee has received supportive testimony from the University which describes the concept of a proposed Interpretation and Translation Center as a dual purpose facility. First and foremost, the Center will be an instructional unit which specializes in providing undergraduate and graduate instruction in foreign language interpretation and translation. Mandatory course work for all students will be required as a prerequisite to taking a certification examination. Upon successful completion of the required course work and a minimum score on the certification examination, students will be awarded a Certificate of Proficiency which will specify their language combinations and areas of expertise. The other function of the Center will be as a service agency to the community which specializes in providing high quality translation and interpretation services with an emphasis on technical expertise in certain areas.

Your Committee agrees with the recommendation of the University that a revolving fund mechanism would provide the proper vehicle for the Center's service component to operate on a self-sufficient basis.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 994, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 147-86

Economic Development on S.B. No. 2095-86

The purpose of this bill is to establish enterprise zones in the State.

Enterprise zones are areas of the State declared as such by the Governor and administered by the Department of Planning and Economic Development which provide certain benefits to

businesses that are established therein. Those benefits include state tax credits, general excise tax exemptions, and local incentives (i.e. reduction in permit fees, user fees etc.).

The purpose of enterprise zones is to create commercial activity in economically depressed areas of the State. Currently, there are no statutory provisions for the establishment of enterprise zones.

Your Committee finds that the health, safety, and welfare of the people of this State are dependent upon the continual encouragement, development, growth, and expansion of the private sector, and that there are certain areas in the State that need the particular attention of government to help attract private sector investment. Enterprise zones will address this concern to stimulate business, increase industrial growth, and revitalize economically stagnant communities by means of regulatory flexibility and tax incentives.

Your Committee on Economic Development 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 Ways and Means.

Signed by all members of the Committee.

SCRep. 148-86 Higher Education on S.B. No. 1781-86

The purpose of this bill is to amend Section 103-23, Hawaii Revised Statutes, 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 Committee is 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.

In addition to the University, your Committee has received testimony in support of this bill from the State Comptroller and the University of Hawaii Professional Assembly.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1781-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee

SCRep. 149-86 Economic Development on S.B. No. 1944-86

The purpose of this bill is to authorize the counties to issue special purpose revenue bonds to finance manufacturing enterprises.

Presently, the counties do not have the authority to issue special purpose revenue bonds. This bill would provide counties the authority to issue special purpose revenue bonds to address the economic concerns of their respective county.

Your Committee received testimony from the Department of Taxation that it had no objections to the tax exemption provided by this measure.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1944-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 150-86 Higher Education 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.

Testimony presented by the University in support of this bill indicates 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 business sector. It is the understanding of your Committee 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 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 Committee has amended the bill by making technical changes which have no substantive effect.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 2326-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2326-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 151-86 Economic Development on S.B. No. 2164-86

The purpose of this bill is to provide an appropriation of \$10,000 for appraisal of state properties at Mokuleia and the roadway access to the state Mokuleia Forest Reserve.

Testimony submitted by the Department of Land and Natural Resources requests this measure in order to use the appraisal for a possible land exchange between the State and a private owner in order to acquire access to the forest reserve.

Your Committee finds that this measure is necessary to provide information for future negotiation between the State and the private owner.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2164-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 152-86 Economic Development on S.B. No. 2013-86

The purpose of this bill is to provide general funds for improvements for the water system in the County of Maui.

Testimony submitted by the mayor and the council chairman from Maui, supports this measure to upgrade the systems to meet Safe Drinking Water Standards and to benefit increased agricultural demands at the upcountry facilities.

Your Committee finds that these improvements are necessary to provide safe drinking water and alleviate identified shortages.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2013-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Young.

SCRep. 153-86 Higher Education on S.B. No. 2475-86

The purpose of this bill is to amend Chapter 304, Hawaii Revised Statutes, by adding a new Part to enable the Board of Regents to establish and operate child care facilities at the University of Hawaii.

Your Committee has received an abundance of supportive testimony from the University and its students which demonstrates an established demand for child care facilities to meet the needs of students, faculty, and staff. In addition, the University has emphasized the fact that "child care centers meet the basic philosophy, values and mission of the University of Hawaii in terms of access to education; faculty and staff development; and widening the pool from which students, faculty and staff are selected."

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

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No.

2475-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2475-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 154-86 (Majority) Economic Development on S.B. No. 1749-86

The purpose of this bill is to demonstrate Hawaii's commitment to job creation by small business by enacting a tax incentive program to encourage private capital formation for equity investments in local businesses.

The bill allows a person, either individual or corporate, to claim an investment tax credit against the person's full income tax liability until the credit is exhausted, calculated as follows: "...twenty-five percent of the person's cash investment in the taxable year of investment in a certified capital company, if the capital company's initial capitalization at the time of seeking certification or within one year thereafter is at least \$1,000,000."

Your Committee concurs with the stated legislative policy that in order to diversify and stimulate the economy of the State, to attract new jobs, to retain existing jobs, and to retain in the State the financial resources necessary to foster a growth economy, a capital companies tax incentive program is necessary.

Your Committee heard testimony from the Department of Planning and Economic Development in support of this bill which stated that Hawaii needs an incentive program to provide capital investment in local businesses, especially small businesses which lack the access to venture capital.

Presently, the Hawaii income tax law has no provision relating to an investment tax credit. Your Committee finds that the tax credit program under this bill is an important prerequisite to provide incentives for private investment in Hawaii businesses which will substantially improve the business climate for expansion and diversification.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1749-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 155-86 (Majority) Consumer Protection and Commerce on S.B. No. 1494-86

The purpose of this bill is to amend the Hawaii Lease Rent Renegotiation Relief Act of 1975 (Chapter 519, Hawaii Revised Statutes (HRS)) to provide a single formula applicable to all forms of residential leaseholds which will establish an upper limit on renegotiated lease rents that will be predictable, affordable, and fair to all parties.

Your Committee finds, based upon the unrefuted testimony of many witnesses, that the renegotiated lease rent formula in Section 519-2, HRS, permits in some instances increases of 2000 percent or more above the originally agreed upon fixed lease rent. For example, one lessee reported an increase in lease rent from \$180 per year to \$4,226 per year, an increase of 23.78 times or 2278 percent, and there were several more of similar magnitude. Such massive increases would force people who, for example, had paid fixed rent for 30 years and reached retirement age, to sell their homes at a great loss because they could not afford the renegotiated lease rent. The State is faced with thousands of renegotiations in the next few years, and the economic implications of this potential distortion of the housing market are serious. Your Committee finds, therefore, that the present lease rent renegotiation formula for single-family residential leaseholds must be changed to balance the interest of both lessors and lessees, and to preclude extreme turbulence in the housing market.

Your Committee also finds that Chapter 519 now contains two very different formulas for computing renegotiation limits, one in Section 519-2 for single-family residential leaseholds, and one in Section 519-3 for cooperative apartment corporation leaseholds. These formulas produce widely divergent and, therefore, inequitable rents. Since in both cases, the property being leased is land under a residential structure, and since the leases provide the same major benefits for the lessor (rent for the use of the land, and reversion at the end of the lease), there appears to be no basis for two different formulas. Therefore, your Committee finds that a single formula for all forms of residential leaseholds as provided in the bill is both equitable and feasible.

The "Blue Ribbon Panel" convened by your Committee on Housing prior to the 1985 session

found that in the formula contained in Section 519-2, "owner's basis" overstated the lessor's interest in the land, and when multiplied by four percent, produced a lease rent that represented an inordinate return. Their recommendation was to use the original lease rent arrived at in the open market as the basis for a formula which would preserve the return the lessor was willing to accept for the first twenty-five to forty years of the lease, by adjusting it for the inflation that had occurred during the fixed rent period. They selected the change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for Honolulu as the multiplier to accomplish this adjustment. Your Committee concurs in this approach which is adopted in this bill.

The "Panel" also attempted to provide another factor designed to compensate the lessor for any appreciation in the land above and beyond inflation during the fixed rent period. We do not concur with this for two reasons:

1. As pointed out in recent court findings and economic analyses, the large increases in residential land values in Hawaii over the last two decades are not due to any lack of land, but are produced by the oligopolistic control over that market resulting in the fact that residential land in Hawaii costs 1200 percent more than on the mainland, whereas construction costs are only nine percent greater. This increase represents an unreasonable return that in all equity should not be compounded by a huge increase in lease rent. Particularly when, if allowed, this increase would accelerate an upward spiral of residential land prices in Hawaii.
2. In any case, the lessor will receive the benefit of any appreciation, whatever the source, at the end of the lease.

Your Committee finds that, as modified in this draft, the formula for limiting the increase in renegotiated lease rents contained in this bill protects the lessor from the effects of inflation, and the lessee from catastrophic increases in renegotiated lease rent.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1494-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1494-86, S.D. 1, and be referred to the Committee on Housing and Community Development.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 156-86 Economic Development on S.B. No. 1941-86

The purpose of this bill is to authorize the counties to issue special purpose revenue bonds to finance processing enterprises.

Presently, the counties do not have the authority to issue special purpose revenue bonds. This bill would allow the counties to issue special purpose revenue bonds to address the economic concerns in their respective county.

Your Committee received testimony from the Department of Taxation that it had no objections to the tax exemption provided by this measure.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1941-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 157-86 (Majority) Economic Development on S.B. No. 1940-86

The purpose of this bill is to impose on a landowner a one per cent assessment on the increase in value of agricultural land that is rezoned to a higher and more intensive use. The assessments collected shall be for the benefit of state parks.

Testimony received from the Sierra Club, Hawaii Chapter supports this measure as a means to provide funds for state park operations. The Land Use Research Foundation of Hawaii opposes this measure as an additional cost imposed on a landowner as a result of the government rezoning agricultural land.

Your Committee finds that the development of rezoned agricultural properties increases the demand for governmental services and that the increase in property value resulting from the zoning conversion should be utilized to offset the cost of the additional governmental services provided.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1940-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senators Henderson and Soares did not concur.

SCRep. 158-86 Economic Development on S.B. No. 1899-86

The purpose of this bill is to provide \$100,000 for the development of a new water source for the Molokai Irrigation System.

Testimony submitted by the College of Tropical Agriculture and Human Resources, University of Hawaii, supports this measure as necessary to the continuation and future expansion of agricultural activity on Molokai. Your Committee finds that development of the Molokai irrigation system is crucial to the further development of agriculture on Molokai and has therefore amended the bill by increasing the appropriation amount to \$700,000.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1899-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1899-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 159-86 (Majority) Economic Development on S.B. No. 1896-86

The purpose of this bill is to appropriate funds out of the general revenues of the State to Alu Like, Inc. to finance projects in connection with expanding the fishing industry on Molokai.

Your Committee finds that a 1985 study funded by the Economic Development Administration on an economic development strategy for the island of Molokai outlined a program to expand the fishing industry on Molokai through training, construction, and expansion of present fishing facilities.

Your Committee amended section 1, item 3, of the bill by changing the figure "\$7,000" on line 10 to "\$25,000". The purpose of the amendment is to more closely reflect the estimates of the 1985 study. Your Committee also amended section 1 of the bill by changing the figure "\$129,000" on line 2 to "\$147,000", to correct the total sum of the appropriation provided by this bill.

Your Committee is in agreement with the Department of Planning and Economic Development that this bill provides for implementation of a strategy for much needed economic development of Molokai.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1896-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1896-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 160-86 Education on S.C.R. No. 1

The purpose of this concurrent resolution is to request the Legislative Auditor to conduct a financial, management and program audit of the Department of Education.

Hawaii's statewide system of lower education, unique in the nation, by virtue of its wide-ranging effect has historically captured much attention from the public and the Legislature. Perhaps more so than in other states, the public educational system in Hawaii has been the means by which a large majority of the populace has been able to move up the socio-economic ladder. It is not surprising that the interest taken in ensuring that that educational system be the best that it can possibly be has been a very personal and sometimes emotional interest. It is also not surprising, then, that the Legislature, with its responsibility to raise, appropriate, and account for public funds, has a special interest and concern for the resources of that system and a continuing commitment to its improvement.

The Department of Education (DOE) was the subject of a 1973 management audit by the Legislative Auditor. That audit is commonly cited in discussions of DOE's current activities.

But thirteen years have now passed. To maintain that changes within and without the DOE have occurred is a vast understatement. Constitutional, programmatic, organizational and attitudinal changes, among others, have taken place. In the immediate future, half of the seats on the Board of Education will be at issue in the 1986 general election. Moreover, shifts in federal-state relationships, begun in the first term of the Reagan administration, are projected to accelerate. Recently enacted legislation, and especially the Gramm-Rudman-Hollings Act with its provisions for sweeping budget reductions, are likely to affect state policies even beyond the second term. Thus, it would be well-advised to take a critical view of the public school system and determine what economies might be realized and what improvements can be made.

It is in this context, then, that your Committee has heard Senate Concurrent Resolution No. 1. Both the DOE and the Hawaii State Teachers Association support the call for this audit. In addition, DOE has promised full cooperation. The Legislative Auditor has expressed a willingness and readiness to undertake this request.

Your Committee suggests that the audit look not at small and retrospective concerns, but focus upon what changes need to be made to bring about an exemplary school system in the next few years and into the next century. Thus the audit specifications should include the following for examination:

- (1) The availability of equal educational opportunity to students in all parts of the State, in terms of the curriculum and educational experiences offered;
- (2) The fairness of policies affecting students in their school environment and the effectiveness of efforts to create a school environment where creativity is encouraged and learning is enthusiastically pursued;
- (3) The adequacy and appropriateness of policies to attract and maintain a sufficient and competent teacher corps, particularly with the prospects of growing school enrollment and shortages in certain disciplines, and the availability of sufficient inducements for teachers to build satisfying and rewarding careers;
- (4) The adequate use of current technology and the consideration of emerging technology in organization, administration, and instruction;
- (5) The appropriateness of the individual school being the basic management unit in the public school system and how this management concept could give schools greater flexibility and make schools more responsive to the needs of the students and communities that they serve;
- (6) The effectiveness and appropriateness of the Department's state and district organization;
- (7) The effectiveness of the present tri-partite system of governance which has the Legislature making appropriations for the public school system, the Governor controlling preparation of the budget and allocation of funds, and the elected Board of Education being assigned the constitutional responsibility to formulate policy and to exercise control over the public school system through the Superintendent of Education; and
- (8) The extent to which parents and other citizens of the community can participate and contribute in a meaningful way in voicing their concerns and seeking improvements to schools.

Your Committee realizes that its areas of concern are not limited by and to the enumeration above. Many others will come to mind as the audit is planned and implemented. Your Committee trusts that the Legislature, the Legislative Auditor, the Department of Education and all others who might be involved in and be affected by this audit are driven by the single goal of providing the best possible educational program for the benefit of our State's children.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 1 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 161-86

Health on S.B. No. 1503-86

The purpose of this bill is to exempt health care providers from strict liability in cases of medical tort brought on account of an iatrogenic reaction experienced by any person to a chemical, drug, vaccine, medication, or substance given for diagnostic or therapeutic purposes.

Your Committee heard testimony in support of this bill by the Hawaii Medical Association, the Hawaii Federation of Physicians and Dentists, the Hawaii Nurses' Association, and the

Hospital Association of Hawaii, and finds that a health care provider who prescribes a characteristically safe medicine or administers a medically sound treatment in good faith and in a conscientious manner should not be held accountable for an unpredictable or an idiosyncratic reaction.

Your Committee has amended the bill by requiring that the health care provider must have performed the services with reasonable care and obtained informed consent from the patient as conditions precedent to the exemption provided in the bill. Your Committee has further amended the bill by defining "iatrogenic reaction" as "a condition that has resulted from treatment either as an unforeseen or an inevitable side effect."

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1503-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1503-86, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Kawasaki and Matsuura.

SCRep. 162-86 Transportation on S.B. No. 1584-86

The purpose of this bill is to transfer adjudication responsibilities related to parking enforcement so that the counties would receive the revenues generated from parking fines.

A memorandum from the Honolulu Department of Transportation Services show that counties do not receive any of the revenues generated from parking enforcement which limits their ability to effectively enforce parking regulations.

Concern was raised over the transference of adjudication of parking enforcement to the counties as it would not be in conformance with Act 97, SLH 1985.

Your Committee has deleted section 1 on page 1 from lines 1 to 11 which states the purpose of this bill as transferring adjudication responsibilities for parking enforcement to the counties so that the counties would receive the revenues generated from parking fines.

Your Committee has amended Section 2 of the bill by deleting page 1 line 15 to page 2 line 3 and adding the following:

"Section 291C - Reimbursement for enforcement of parking regulations. Fines collected for parking violations shall be deposited into the state general fund. At the end of each fiscal year the counties shall present a request to the director of finance stating the sum of money to be paid to the counties for time spent in enforcing parking regulations. The counties shall be reimbursed for direct personnel time but not for administrative costs. The amount to be reimbursed shall not exceed the amount of fines collected. The director of finance shall have the sole authority to determine the amount reimbursable to the counties."

Your Committee has renumbered Section 2 to be Section 1, Section 3 to be Section 2, and Section 4 to be Section 3.

The purpose of this amended bill is to reimburse the counties for time spent enforcing parking regulations.

Your Committee on Transportation is in accord with the intent and purpose of S. B. No. 1584-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1584-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 163-86 Transportation on S.B. No. 2325-86

The purpose of this bill is to amend Section 243-4, Hawaii Revised Statutes. It is intended to correct legislative oversight, setting the diesel fuel tax at a penny less per gallon than the regular fuel tax.

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 Ways and Means.

Signed by all members of the Committee.

SCRep. 164-86 Transportation on S.B. No. 1565-86

The purpose of this bill is to amend section 265A-1, Hawaii Revised Statutes, pertaining to county highway authority.

Presently, the counties are responsible for administering certain roads, even though the title to some of these roads lies with the State. This situation has created confusion as to whether the State or the county has final legal or financial responsibility for these roads. This bill creates a definition for the term "county highways" and affirms county responsibility for these roads, irrespective of title ownership.

Upon the recommendation of the department of transportation, lines 6 to 18 on page 2 and section 2 of the bill were deleted. These sections would have indemnified the counties from tort liabilities arising from the maintenance of these highways, would have exempted county highways from department of transportation regulations, and would have required the legislature to appropriate out of general revenues for these highways. Your Committee finds that the inclusion of these sections would place undue legal and financial burdens upon the State, even though administrative responsibilities would belong to the counties.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1565-86, as amended herein, and recommends that it pass Second Reading in the form hereto as S.B. 1565-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 165-86

Government Operations on S.B. No. 1864-86

The purpose of this bill is to provide for the State and the counties to share in the fines received from traffic and animal control violations.

Currently, the counties pay in excess of \$15 million annually for police, transportation services and prosecution efforts in the enforcement of traffic and animal control laws. However, no portion of the fines received annually by the State are shared with the counties. Your Committee finds that because county authorities are responsible for much of the cost and work involved in enforcing the law, the county should be appropriately compensated. Your Committee believes that an apportionment of revenues, based on a 50-50 share basis is an equitable distribution of funds between the counties and the State.

Testimony submitted by the City and County of Honolulu and the State Association of Counties supports this measure as a way to defray some of the county's costs related to the enforcement of traffic and animal control laws.

Your Committee has amended the bill by deleting the provision to allow the counties the option to manage district court functions relating to traffic and animal control violations, in order to maintain a unified state court system.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1864-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1864-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 166-86

Government Operations on S.B. No. 2306-86

The purpose of this bill is to provide counties the same exemption and immunity from the antitrust law now applicable to the State.

Chapter 480, Hawaii Revised Statutes, contains antitrust provisions prohibiting unfair competition and deceptive trade practices in the State. The remedies against antitrust violators are injunctive relief, criminal sanctions and treble damages. The purpose of an award of treble damages is punitive for purposes of punishing the violator.

Testimony submitted by the Hawaii State Association of Counties indicates that the Hawaii Supreme Court in Lauer v. YMCA et al held that public policy dictates that a municipal corporation should not be held liable for punitive damages. Further, the 1984 Congress adopted the "Local Government Antitrust Act of 1984" which specifically eliminates an award of treble damages against local governments engaging in antitrust violations.

Your Committee finds that this exemption for the counties should be enacted for the following reasons: county regulatory activities could be construed as illegal under current state

antitrust laws; counties need the flexibility to address public needs; existing federal law still allows injunctive relief against prohibited conduct by the counties; the legislature can specifically limit counties' authority to the extent the State delegates authority to the counties; and constitutional due process and equal protection restrictions provide some protection against abuses of authority by the counties.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 2306-86 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 167-86 Judiciary on S.B. No. 2237-86

The purpose of this bill is to fund the Hawaii Criminal Justice Commission for the production and airing of videotaped programs designed to educate the public about crime prevention and the criminal justice system in Hawaii. The bill also provides for the production and airing of a series of 30-second public service announcements that emphasize crime prevention, personal safety, and protection of property.

Television is the most efficient means of providing the public with a better understanding about crime and crime prevention. In order to reach the greatest number of members of the public, your Committee intends that, in addition to being broadcast over public airwaves, the videotapes be available to the Department of Education and any other interested organization for showing privately or via closed circuit television.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2237-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 168-86 Judiciary on S.B. No. 1840-86

The purpose of this bill is to make profits from the sale of information by a criminal relating to the commission of a crime available to the victim as compensation for the harm suffered as a result of the crime.

Currently, 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 the benefit a convicted person derives from the sale of information relating to the crime should be limited to the purpose of paying the legal expenses of an appeal until the victim's losses resulting from the crime are first compensated.

The bill requires that, upon conviction, the person contracting for the sale of information relating to a crime deposit moneys payable under the contract with the criminal injuries compensation commission. The money will be used to pay money judgments obtained by the victim. A portion of the moneys will be available to pay expenses of prosecuting an appeal and to reimburse the criminal injuries compensation fund for payments to the victim made for the crime committed by the convicted person.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1840-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee

SCRep. 169-86 Housing and Community Development on S.B. No. 1764-86

The purpose of this bill is to authorize the Hawaii Housing Authority (HHA) to issue capital appreciation bonds under the Hula Mae Program.

A capital appreciation bond, which is similar in concept to a savings bond, is purchased at a discounted price and redeemed for its full face value at maturity. During the period between the bond's purchase and redemption, a capital appreciation bond accretes in value. The principal of accretion is important since capital appreciation bonds (1) are considered to bear no interest (they increase in principal value), and (2) have no regular payments of interest. These two technical deviations from the typical characteristics of bonds are addressed 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 in a discounted amount equal to seven to ten percent of the total amount of bonds issued.

The advantage or benefit of capital appreciation bonds to the HHA 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.

Testimony submitted by HHA indicates that Hawaii residents currently investing in capital appreciation must purchase bonds issued by other state housing finance agencies. This means Hawaii is experiencing a loss of investment capital. Also, the HHA is the only housing finance agency, to the authority's knowledge, that is precluded by state statutes from utilizing capital appreciation bonds for purposes such as the Hula Mae Loan Program.

Your Committee finds that this bill is clearly in the public's interest since the State can only benefit from authorizing the HHA to issue capital appreciation bonds to benefit both consumers and investors alike.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 1764-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 170-86 Housing and Community Development 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 ATDC obtains the most favorable rates possible on the bond issues.

Specifically, 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 Committee finds that the Aloha Tower project is an important redevelopment effort which can help revitalize the downtown area, create jobs, improve our maritime facilities, establish a trade center and provide greater accessibility of the Aloha Tower site for Hawaii residents. 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.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 1961-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 171-86 Judiciary on S.B. No. 2276-86

The purpose of this bill is to appropriate \$1000 for a study of the usefulness of alternatives to litigation as methods of dispute resolution in domestic relations matters.

Your Committee is aware and concerned that alternative methods of dispute resolution may be inappropriate in situations involving family violence. Clearly, such alternatives must not be routinely used or recommended without an understanding of their limits and effects on families in which violence has occurred.

Your Committee amended the bill to indicate that any form of family violence and not only spouse abuse raises the issue of whether alternative methods of dispute resolution are advisable.

Your Committee is in accord with the intent and purpose of S.B. No. 2276-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means in the form attached hereto as S.B. 2276-86, S.D. 1.

Signed by all members of the Committee.

SCRep. 172-86 Judiciary on S.B. No. 2241-86

The purpose of this bill is to amend and enlarge the existing statute defining custodial interference in the first degree. The current statute applies only to the taking of one person from another who has a right to custody, and to the removal of a minor person from the state. It does not cover situations in which a minor is unlawfully prevented from returning to the custodial parent, or to the state, after a period of lawful visitation with the other parent.

The bill will improve enforcement of court orders defining custody and visitation rights even when such orders are violated by conduct occurring outside the state. Federal assistance in recovering a minor may be available if the parent's conduct is clearly criminal under state law.

Your Committee on Judiciary agrees with the intent and purpose of S.B. No. 2241-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 173-86 Judiciary on S.B. No. 2486-86

The purpose of this bill is to provide for the appointment of guardians ad litem in family court proceedings. The bill applies when the court concludes that a party requires the assistance of a guardian ad litem.

The bill establishes hourly fees, allows for reasonable expenses to be paid, and includes a maximum fee schedule. Payment of up to twice the statutory maximum is permitted in prolonged and complex matters.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2486-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 174-86 Judiciary on S.B. No. 2318-86

The purpose of this bill is to fund a survey to gather the facts necessary to take legal action against those responsible for the presence of asbestos in state-owned buildings. The survey will locate asbestos in the State's buildings, assess any health hazard to the buildings' occupants, determine the manufacturer of the asbestos by analyzing the material, and estimate the cost of removing it. The office of the attorney general is authorized to shape the survey so that it supplies the information needed to litigate the matter.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2318-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 175-86 (Majority) Judiciary on S.B. No. 2317-86

The purpose of this bill is to fund litigation to recover the immense costs that the State of Hawaii is incurring to remove asbestos from buildings owned by the State.

Clearing state buildings of hazardous asbestos and asbestos containing materials will cost millions of dollars. The bill appropriates \$375,000 to cover litigation expenses for the 1983-1987 fiscal year. The appropriation would cover expenditures related to the preparation of one or more actions for trial.

Your Committee amended the bill to remove language that attempted to specify parties that might be sued or found liable for the presence of asbestos in state buildings. It is inappropriate to express such assumptions prior to investigation.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2317-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2317-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee
Senators George and A. Kobayashi did not concur.

SCRep. 176-86 (Majority) on Judiciary No. 2316-86

The purpose of this bill is to appropriate the sum of \$1,829,781.30 to pay a judgment entered against the state department of education and in favor of the federal Department of Education. The federal government's suit against the State alleged that the State spent federal funds for expenses that should have been met by state revenues, and that the State did not provide the required level of services in some schools.

The State of Hawaii appealed the adverse decision and succeeded in obtaining a reduction in

the amount of the judgment. Any further legal action would not be likely to diminish the amount owed.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2316-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.
Senator Abercrombie did not concur.

SCRep. 177-86 (Majority) Judiciary on S.B. No. 1623-86

The purpose of this bill is to increase the daily stipend paid to members of the board of registration from forty-five to seventy dollars.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1623-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 178-86 Judiciary on S.B. No. 1827-86

The purpose of this bill is to integrate all of the statutory provisions designed to assure children a safe home environment, whether with their natural families or in an adoptive home.

It is currently necessary to initiate separate legal proceedings to undertake permanent planning for the child's welfare and attempt reunification of the family, then to terminate parental rights, and finally to arrange adoption or guardianship. The proposed amendments consolidate the several processes. Should efforts to achieve reunification fail after a child has been removed from an unsafe home, the child can be promptly placed in another setting. As amended, the statute will serve the best interests of the child by eliminating undue delay and avoiding an unsettling series of temporary placements for the child.

The bill adds specificity to the existing statute by providing clear guidelines for making the factual determinations that dictate placement decisions. Service plans are required to respond to every problem and need identified under the guidelines. The effect of a service plan is reviewed six to eighteen months after it is implemented, so that urgent situations can be remedied.

Additional amendments specify the content and due dates for the required written reports; allow a child's electronically recorded statements to be used as evidence in subsequent proceedings; limit additional interviewing of a child after a statement has been recorded; permit criminal history record checks of alleged perpetrators; specify the rights and responsibilities of guardians ad litem; and allow statements made to spouses, physicians, or psychologists concerning harm or threatened harm to a child to be used as evidence.

Your Committee also has amended the bill to make technical changes that do not affect its purpose or effect.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1827-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means in the form attached hereto as S.B. No. 1827-86, S.D. 1.

Signed by all members of the Committee.

SCRep. 179-86 (Majority) Judiciary on S.B. No. 2132-86

The purpose of this bill is to fund a study of the feasibility of an Aloha State Bond, as a method of raising revenue without increasing taxes.

An Aloha State Bond would entitle holders to participate in drawings for cash prizes for as long as they retain the Bonds. The Bonds would be freely transferable, and could also be redeemed.

The interest earned on the accumulated amounts paid for the Bonds would be used as prize money in the drawings. The fund consisting of the money paid to purchase the Bonds could be made available in the form of loans to sponsor projects beneficial to the state, in addition to being spent on appropriate state programs.

Your Committee believes that the Aloha State Bond deserves serious study as an alternative

or complement to a state lottery. A lottery system pays winnings out of the money used to purchase the tickets, not out of interest. Also, the lower price of lottery tickets make them attractive to those who can least afford them.

The Aloha State Bond could appeal strongly to the 4 to 5 million tourists that visit Hawaii each year; it could be designed as a souvenir or gift item. It could attract purchasers who would have little or no interest in buying lottery tickets.

Your Committee has summarized the intent of S.B. No. 2132-86 without changing its purpose or effect.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2132-86, S.D.1, as amended, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator George did not concur.

SCRep. 180-86 Judiciary on S.B. No. 1843-86

The purpose of this bill is to assure that comprehensive assistance in obtaining support is available to all children entitled to support for whom such assistance is requested. The bill substantially increases the effectiveness of the state child support enforcement program by establishing procedures which will bring the State into compliance with federal statutory and regulatory requirements established under the authority of Title IV, part D of the Social Security Act as amended by the Child Support Amendments of 1984 (P.L. 98-378).

The bill creates the state child support enforcement agency and places it within the department of social services and housing. The agency will be administratively located at the division level, thus giving it the "single and separate" character which is required by Title IV, part D of the Social Security Act (P.L. 93-647).

The bill adopts most of the recommendations made by the Governor's Commission on Child Support Enforcement in 1985, including a comprehensive listing of all procedures required of the agency and the state courts by the federal law. Failure to conform to federal standards would risk a reduction in federal Aid to Families with Dependent Children payments to the State.

Your Committee departed from the commission's recommendations by placing the agency in the department of social services and housing rather than in the judiciary because of the potential constitutional objection to its placement in the judiciary. The agency would initiate court proceedings as well as enforce court orders. It was deemed unwise to place the agency in the judiciary and risk violating the constitutional principle of separation of powers.

Your Committee amended the bill by adding the term "obligor" to the definitional section.

Your Committee also amended the bill by authorizing the child support enforcement agency to obtain or enforce child support orders on behalf of foster children who are not eligible for public assistance.

Your Committee further amended the bill so that the family court, rather than the child support enforcement agency, will establish the guidelines for determining the amount of child support when an order for support is being sought or enforced. A committee of the Family Law Section of the Hawaii Bar Association is working in conjunction with the Family Court to revise existing guidelines to conform to the requirements of P.L. 98-378.

Your Committee also amended the bill to reinstate subsection (b) of section 346-37.1, Hawaii Revised Statutes. This subsection is needed to assure that the procedures for obtaining debt payments from delinquent parents meet due process requirements.

Further, your Committee amended the bill by removing from the functions of the agency, the "secondary" responsibility, after that of the obligee, to terminate the assignment of future wages of the obligor parent, when the payment of overdue support has been completed.

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

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1843-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1843-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 181-86

Judiciary on S.B. No. 1933-86

The purpose of this bill is to allow an award of attorney's fees in any civil suit by a small business against a state agency. If a court finds that either the contested agency action or the small businesses' claims are frivolous and wholly without merit, the opposing party is entitled to recover attorney's fees at a specified rate, up to a statutory maximum.

The bill requires a party seeking attorney's fees to establish the expenses incurred in trying the action.

The bill also requires that state agencies include in their annual budget requests the amounts of attorney's fees awarded against them.

Your Committee amended the bill to correct discrepancies in the treatment of small businesses and state agencies. Another amendment removed language that would allow a partial award of fees if a party prevails on only some issues, since no fees are to be awarded except when the relevant action or claim is wholly frivolous.

Your Committee concluded that small businesses deserve special consideration since they are subject to regulations not applicable to individuals, and since no publicly funded legal assistance is available to businesses.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1933-86, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1933-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 182-86

Housing and Community Development 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 for the purpose of financing redevelopment of the Aloha Tower Complex.

Act 121, Session Laws of Hawaii 1985, authorized the Aloha Tower Development Corporation (ATDC) to issue revenue bonds for the public participation portion of the redevelopment project.

Testimony submitted by the Department of Planning and Economic Development indicated that in an effort to address community concerns regarding the adequacy of maritime space allocated at the site, ATDC has amended the redevelopment plans to increase the square footage allotted for maritime facilities. Although this means increased project costs, it was felt that the concerns of the maritime community was an important consideration in light of the maritime significance of the Aloha Tower Complex. The Department also noted that the revenue bonds issued to finance the project will not cost the State money since the bonds will be repaid by the revenues generated by the project itself. Further, the bill provides that no bonds are to be issued, and no site demolition or site development will proceed, until development proposals have been incorporated into firm contractual commitments.

Your Committee finds that this measure is necessary to provide additional moneys for the purpose of meeting community needs as expressed to the Aloha Tower Development Corporation.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 1960-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 183-86

Judiciary on S.B. No. 2193-86

The purpose of this bill is to give the people of the State of Hawaii the power to propose and adopt statutory and constitutional changes through the initiative.

Your Committee finds that initiative provides an alternative procedure to the legislative process. Initiative permits direct democracy, substituting the decisions of individual voters for that of elected representatives. It is a useful method for citizens to express their views about civic affairs and community problems.

Your Committee heard testimony from numerous individuals and organizations. Everyone had

concerns about specific elements of the proposal, but it appeared that there was general support for the measure if their major concerns were accommodated.

The bill precludes use of the initiative in the areas of appropriations and taxation. Once an initiative measure qualifies for the ballot the legislature is responsible for publicizing it. The legislature can also adopt the measure as a law, or submit to the voters a competing measure. The Supreme Court decides if a measure adopted by the legislature is equivalent to the measure proposed through the initiative process. If the two measures are not alike in purpose and effect, both are submitted to the voters.

Your Committee amended the bill to preclude the use of the initiative in matters pertaining to collective bargaining, and to permit veto of statutes adopted through or relating to the initiative.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2193-86 and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2193-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 184-86 (Majority) Judiciary on S.B. No. 499

The purpose of this bill to permit parimutuel wagering at an off-track wagering facility where races are viewed by way of telecast as they occur in other states or countries where such races are legalized.

Currently Hawaii is one of three states in the United States where there are no legal forms of gambling. This bill allows parimutuel betting on horse and dog races held elsewhere without having to bring live animals to Hawaii since modern technology can transmit the broadcast literally at the speed of light via satellite.

The bill establishes the Hawaii gaming commission under the department of commerce and consumer affairs for administrative purposes. This commission shall promulgate rules pursuant to chapter 91, Hawaii Revised Statutes, and shall select a single licensee for the conducting of parimutuel wagering at an off-track wagering facility. Included in the powers of the commission is the power to subpoena records, documents, and witnesses for the purpose of administering off-track wagering.

Establishment of an off-track wagering facility in any county for the purpose of receiving moneys on the results of races is subject to the approval of the legislative body of the county. In return, the county receives one-half percent and the state general fund receives seven and one-half percent from the total moneys wagered. Additionally, the licensee is entitled to deduct up to ten percent of all moneys wagered at the off-track wagering facility with equal shares retained by the licensee and deposited to the state general fund. All other moneys wagered are distributed according to formulas established by the commission to holders of winning parimutuel tickets.

The commission is provided with stringent guidelines to follow concerning the issuance of a license to conduct an off-track wagering facility and the exclusion of certain people from the facility.

Persons participating in off-track parimutuel wagering are specifically exempt from prosecution under criminal statutes governing gambling.

Major concerns regarding legalized parimutuel wagering were raised at the hearing on this matter; however, the public was highly unrepresented in light of the polls cited in testimony stating that almost 60% of the public favored legalized parimutuel wagering. The public should be allowed time to formulate, justify and present their opinions on this matter. Legalized parimutuel wagering represents substantial sources of additional revenues for the State of Hawaii as well as a means to reducing illegal bookmaking and betting. Your Committee is moving this bill on to your Committee on Ways and Means in hopes that public opinion is not foreclosed on the matter due to the constraints of the legislative process.

Your Committee amended the bill in section -10 to provide dollar amounts for a performance bond in the amount of \$25,000 and for a refundable license fee of \$500.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 499, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 499, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.
Senators Abercrombie, George and Young did not concur.

SCRep. 185-86 (Majority) Judiciary on S.B. No. 2474-86

The purpose of this bill is to establish a new format for pursuing allegations and incidents of child sexual abuse. The bill funds a children's advocacy program and describes its functions and methods.

Your Committee has amended the bill so that the program will be located within the Department of Social Services and Housing rather than the Judiciary. The Committee reasoned that the new location would suit the functions of the Center and would not jeopardize the separation of powers by broadening the Judiciary's activities. A related amendment authorizes the Director of the Department of Social Services and Housing, rather than the State's chief justice, to appoint the Center's director.

Your Committee has also amended the Act to reduce the cost of the program by removing the requirement that the Center house medical facilities and reducing to one the number of centers to be established initially. Another amendment eliminates a subsection providing for videotaping of interviews with child victims of sexual abuse. It is unclear that videotapes of children taken soon after incidents of sexual abuse would be reliable, or that tapes of children can be judged by the standards that would be applied to adults. Your Committee concluded that videotaping would not be necessary or desirable in most cases and should not be used routinely.

Another amendment deletes a section creating an offender diversion program. Making the Center responsible for treating offenders would unduly broaden its purpose.

Other technical and grammatical changes were made to clarify the bill; they do not alter its purpose.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2474-86, as amended, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2474-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Abercrombie did not concur.

SCRep. 186-86 Judiciary on S.B. No. 1651-86

The purpose of this bill is to appropriate an unspecified total amount to satisfy claims for legislative relief, judgments against the State, settlements, and miscellaneous claims.

The bill initially listed 34 claims for payment and appropriated \$2,191,308.21 to satisfy them. It also requires payment by warrants issued by the comptroller upon vouchers approved by the director of taxation for tax claims and by the attorney general for all other claims. The period for accrual of interest on the claims is also limited.

Your Committee amended the bill to include nine additional judgments and settlements submitted late by the office of the attorney general. The late submission adds \$499,771.67 to the amount of the appropriation, bringing the specified total to \$2,691,079.88.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1651-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1651-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cayetano, Kawasaki and Toguchi.

SCRep. 187-86 Judiciary on S.B. No. 2071-86

The purpose of this bill is to expedite, and enhance the reliability of, civil identification by the office of the attorney general. The bill funds travel to neighbor islands by the staff of the department of the attorney general. Currently, neighbor island residents must travel to Oahu to furnish the necessary information and some identification cards must be issued by mail. Further, the existing statute does not specifically authorize the department to require that applicants provide supporting documentation. The bill corrects these deficiencies.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2071-86, as amended, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2071-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 188-86 Judiciary on S.B. No. 2263-86

The purpose of this bill is to establish the victim-witness assistance program in the department of the attorney general.

Currently, the victim-witness assistance program operates in association with the prosecuting attorney's office in each of the four counties. Your Committee intends to ensure the continued availability of the program's services to the victims of and witnesses to crime in this State by permanently establishing the program under the department of the attorney general. Bringing the victim-witness assistance program within the purview of the department of the attorney general facilitates coordination of statewide funding efforts and allows for uniformity of policies and procedures.

The department of the attorney general is responsible for developing program policy and allocating appropriated funds to the counties for the program. The county prosecutors shall continue to implement the program.

The victim-witness assistance program is not authorized to make rules or adjudicate cases and thus is not an agency subject to the provisions of Chapter 91.

Your Committee has made nonsubstantive amendments to the bill for clarity and conformance to recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2263-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2263-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 189-86 Government Operations on S.B. No. 2156-86

The purpose of this bill is to provide moneys to the counties for road repair and maintenance.

Currently, the State of Hawaii expects to receive \$14,000,000 as a result of a court decision against Exxon Corporation related to overcharges for crude oil. This bill proposes to allow these funds to be used by the counties for road repairs and maintenance.

Testimony received from the Department of Transportation indicates that before these funds may be given to the counties, the Federal Department of Energy should be consulted to determine if there are any federal restrictions delineating the purposes for which these funds may be used.

Your Committee finds that there is a desperate need for road repairs and maintenance and respectfully requests that the Committee on Ways and Means seek a determination as to whether or not the funds may be utilized as provided for in this bill.

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

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 2156-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2156-86, S.D. 1, and referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Hee, George and Soares.

SCRep. 190-86 Government Operations on S.B. No. 2330-86

The purpose of this bill is to expand the definition of "purchase of service."

Presently, purchase of service means an appropriation of public funds for the provision of services by an organization to specific members of the general public to fulfill a public purpose. This has resulted in the Department of Planning and Economic Development being advised by its Deputy Attorney General that its contract with the Hawaii Visitor's Bureau does not fall within the definition of a purchase of services. Specifically, the DPED/HVB contract is construed to be for the purpose of enabling the DPED to meet its statutory duty, i.e., provide a service to DPED rather than specific members of the general public.

This bill would expand the definition of purchase of services so that the DPED/HVB contract

would fall within the definition of purchase of services.

Your Committee finds that this bill will allow state agencies to continue to provide effective and efficient service by validating current practices.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 2330-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Hee and Soares.

SCRep. 191-86 Judiciary on S.B. No. 1606-86

The purpose of this bill is to increase the daily stipend paid to jurors from twenty to thirty dollars a day. The bill reduces the sacrifice asked of those who serve on juries, and may encourage such service.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1606-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 192-86 (Joint) Transportation and Economic Development on S.B. No. 2449-86

The purpose of this bill is to encourage the marketing of ports in the State of Hawaii.

The department of transportation recommended the sum of \$200,000 for promotional costs, market research costs, and salary and fringe benefit costs for one exempt position. Position responsibilities entail initiating and coordinating the promotion of Hawaii's harbors, conducting market research, and amending the commercial harbor rules and tariffs.

The Maritime Affairs Committee of the Chamber of Commerce testified in favor of the bill. It pointed out that Hawaii has the potential for becoming a major center of maritime commerce. It was noted that there was a consensus among users of Hawaii's commercial harbors about the need to market Hawaii's harbors.

TheoDavies Maritime Agencies testified in favor of the bill. It noted that its successful effort at international, multi-lingual marketing points to the need for a more elaborate attempt to promote Hawaii's harbors.

There was concern that the Gramm-Rudman Act would affect funding if it came out of the State general fund. Funding from harbor special fund was recommended as it would provide a more stable source of funding. Therefore, the bill was amended in the following:

On page 2, lines 3-4: Source of funding has been changed from general revenues to the harbor special fund.

On page 2, line 4: The amount of appropriation was set at \$200,000.

Your Committee also made a technical and non-substantive change.

Your Committees on Transportation and Economic Development are in accord with the intent and purpose of S.B. 2449-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2449-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees.

SCRep. 193-86 Human Services on S.B. No. 1718-86

The purpose of this bill is to appropriate funds out of the general revenues of the State for the purpose of compensating four hundred and three victims and providers of services under the Criminal Injuries Compensation Act, Chapter 351, Hawaii Revised Statutes (HRS). The funds appropriated shall be deposited in the Criminal Injuries Compensation Fund, to be used for payments as authorized by the Criminal Injuries Compensation Commission for the purposes of this bill. Applicants under Chapter 351, HRS, are compensated for out-of-pocket medical costs, loss of earning power, funeral and burial expenses, and pain and suffering.

Your Committee on Human Services 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

Ways and Means.

Signed by all members of the Committee.

SCRep. 194-86 Human Services on S.B. No. 1849-86

The purpose of this bill is to establish statutory authority and appropriate funds out of the general revenues of the State for a child abuse and neglect prevention grant program, to take advantage of the federal funds available to the State through the Child Abuse Prevention Federal Challenge Grant (Public Laws 98-473 and 99-98) which provides \$1 for every \$3 appropriated by states for child abuse prevention programs such as the one proposed by this bill.

Your Committee finds that because of the existence of a program of Federal appropriations to match State expenditures, this bill will enable the State to utilize Federal funds that are otherwise unavailable. Further, because of the one year time limitation on funding proposed by this bill, there will be an opportunity for full review of the proposed programs during the regular 1987 legislative session.

Your Committee is in agreement with the Departments of Health and Social Services and Housing, and with concerned community organizations, that there is a need to reduce the incidence of child abuse and neglect in Hawaii, through innovative prevention programs and projects.

Your Committee amended Section 4 of the bill for purposes of clarity, to specify that in addition to any fee assessed by the Department of Health, a \$10 surcharge shall be collected for applications for marriage licenses, not for certified copies.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1849-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1849-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 195-86 Human Services on S.B. No. 2479-86

The purpose of this bill is to provide for an income tax credit to individual and corporate resident taxpayers for long term care insurance premiums.

Your Committee finds that long term intermediate or skilled nursing care costs constitute a large portion of Medicaid payments; the Department of Social Services and Housing testimony indicates that nearly forty-one percent of State Medicaid expenditures in fiscal year 1985 were for long term care needs.

Your Committee is in agreement that it is in the public interest to encourage the development and use of long term care insurance. The income tax credit as provided by this bill is intended to encourage persons to purchase insurance to cover long term care costs, as a way of easing the burden on the Medicaid system and on taxpayers as well. The Hospital Association of Hawaii reports that if only five percent of all individuals who take out such policies actually use this coverage to defray the costs of long term care and remain independent of the Medicaid program, the revenue loss to the state in income tax revenue (based on twice the annual premiums) would be offset by cost savings to the Medicaid program.

Your Committee amended the bill by changing "1995" on line 4, page 2, to "1988." The purpose of the amendment is to limit the effective date of the tax credit to three years, to allow for better legislative review.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 2479-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2479-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 196-86 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.

Your Committee finds that Public Law 99-198, which takes effect on October 1, 1986, bars participation in the food stamp program to states in which the Secretary of Agriculture

determines that state or local sales taxes are collected on food stamp purchases. Although Hawaii does not have a sales tax per se, the general excise tax may be passed on to the consumer, and thus may be construed to be a "sales tax". The Department of Social Services and Housing is awaiting an official response on whether Hawaii's excise tax is a "sales tax". For this reason, a proviso has been included in the amendment to Section 237-24, Hawaii Revised Statutes, to exempt food stamp purchases only if the Secretary of Agriculture determines that Hawaii's general excise tax is a "sales tax" that disqualifies the State from participating in the federal food stamp program.

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

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 2322-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2322-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 197-86 Consumer Protection and Commerce on S.B. No. 2431-86

The purpose of this bill was to provide funding for various access programming on cable television systems.

The bill as introduced would statutorily provide for an annual fee of five percent of gross revenues of each cable operator in the State to be deposited into a new cable television special fund. Expenditures from the fund would be made in equal amounts for expenses incurred by the Department of Commerce and Consumer Affairs in administering the fund, and for government, educational, county, and community television programming.

Presently the amount of the annual fees assessed to cable operators is determined by the Department.

The Department of Commerce and Consumer Affairs supported the general concept of the bill, but objected to the proposed imposition of a statutory five percent annual fee based on gross revenues derived from the provision of cable services. It also objected to the lack of flexibility allowed the Department in disbursing the funds to accomplish the purposes of the measure. The Hawaii Cable Television Association testified in opposition to the bill because it would increase their franchise costs considerably.

After considering all the testimony, your Committee agrees with the need for public, educational, and government television programming, but finds that the Director should have the discretion to set the fees which generate the funds for those purposes. Therefore, your Committee has amended the bill by deleting the substance and substituting therefor provisions which would clarify and expand the definitions relating to the cable television industry and provide for an annual fee for cable operators of from two to five percent, to be determined by the Director, which may be used to support public, educational, and government access programming. Your Committee believes that these amendments would serve to address the concerns of the Department and the Hawaii Cable Television Association and satisfy your Committee's concern that public, educational, and government television programming should be provided to consumers throughout the State.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2431-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2431-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cayetano, Chang, Kawasaki, and Young.

SCRep. 198-86 Consumer Protection and Commerce on S.B. No. 1970-86

The purpose of this bill is to establish a new chapter on dental torts, which includes establishing reasonable standards of practice for all types of treatment, and establishing a dental claims conciliation panel to review and attempt to resolve claims before litigation is instituted in the courts.

Your Committee received favorable testimony from the Hawaii Dental Association, the Hawaii Federation of Physicians, and the Judiciary on the need for guidelines concerning professional negligence and informed consent practices. A review process would enable the Department of Commerce and Consumer Affairs to be aware of dental malpractice problems that occur.

The Director of the Department of Commerce and Consumer Affairs, after testifying with reservations, expressed no reservations on the intent of the bill but had a concern that adding a dental claim conciliation panel to the responsibilities of the individual currently managing the medical claims conciliation panel and design professional conciliation panel would overburden the individual and defeat the purpose of the panels. The Director further testified that the staffing required to implement the provisions of this bill would require an appropriation of \$40,000 to \$50,000.

Your Committee, upon consideration of the concerns of the Department, supports the intent of this bill with the understanding that the Department of Commerce and Consumer Affairs would need funding to implement the provisions of this bill. Your Committee on Consumer Protection and Commerce respectfully requests the Committee on Ways and Means to consider appropriating funds for this bill. This would relieve any imposition this bill would cause on the Department of Commerce and Consumer Affairs upon implementation of this bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1970-86 and recommends that it pass Second Reading and be referred to the Committees on Judiciary and Ways and Means.

Signed by all members of the Committee except Senators Cayetano, Chang, Kawasaki, Young and Henderson.

SCRep. 199-86 Human Services on S.B. No. 2485-86

The purpose of this bill is to encourage handicapped persons to become owners or sole proprietors of their own businesses by increasing the entrepreneurial and employment opportunities available to said persons.

Under current State laws, there exist provisions for preferred treatment of businesses that employ handicapped persons. Your Committee finds that there is a need to similarly encourage and support the development of handicapped persons as owners or sole proprietors of their own businesses.

For the purposes of clarity your Committee amended the bill by deleting Sections 2, 3 and 4 in their entirety, thus eliminating references to existing statutes, and adding a new section, to be appropriately designated, to Chapter 103, Hawaii Revised Statutes.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 2485-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2485-86, S.D. 1, and be referred to the Committee on Government Operations.

Signed by all members of the Committee.

SCRep. 200-86 Human Services on S.B. No. 2483-86

The purpose of this bill is to provide for the establishment of paternity and child support in cases where a certificate of birth is filed without the name of the father of the child, and to allow an indigent parent to provide services in lieu of financial child support.

Your Committee received testimony from the Department of Social Services and Housing, and finds that there already exists a mechanism for the establishment of paternity by the Department and has therefore deleted entirely Sections 1 and 2 of the bill as introduced and appropriately renumbered the remaining sections.

Your Committee heard testimony from the Family Court of the First Circuit and finds that there may be situations where services would not be in the best interests of the child, such as when the indigent parent is physically unable to provide services or where there may be evidence of family violence.

Your Committee has therefore further amended this bill by adopting the recommendations of the Family Court by changing the language of the new statutory material in Section 3, page 3, lines 5 to 11, and in Section 5, page 5, lines 13 to 20, by deleting the mandatory imposition of services in kind and providing for the discretionary application by the Court.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 2483-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2483-86, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 201-86 Consumer Protection and Commerce on S.B. No. 2272-86

The purpose of this bill is to amend Chapter 671, Hawaii Revised Statutes, to provide that a claimant shall be entitled to obtain a judicial determination of claims found to be invalid by the Medical Claims Conciliation Panel or to seek from a court of law a larger amount than was awarded by the panel. If, however a claimant subsequently litigates the claimant's claim, then when no right of appeal remains and the claimant has failed to obtain an award significantly better than the amount awarded by the panel, the claimant shall pay the court costs and fees, including reasonable attorney's fees, incurred by the opposing party.

At present, Medical Claims Conciliation Panel defendants must often bear substantial legal and other costs in cases pursued by claimants beyond the panel level despite unfavorable rulings. Under the provisions of this bill, all legal costs and fees would be the responsibility of the claimant should the claimant fail to obtain an award significantly better than the award of the panel. Your Committee believes that this bill would aid in reducing the number of unfounded medical malpractice suits.

Testimony was heard in favor of this bill from the Hospital Association of Hawaii, Hawaii Medical Association, and the Hawaii Federation of Physicians and Dentists.

Your Committee has amended the bill by clarifying what is meant by "significantly better" to provide that in deciding if the court's decision is better than that of the panel, a judge shall consider whether the claimant has improved the award by twenty percent or more.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2272-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2272-86, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Cayetano, Chang, Kawasaki and Young.

SCRep. 202-86 Human Services on S.B. No. 2478-86

The purpose of this bill is to provide discretionary emergency assistance to prevent child abuse and neglect in a family, or to prevent the removal of a child from the child's family in an emergency situation which may result in child abuse or neglect.

Your Committee finds that there are numerous situations in which the provision of short term or one time only emergency assistance would prevent incidents of child abuse or neglect. For example, the family with a single parent with no food or money can often result in the removal of children from the home. Statistics show that poverty is one of the outstanding characteristics of those families in which child abuse or neglect has occurred. Emergency assistance would prevent the removal of children who become victims of abuse or neglect because of the family situation.

Your Committee is in agreement with the Department of Social Services and Housing that the real public benefit of emergency assistance as provided by this bill is in the prevention of child abuse and neglect, and in cost efficiency. When emergency assistance is available and children do not have to be removed from the home, costs of having a social worker involved, police involvement, court involvement, physical examinations of the children and shelter home placement are eliminated.

Your Committee adopted the recommendations of the Department of Social Services and Housing by amending the bill for the purposes of clarity, by specifying that eligible recipients of emergency assistance must have no other available financial resources and by deleting the reference specifying heads of households as recipients of emergency assistance.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 2478-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2478-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 203-86 Human Services on S.B. No. 2480-86

The purpose of this bill is to provide persons currently receiving or applying for public

assistance, or welfare, with the opportunity to obtain employment through employment training and supportive services with the ultimate goal of assisting those persons to become financially independent of welfare.

Persons receiving or applying for public assistance, who are eligible for registration in employment training programs, are recognized as "individuals in special need" of employment training, as described in section 2 of the federal Job Training Partnership Act (29 U.S.C., section 1501). Your Committee finds that these persons are in the labor force, actively seeking employment, but need special assistance in becoming gainfully employed.

To encourage participation and enthusiasm in employment training programs, the Welfare Independence Initiative Act (WIIA) program as proposed by this bill provides for participants to be able to make some choices, based on their own preferences, as to what forms of training services they are enrolled in. The components of this WIIA program are an expansion of an already successful program with a seventy-eight per cent success rate in Hawaii and a sixty per cent success rate in California, according to testimony from the City and County of Honolulu Office of Human Resources.

There is an already well recognized need in the community for programs to reduce the burden of welfare on the State budget, through programs designed to assist welfare recipients in changing their way of life from welfare dependent to independent. The Welfare Independence Initiative Act as proposed by this bill seeks to address this need.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 2480-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 204-86 Consumer Protection and Commerce on S.B. No. 364

The purpose of this bill was to define the practice of respiratory care, create a board of respiratory care, provide for the licensure of respiratory care practitioners, and define penalties to be imposed on those persons practicing without a license.

Your Committee finds that the regulation of respiratory therapists is necessary to protect the health, safety, and welfare of the public. Your Committee concurs with the Legislative Auditor, in Report 86-10, that there is a potential for harm in the practice of respiratory therapy, as the improper use of respiratory equipment can endanger a patient's health and safety, and certain respiratory care procedures can lead to cardiac arrest.

Furthermore, your Committee heard testimony from the Hawaii Society for Respiratory Care disputing the findings of the Legislative Auditor that the potential of harm to consumers is remote because respiratory therapists work under direct medical supervision. The Hawaii Society for Respiratory Care testified that although it is true that respiratory care practitioners are responsible for delivering care and services as specified in written or oral orders given by a physician, these services are often not performed in the physician's immediate presence.

Your Committee agrees with the Legislative Auditor that the certification program for respiratory therapy practitioners by the National Board for Respiratory Care (NBRC) provides an adequate indicator of minimal competence, but is concerned because the certification examination is voluntary. Conceivably, an individual may be allowed to perform as a respiratory therapist without taking the NBRC certification examination.

Although your Committee is not convinced of the need to establish a separate board for respiratory therapists, your Committee believes that there is a need to ensure the minimal competence of the individual providing respiratory care services and that NBRC certification should be made mandatory in order to perform as a respiratory therapist.

Accordingly, your Committee has amended the bill to:

- (a) place the regulation of the practice of respiratory therapy under the board of medical examiners for administrative purposes;
- (b) require that the practice of respiratory therapy by any individual shall be subject to certification and recertification;
- (c) require that certification and recertification applicants hold a certificate from the NBRC as a certified respiratory therapy technician and meet other standards, which shall be set by

the board of medical examiners;

(d) require that certification applicants take an examination every three to five years and provide the board with proof of having passed the examination;

(e) require the board of medical examiners to provide for standard certification application forms, renewal procedures, fees, and administrative sanctions;

(f) authorize the board of medical examiners to establish an advisory committee of practicing respiratory therapy technicians to assist the board in the performance of duties pertinent to the regulation of the practice of respiratory therapy;

(g) authorize the board to adopt rules necessary to implement this bill; and

(h) provide for an effective date of January 1, 1987.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 364, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 364, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cayetano, Chang, Kawasaki and Young.

SCRep. 205-86 Human Services on S.B. No. 2341-86

The purpose of this bill is to increase the State's medical assistance eligibility standard by five per cent, to hinge subsequent adjustments to the State cost of living index, and to increase the allowable asset retention level for medical assistance applications under Chapter 346, Hawaii Revised Statutes.

Your Committee adopted the recommended amendments of the Department of Social Services and Housing by amending Section 1, page 1, of the bill by substituting "adjusted" for "increased" on line 7; by adding "or decrease" after "increase" on line 8; and by adding language to allow State adjustments to be made at the same time as federal supplemental security income adjustments, on line 9.

The purpose of the amendments to the bill is to allow decreases as well as increases in adjustments to the eligible monthly income of Medicaid applicants, based on the State cost of living index.

Your Committee also made technical, non-substantive changes.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 2341-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2341-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 206-86 Human Services on S.B. No. 2489-86

The purpose of this bill is to provide for the Department of Social Services and Housing as being responsible for the coordination and delivery of prevention and treatment services in the area of child abuse and neglect.

Your Committee recognizes the need for better coordination of child abuse and neglect programs to increase the effectiveness and impact of such programs. It is not the intent of your Committee to bar other agencies and organizations in the community from providing necessary and valuable services in the area of child abuse and neglect prevention, but rather to achieve greater integration and coordination of services for abused and neglected children.

Your Committee adopted numerous recommendations of the Department of Social Services and Housing, by amending the bill for the purposes of clarity and uniformity. Amendments were made to clarify the role and responsibilities of the Department as the coordinating agency in the area of child abuse and neglect prevention and treatment programs.

The bill was further amended to delete the appropriation provided in Section 5 of the bill as introduced.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No.

2489-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2489-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 207-86 Human Services on S.B. No. 2497-86

The purpose of this bill is to appropriate funds for Medicaid reimbursement to physicians for early periodic screening and preventive health care for children in Hawaii.

The intent of the Medicaid Early Periodic Screening, Diagnosis and Treatment Program is to identify children from birth to twenty-one years of age with physical and mental defects and chronic conditions, and to provide treatment to correct or ameliorate the conditions found.

Your Committee is in agreement with the Department of Health that preventive health care of children with conditions that may lead to chronicity is cost effective, as well as beneficial to the children involved. It is the intent of your Committee to increase participation in and support for the Medicaid Early Periodic Screening, Diagnosis and Treatment Program, for the children of Hawaii.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 2497-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 208-86 Human Services on S.B. No. 2500-86

The purpose of this bill is to provide on-going support for the State Coordinating Council on Deafness, including staff positions, and to establish a State interpreter coordination program through the Council.

The State Coordinating Council on Deafness was established by House Resolution 194-80 in December, 1980, for the improvement of services to the hearing impaired and deaf community. The Council currently operates without funds or staff.

Your Committee is in agreement that staffing for the Council and authority to coordinate State interpreter programs, as provided by this bill, will reduce fragmentation of interpreter services and provide a better coordinated approach to the needs of the hearing impaired and deaf community.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 2500-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 209-86 Housing and Community Development on S.B. No. 2190-86

The purpose of this bill is to add a new part to chapter 356, Hawaii Revised Statutes, to permit the Hawaii Housing Authority (HHA) to establish a taxable mortgage securities program.

The State's Hula Mae Program, established in 1979, has successfully assisted approximately 4,000 Hawaii families to purchase homes.

The U.S. House of Representatives recently passed a tax reform measure which will severely restrict tax-exempt bond programs. The Federal legislation currently is before the U.S. Senate for consideration and Senate action is expected later this year. During the interim, however, all tax-exempt bond programs are restricted by the provisions of the U.S. House bill. Further, the HHA testified indications are the U.S. Senate also will curtail tax-exempt bond programs and the future of Hawaii's Hula Mae Program is in question. The Authority advises the State to seek alternatives to ensure uninterrupted availability of below-market interest rate mortgages to Hawaii residents.

The bill, which authorizes the HHA to issue taxable bonds for the Hula Mae Program, would be used in the event tax-exempt bonds programs, for all practical purposes, are made non-existent. In order for the Authority to offer mortgages with below-market interest rates, the State will have to subsidize taxable bond issues with future appropriations or with funds created through previous Hula Mae bond issues.

The bill would further permit the HHA to use taxable bonds for a Collateralized Mortgage Obligation (CMO) Program. CMO's are a vehicle by which the State can purchase pools of mortgages from lending institutions and use the spread in interest rates as a means to generate money for use in future mortgage rate subsidies.

Your Committee finds that the State's Hula Mae Program has been a valuable, effective tool in assisting Hawaii families to obtain homeownership and should be supported to ensure continued Program benefits for Hawaii residents.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 2190-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 210-86 Agriculture on S.B. No. 2213-86

The purpose of this bill is to appropriate funds to assist the Hawaii Leadership Foundation to implement programs to develop agricultural leaders in Hawaii.

The goals of the Hawaii Agriculture Leadership Foundation (HALF) are to 1) increase participation in public affairs by young men and women from rural areas who show potential for leadership, 2) improve problem solving and leadership skills of farmers and persons residing in rural areas, and 3) expand extension programming at Land Grant universities, such as the University of Hawaii, in public affairs, education, and rural development.

During the four years this program has been active, participants have been involved in an intense two-year series of leadership seminars. The information and experiences from the seminars center around human relations, communication, economics, fiscal and monetary policies, government and political process, social/cultural understanding, environmental concerns, taxes, trade, and other issues having an impact to agriculture. Your Committee finds that these skills build effective leaders, spokespeople, and policymakers.

Your Committee received testimony from the Governor's Agriculture Coordinating Committee, the College of Tropical Agriculture and Human Resources of the University of Hawaii at Manoa, the Hawaii Agriculture Leadership Foundation, and former students of the program in support of this bill.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2213-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Henderson.

SCRep. 211-86 Agriculture on S.B. No. 2144-86

The purpose of this bill is to appropriate funds for the fiscal year 1986-1987 for the support of statewide agricultural activities, the sums appropriated to be expended by the Governor's Agriculture Coordinating Committee.

Your Committee received favorable testimony from the Governor's Agriculture Coordinating Committee, the College of Tropical Agriculture and Human Resources of the University of Hawaii at Manoa and other agencies who would utilize these appropriations. Your Committee finds that the appropriations are designed to meet a variety of objectives for the promotion of the diversified agricultural industry in Hawaii.

Your Committee has amended the bill by:

- 1) Amending item #4 to read: "For research on anthurium bleach and anthurium blight, including but not limited to, the mechanisms of transmission, chemical control measures, and development of resistant varieties." Anthurium bleach and blight are two areas of major concern to the anthurium industry. Research in these areas would be a positive aspect in cultivating high quality flowers;
- 2) Amending item #7 to read: "For repair of cattle chute at Kawaihae Harbor, Hawaii." This amendment is to clarify the language;
- 3) Adding item #8 for repair and to fully line Puu Pulehu Reservoir, Waimea, Hawaii. Currently the reservoir is leaking approximately two million gallons a day. Compounded with the water shortage in Hawaii, this poses a major water problem. The estimated cost

for a fully lined reservoir is \$1,650,000;

- 4) Adding item #9 for repair of the support structure of Keanae Flume, Keanae, Maui. Presently this irrigation system is damaged and its support structure is in need of repairs. The estimated cost for repair is \$20,000; and
- 5) Making a technical amendment which has no substantive effect.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 2144-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2144-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Henderson.

SCRep. 212-86 Agriculture on S.B. No. 1729-86

The purpose of this bill is to appropriate funds for the promotion of anthurium in the export market, provided that the anthurium industry provides a dollar for dollar match of funds.

Your Committee finds that for a number of years, seventy-five percent of the flowers marketed have been sold on the mainland or in foreign countries. However, in recent years, the ratio of mainland to foreign exports has changed.

In 1981, 528,000 dozen anthuriums were shipped to the U.S. Mainland market and 1,254,000 dozen exported to the foreign market. In 1982, 647,000 dozen were shipped to the U.S. Mainland market and 1,097,000 dozen exported to the foreign market.

In order for the industry to cope with the shifting of the market place and to increase the consumption of flowers on the U.S. Mainland, a continuous product promotion program needs to be implemented.

Further, your Committee finds that the State must develop expanding markets for the high quality products which "sell Hawaii". Your Committee received favorable testimony from the Dean of the University of Hawaii College of Tropical Agriculture and Human Resources stating it is these high quality products which can fill a specialized niche in the market that can increase the contribution of agriculture to the State's economy. In the flower industry, the anthurium is a high quality product that sells Hawaii. The Dean further testified that the State must find and expand into the niche in the flower industry in which the anthurium can generate maximum returns.

Your Committee also received testimony from the Board of Agriculture and the Hawaii Farm Bureau Federation supporting this bill.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1729-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Henderson.

SCRep. 213-86 Agriculture on S.B. No. 1626-86

The purpose of this bill is to appropriate funds for financial assistance to Molokai cattle ranchers.

Your Committee received testimony from the Board of Agriculture supporting the intent of this bill. The Board is sympathetic to the apparent hardships the ranchers face in light of the Board's efforts to eradicate bovine tuberculosis.

Your Committee notes that the Board is conducting public hearings to identify the exact needs of the ranchers in order to determine the dollar amount of the funds necessary to assist these cattle ranchers.

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

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1626-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1626-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Henderson.

SCRep. 214-86 Labor and Employment on S.B. No. 1724-86

The purpose of this bill is to provide for a study to recommend the proper direction for the State to go in developing a plan which ties together and coordinates statewide employment, human resource, and economic development policies and activities.

The bill would provide an appropriation to the Advisory Commission on Employment and Human Resources to study how best to (1) relate human resource development programs to economic development policies; (2) bring coordination and unified direction to various federal, state, county, and private job training and vocational education programs; (3) develop a coordinated and efficient resources allocation mechanism for federal and state job training and vocational education resources; and (4) carry out innovative forms of human resource development programming that are not currently being done by existing programs.

Your Committee received testimony in support of this bill from the Department of Labor and Industrial Relations, the Director of Planning and Economic Development, the Commission on Employment and Human Services, and the Chief Economist of First Hawaiian Bank, and finds that this bill will contribute to the furtherance of declared public goals in terms of human resource and economic development in the State, and is therefore in the public interest.

Your Committee has amended the bill by providing that the Commission on Employment and Human Resources shall work with an ad hoc task force comprised of representatives from government, education, labor, and business to develop and carry out the study, and deleting the provision which recommends that the Commission determine whether there is a need for a single agency to oversee all employment and training activities throughout the State and determine allocation of resources therefor.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 1724-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1724-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 215-86 Labor and Employment on S.B. No. 2046-86

The purpose of this bill is to clarify the credited service and eligibility for retirement requirements of those members who terminate or retire and return to government service, and those who transfer from the noncontributory to the contributory plan, or vice versa.

Your Committee received supporting testimony from the Secretary of the Employees' Retirement System and finds that this bill is a housekeeping measure which will require no additional expenditures of public moneys.

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

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 2046-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2046-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 216-86 Labor and Employment on S.B. No. 1542-86

The purpose of this bill is to require public employers to fund specific dollar amounts of Public Health Fund contributions towards an adult dental plan, a prescription drug plan, and a vision care plan for employee-beneficiaries. The bill provides that the amount of such contributions would be statutorily determined.

Your Committee received testimony from the Administrator of the Public Employees Health Fund, among others, and finds that Act 304, Session Laws of Hawaii 1985, authorized the Board of Trustees of the Fund to contract for prescription drug, vision treatment and care, and adult dental insurance. This bill would allow the Board to commence studies and formulate plans to provide our public employees with those health care benefits which they are presently not allowed, and provides for an appropriation of \$41,718 for that purpose.

Your Committee has amended the bill by providing the amount of the public employers' monthly contributions as follows:

- | | | |
|----------------------------|---|-----------------|
| (1) Adult dental plan | - | \$15 per month. |
| (2) Prescription drug plan | - | \$ 6 per month. |
| (3) Vision care plan | - | \$ 6 per month. |

Your Committee has also amended the bill by amending section 88-95, Hawaii Revised Statutes, so as to allow the Employees' Retirement System to deduct Health Fund insurance premiums from the pension allowances of state and county employees, and by making numerous technical changes which have no substantive effect.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 1542-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1542-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cobb and Henderson.

SCRep. 217-86 Labor and Employment on S.B. No. 1543-86

The purpose of this bill is to provide adult dental, prescription drug, and vision care benefits to government employees, their dependents, and retirees. The degree of employer funding would be determined via collective bargaining, and via procedures established in chapter 89(C), Hawaii Revised Statutes, for non-bargaining employees. The bill would require employees who opt for coverage in an employee association plan to cover their family members also.

Your Committee received testimony from the Administrator of the Public Employees Health Fund, among others, and finds that Act 304, Session Laws of Hawaii 1985, authorized the Board of Trustees of the Fund to contract for prescription drug, vision treatment and care, and adult dental insurance. This bill would allow the Board to commence studies and formulate plans to provide our public employees with those health care benefits which present law does not allow, and provides for an appropriation for that purpose.

Your Committee has amended the bill by amending section 88-95, Hawaii Revised Statutes so as to allow the Employees Retirement System to deduct Health Fund insurance premiums from the pension allowances of State and county employees, and by making numerous technical changes which have no substantive effect.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 1543-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1543-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cobb and Henderson.

SCRep. 218-86 Economic Development on S.B. No. 2298-86

The purpose of this bill is to appropriate \$50,000 for ethnographic studies related to the protection of Pele as it relates to geothermal energy.

Testimony submitted by various groups representing native Hawaiian interests support this measure to study the historic and cultural value of Pele, especially in reference to geothermal development in the area. The following beliefs are offered as a rationale for this study:

1. Pele is in the heart, the life of the Hawaiian religious beliefs and practices today.
2. Pele has always been and is today central and indispensable to Hawaiian traditional religious beliefs and practices.
3. Nowhere in the geographical Pacific except Hawai'i is there a recognized volcano - nature god but Pele.
4. Pele is the akua, and aumakua of Hawaiians today. Her blood relationships continue as shared traditions, genealogy and aloha for particular 'aina and placed in Hawai'i. Pele is kupuna and "tutu" to many native Hawaiians.
5. Pele is the inspiration, strength and focus for those who are established in practices and performances of ancestral tradition and religion.
6. Pele influences daily spiritual and physical life activities, making it essential that Pele

exist in pure form and environment.

7. Pele's person, her body - spirit, her power - mana, her very existence are the lands of Hawai'i. This 'aina is her, which she replenishes, nourishes, and protects. She is seen in special - alternate body forms, along with those of her sisters and brothers, their kino lau: the native fern, the native shrub, the blossoms of the native trees.

8. Pele is a living god. She is tangible. She has a home on Hawai'i. She has been seen by many living in Hawai'i. She causes earthquakes, tidal waves, and lands to sink or surface from the ocean.

9. Pele is the magma, the heat, the vapor, the steam, and the cosmic creation which occur in volcanic eruptions. She is seen in the lava, images of her standing erect, dancing, and extending her arms with her hair flowing into the steam and clouds.

Your Committee supports the development of geothermal resources, but also acknowledges the spirituality of Pele, and her homeland which is predominantly the volcano on the Big Island. The Committee further finds that her presence should be preserved and perpetuated not only by oral tradition, but also through a written ethnographic and anthropological study of her family and her status related to the Hawaiian gods and culture.

Your Committee has amended the bill to provide for a broad ethnographic study of Pele, rather than specifically focusing on geothermal energy, and to reduce the appropriation amount to \$25,000.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2298-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2298-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki and Yamasaki.

SCRep. 219-86 (Majority) Economic Development on S.B. No. 2336-86

The purpose of this bill is to provide funds to employ a state geographer in the Department of Planning and Economic Development.

The State geographer would develop and manage a geographic data base, compile the proposed revised directory of map resources, and prepare a much-needed statistical atlas.

Your Committee finds that this measure will also provide support for coordination of the various public and private geographic activities and interests in the State.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2336-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yamasaki.
Senator Kawasaki did not concur.

SCRep. 220-86 (Majority) Economic Development on S.B. No. 1948-86

The purpose of this bill is to provide a tax exemption for qualified research and development activities by exempting from the general excise tax the gross proceeds received by a taxpayer from another taxpayer under a contract for qualified research expenses, base period research expenses, and research and experimental expenditures.

Currently, the law provides for a general excise tax exemption on gross proceeds derived by a taxpayer in the conduct of research and development activities in a limited situation. More specifically, the exemption applies to scientific contracts with the U.S. government and its instrumentalities and agencies.

Your Committee heard testimony submitted by the High Technology Development Corporation and the Campbell Estate supporting this measure to enhance research activities to improve the environment for high technology industry. Your Committee finds that research and development are important to the growth and improvement of the State's economy and finds that it would be to the State's benefit to develop a high technology base. Your Committee finds that this measure is important to Hawaii's efforts to attract and support expanded high technology industry in the State.

Your Committee has amended the bill to make a technical change which has no substantive effect.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1948-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1948-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 221-86 Economic Development on S.B. No. 1951-86

The purpose of this bill is to exempt from the general excise and use taxes, all gross income derived from the sale of capital goods purchased by persons licensed under Chapter 237 or persons taxable under Chapter 239 or 241 or Section 431-318, Hawaii Revised Statutes, if the capital goods are used in the business of the purchaser.

Presently, all tangible personal property which are subject to depreciation for income tax purposes, sold in or imported into Hawaii for use by the purchaser or importer and not intended for resale, are subject to the general excise or use tax at the general rate of four per cent.

Your Committee finds that the imposition of the general excise tax on sales of capital goods adds to the cost of doing business in this State and in turn adds to the cost of consumer and other products. The same may be said for the imposition of the use tax on the importation of such capital goods into the State. Both of these taxes make it difficult to start and sustain a viable business in Hawaii.

Providing an exemption from the general excise and use taxes for the purchase of capital goods which are essential to business operations would provide an incentive for existing business to increase their productivity. In the case of new businesses, the reduction of costs to start a new business will provide an added incentive to locate a new business in Hawaii. As a result of increased economic activity, the State can look forward to additional income and payroll taxes, increased general excise taxes from increased sales, etc.. Thus, your Committee believes that the exemption proposed by this bill will help to revitalize Hawaii's economy by spurring new capital investment and thereby improve the State's economic outlook.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1951-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 222-86 Economic Development on S.B. No. 2413-86

The purpose of this bill is to exempt commissions and other compensation received by sales representatives from the general excise tax.

Generally, manufacturers set the price of products handled by sales representatives. The State taxes the sales of the products to the customers and also requires sales representatives to pay four percent on any commissions received. Sales representatives are usually not able to pass the tax on to either the customer or manufacturer and therefore are compensated at a lower rate than their counterparts in other states.

Testimony submitted by the Hawaii Business League, National Federation of Independent Business, and Hawaii Food Industry supports this measure as a means to alleviate the inequitable tax upon sales commissions.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2413-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 223-86 Economic Development on S.B. No. 2175-86

The purpose of this bill is to appropriate \$50,000 to hire a consultant to study the feasibility of establishing a uniform system of procedures and appraisals in determining rental rates for leases of state lands.

Presently, section 171-17, Hawaii Revised Statutes, provides that rental rates shall be the "fair market value" established from an appraisal by an independent appraiser or a departmental staff appraiser.

Testimony submitted by the Department of Land and Natural Resources supports this measure, indicating there is a need to establish a uniform system of appraisal procedures so that there will be consistency in the appraisals as they relate to various land uses.

Your Committee finds that this study is necessary to provide for establishing a more equitable appraisal system for state lands.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2175-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 224-86 Economic Development on S.B. No. 1611-86

The purpose of this bill is to exempt transactions between affiliated or controlled groups of corporations from the general excise tax.

Corporations within affiliated or controlled groups are currently treated as separate tax payers under Chapter 237, Hawaii Revised Statutes, and transactions between group members are subject to the general excise tax. This policy has contributed to the "pyramiding" structure of the general excise tax. Pyramiding has been criticized for increasing consumer costs and as an unnecessary burden on firms doing business in Hawaii.

Your Committee received testimony from Hawaiian Electric Company and the Hawaiian Sugar Planters Association to the effect that eliminating the tax on affiliated corporations should provide savings to consumers and enhance the overall business climate.

Your Committee amended the bill by deleting the requirement that affiliated corporations file consolidated State income tax returns. Affiliated corporations do not always file consolidated returns under Chapter 235 and there does not seem to be a need to require such a consolidation for general excise tax purposes. The bill limits the exemptions to affiliates or controlled groups defined by section 1504 (a) on section 1563 of the federal Internal Revenue Code of 1954, as amended. The bill was further amended to correct typographical errors.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1611-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1611-86, S.D. 1., and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 225-86 (Majority) Economic Development on S.B. No. 1603-86

The purpose of this bill is to create the position of public intervenor to serve as an advocate for public rights in disputes with certain state agencies on environmental issues. It creates an advisory committee to advise the public intervenor and establishes criteria to determine priorities of the public intervenor. The bill designates an assistant attorney general to act as public intervenor, and establishes procedures for intervention by the public intervenor. Further, the bill requires cooperation from the state agencies in connection with dispute settlement and provides an appropriation to the attorney general for the position.

Currently, there is no statutory provision for a public intervenor or advocate of public rights involving disputes with state agencies.

Testimony submitted by conservation groups support this bill to further assist the public's right to be represented in environmental issues. The Department of Health opposes this measure as further cost and delay in settlement of public disputes against agency actions. The Attorney General requests that an assistant attorney general not be designated as the public intervenor, as it poses a conflict of interest since the Attorney Generals also represent the state agencies in these disputes.

Your Committee finds that the public's right to be represented in agency disputes related to environmental concerns is necessary to ensure equitable consideration of their views and therefore supports the establishment of a public intervenor.

In view of the conflict of interest issue raised by the Attorney General, your Committee has amended the bill to provide that a public intervenor committee shall nominate and by and with the advice and consent of the senate, appoint a person who is not a member of the committee to serve as public intervenor for a term of four years.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1603-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1603-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.
Senator Henderson did not concur.

SCRep. 226-86 Economic Development on S.B. No. 2202-86

The purpose of this bill is to implement state policy reflected in the Hawaii State Plan supporting expansion of employee stock ownership.

The bill authorizes the Department of Planning and Economic Development (DPEĐ) to actively promote and support expanded employee ownership in Hawaiian businesses. The bill also provides for an Employee Ownership Program; periodic regulatory review; and DPED powers and duties with respect to employee stock ownership which include:

- 1) coordinating activities between participating public and private agencies;
- 2) providing educational and technical assistance;
- 3) appointing an employee ownership advisory committee; and
- 4) hiring necessary personnel and administering funds.

Your Committee has amended the bill by amending the definition of "Employee-ownership" which includes a definition of "Employee stock ownership plan." Your Committee has removed the definition of "Employee stock ownership plan" and added it as a separate definition. The amendment has no substantive effect. Your Committee has also made other technical changes which have no substantive effect.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2202-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2202-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 227-86 Economic Development on S.B. No. 2147-86

The purpose of this bill is to provide for "lifeline telephone service" to be offered by telephone companies upon approval by the Public Utilities Commission.

Lifeline telephone service would include a basic, residential local exchange access offered to eligible consumers identified as elderly, handicapped, or low income persons. The telephone companies providing this service would receive a tax credit equal to the subsidy, to be applied against their tax liability imposed under chapter 239, Hawaii Revised Statutes.

Testimony submitted by Kokua Council for Senior Citizens, the Commission on the Handicapped, Executive Office on Aging, and Hawaiian Telephone support the measure. The Public Utilities Commission testified in support of the concept but suggested amending the bill to allow more direct control by the Commission, in determining who should be eligible to receive this service.

Your Committee finds that the concept of lifeline telephone service is commendable and should be made available to persons with low and limited incomes in the face of rising telephone service costs.

Your Committee has substantially amended the bill, adopting language offered by the Public Utilities Commission. This new language allows for the determination of rates and eligibility through rules adopted by the commission, requires local companies to file rate schedules reflecting the charge for lifeline service and maintains the tax credit for telephone companies providing such service.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2147-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2147-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 228-86 Economic Development on S.B. No. 1856-86

The purpose of this bill is to provide a corporate income tax credit for the replacement of underground storage tanks or regulated substances recycling plants.

Your Committee received testimony that the disposal of used oil is presently one of the States greatest environmental issues, especially in relation to the potential threats to ground and water resources. Therefore, your Committee amended the bill to more specifically address oil recycling.

The bill, as amended, provides a tax credit for fifty per cent of the construction costs of a used oil recycling plant. The tax credit will be effective for tax years beginning in 1985 and shall expire on December 31, 1990.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1856-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1856-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 229-86 Transportation on S.B. No. 2155-86

The purpose of this bill is to add a new section to Chapter 291, Hawaii Revised Statutes, to relate to penalties for driving while under the influence of intoxicating liquor.

Drinking and driving is a serious problem, especially when death or serious bodily injury is a result. However, stiffer penalties and mandatory rehabilitation programs for such offenses have been shown to be effective in deterring drunk driving. This bill creates such stronger penalties by mandating certain minimum terms of imprisonment and license revocation, minimum fines, and participation in an alcohol rehabilitation program.

To conform the bill's penalties with penalties for other offenses involving death or bodily injury, and to provide gradations in penalties for the severity and the number of the offenses, the following amendments were made:

Deletion of "without possibility of probation or suspension of sentence" on lines 11-12 of page one.

Deletion of lines 14-16 on page one and lines 1-20 on page two and insertion of the following after line 13 on page one:

- (A) A term of imprisonment of not more than five years;
 - (B) A fine of not less than \$500 but not more than \$5,000;
 - (C) Mandatory referral to a court-approved alcohol rehabilitation program for a period of not more than five years;
 - (D) Prompt suspension or revocation of license and a prohibition against the person applying for a new license for a period of not less than ninety days; and
 - (E) Restitution as may be ordered by the court;
- (2) For an offense preceded within a five year period by a conviction under section 707-703 or section 707-704 if the person was under the influence of intoxicating liquor at the time of the crime, or by a conviction under section 291-4:
- (A) The penalties set forth in paragraph (1) (B), (C), and (E); and
 - (B) A mandatory term of imprisonment of not less than six months but not more than five years; and
 - (C) Prompt suspension or revocation of license for not more than five years;
- (3) For an offense which occurs within five years of a conviction under this section:
- (A) The penalties set forth in paragraph (1) (B), (C), (E), and (2) (C); and
 - (B) A mandatory term of imprisonment for not less than two years but not more than five years.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2155-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2155-86, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

SCRep. 230-86 Consumer Protection and Commerce on S.B. No. 1705-86

The purpose of this bill is to allow the Department of Commerce and Consumer Affairs to pursue collection of any fine imposed on a licensee in the same manner as a civil judgment can be pursued.

The Department, and the boards and commissions assigned to it, assess fines as one form of sanction in disciplinary cases. These cases are conducted in accordance with the contested case provisions of Chapter 91, Hawaii Revised Statutes. If at the conclusion of that process, a fine is assessed as a penalty, the Department should be allowed to fully enforce that sanction. In cases where the fine is appealed, the bill provides for placing any fine collected in a litigated fines fund until a final determination is made and if the appeal is successful, for the repayment of the fine to the appellant together with interest at the rate of two percent a year.

Testimony presented by the Hawaii Business League and the Hawaii Association of Realtors opposed the litigated fine fund and the interest rate. Your Committee finds the testimony to be of value and has amended the bill to delete provisions relating to the fund.

Your Committee has further amended the bill to make technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1705-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1705-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cayetano, Chang, Kawasaki and Young.

SCRep. 231-86 (Joint) Transportation and Economic Development on S.B. No. 2450-86

The purpose of this bill is to investigate the feasibility of establishing a center for international business for the purpose of realizing Hawaii's potential for leadership in the Pacific.

Your Committees have received testimony from the Department of Planning and Economic Development in support of the bill.

Your Committees have made a number of substantive changes. The sum of "100,000" on page 2 in line 6 is changed to "10,000." The inclusion of "thereof" after "much" on page 2 in line 6. The inclusion of "on state owned property" after "Mart" on page 2 in line 8.

Your Committees on Transportation and Economic Development are in accord with the intent and purpose of S.B. 2450-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 2450-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees.

SCRep. 232-86 Education on S.B. No. 1166

The purpose of this bill is to establish a Teacher Incentive Loan Program within the University of Hawaii which would provide loans to qualified college students.

The Program would encourage students to pursue a curriculum which would qualify them to teach a science or mathematics course in the intermediate or high school grades.

The bill provides:

- (1) Loan qualifications for recipients;
- (2) Repayment provisions of loans;
- (3) Waivers for outstanding loans; and

- (4) An appropriation to effectuate the Program.

Your Committee after careful consideration has amended the bill to provide more flexibility in its administration and use.

Generally the amendments:

- (1) Establish a tuition deferral program instead of a tuition loan program;
- (2) Change the title of the proposed part to the Strategic Training for Educators Program;
- (3) Provide more authority to the Board of Regents to administer the Program through the adoption of rules;
- (4) Provide more lenient repayment provisions;
- (5) Delete the loan waiver provision;
- (6) Increase the interest charged on delinquent loan repayments; and
- (7) Designate the University of Hawaii as the expending agency for the funds appropriated.

Your Committee finds that the bill as amended will serve to encourage students to become teachers in subject areas that are or will soon face a critical teacher shortage. This bill will reduce the expected demand for teachers in the areas of science and mathematics to insure that a capable corps of qualified teachers will be available to teach in the public schools.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1166, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1166, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 233-86 (Majority) Transportation on S.B. No. 2266-86

The purpose of this bill is to amend Section 286-151, Hawaii Revised Statutes, relating implied consent for testing for intoxicants.

Presently, only testing for alcohol is permitted by Section 286-151. Furthermore, no provision has been made for urinalysis. The bill expands the implied consent rule to allow testing for intoxicants other than alcohol and to include urinalysis as one of the tests under the implied consent rule. The bill also rescinds the option whereby the person being tested may choose which test to take.

The department of transportation, the Honolulu police department, and the office of the prosecuting attorney testified in favor of the bill.

Your Committee has amended the bill by including the changes to be made to other statutes affected by the bill so that these statutes will conform to the bill's proposals. These statutes are 286-151, 286-155, 286-156, 286-159, 286-160, and 291-4. A new section, 291-__, has also been added to stipulate that legal permission to use alcohol or other intoxicating substances is not a defense to a violation of section 291-4. All these additions appear after line 2 on page 2 of the bill as received.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2266-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2266-86, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.
Senator Cobb did not concur.

SCRep. 234-86 Human Services on S.B. No. 1825-86

The purpose of this bill is to provide for criminal history record checks of all persons employed or applying for employment in the area of child care services, including youth corrections, treatment and detention facilities.

There is a recognized need in the community for criminal history record checks of persons involved in the area of professional child care, to protect Hawaii's children who are cared for

outside the home.

Your Committee adopted the recommendations of the State Attorney General by amending the bill to specify that a criminal history record check by fingerprint analysis shall be done initially, and that follow-up checks by name inquiry shall be done annually, for each person under the provisions of this bill. The purpose of these amendments is to reduce the logistical and cost burdens to the State while maintaining an effective check system.

Because of the existing problem of obtaining fingerprints of persons on the neighbor islands, as reported by the State Attorney General, your Committee amended the bill by specifying that the police departments of the several counties shall be required to obtain fingerprints under the provisions of this bill, in their respective counties.

Your Committee also amended the bill by appropriating funds for the purchase of a van, to be used by the police department of the City and County of Honolulu in obtaining fingerprints under the provisions of this bill, for the purpose of facilitating the fingerprinting process.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1825-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1825-86, S.D. 1, and be referred to the Committees on Judiciary and Ways and Means.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 235-86 Housing and Community Development on S.B. No. 801

The purpose of this bill is to establish a new formula for the determination of lease rents which a lessor of residential lots may charge to lessees upon the expiration of fixed rent periods during the lease term. Under current law embodied in chapter 519, Hawaii Revised Statutes, the existing formula provides that a lessor may charge up to four per cent of the "owner's basis" in the residential lot upon such reopenings. Lessees have sought relief from rents that have escalated to levels which they contend are unaffordable, and have asked the legislature to establish an alternate formula making lease rents "affordable" and providing mortgage lenders with less uncertainty as to the risk of financing such properties scheduled for rent reopenings.

Your Committee, through an appointed panel of economists, lenders, and varied real estate professionals, held hearings and meetings during the 1984-85 interim to obtain data and input from interested parties. The objective of the panel was to investigate alternative formulae for recommendation to the Senate. The report of the panel has been previously transmitted to the Senate for distribution, and the formula recommended by the panel is contained in this bill.

Additionally, the bill provides that certain lands owned by the State shall be subject to this lease rent formula, that lease rent reopenings shall occur every ten years, and that the rental amounts established by the formula shall be prohibited from affecting the land value where these lands are purchased from lessors under the Land Reform Act. The bill further provides that the new lease rent formula shall be used for renegotiation of rents for cooperative housing corporations.

Specifically, the proposed formula contained in the bill establishes renegotiated lease rents by a three-step process. In the first step, the hypothetical original raw land estimate of the lot is established by capitalizing 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.

In the second step, the current hypothetical raw land estimate is determined by adjusting the original hypothetical value derived in the first step by the change in one of the national Consumer Prices Indices, the U. S. CIP (W), for the same time period.

In the third step, the current hypothetical raw land estimate is multiplied by the average of the Standard and Poor's dividend yield for the five preceding years to obtain the current lease rent.

The Standard and Poor's 500 Composite Stock Dividend Yield measures the historical return for the top 500 industrial, financial, transportation, and utilities stocks in the United States. In general, stocks provide the investor an income stream and an opportunity for potential capital appreciation. Inasmuch as income-producing leased land was considered to be an asset with the same general investment qualities of stock, the advisory panel selected the Standard and Poor's 500 Composite Stock Dividend Yield as a rate of capitalization for the initial rent because it appears to represent a safe, reasonable rate of return for an investment which provides such a combined return.

The specific United States Consumer Price Index used in the proposed formula, CIP (W), measures the increase in total price of a "market basket" of goods, and is utilized as a measure of appreciation of the land. Although it was generally recognized that any of the components which make up this index, such as housing costs, may exhibit considerably more price change variability than the index itself, and that there may be no identical correlation between CIP (W) and Hawaii land costs, it was selected because it appears to represent a reasonable measure of inflationary trend which has a recorded history.

Additionally, since the advisory panel was instructed to consider affordability in arriving at a renegotiated lease rent formula, CIP (W) was selected since there appears to be a correlation between this index and the change in personal incomes.

Your Committee held a public hearing on this bill on February 20, 1985, and received voluminous testimony in support of or in opposition to the concept of lease rent control or to items contained in the bill.

Specifically, testimony was received from Dennis E. W. O'Connor and Steven J. McHugh in opposition to precluding the rental amount established by the formula proposed in this bill from being used to ascertain the amount paid to a lessor via condemnation under chapter 516, Hawaii Revised Statutes, since this would "obstruct the normal, customary performance of appraisal duties" and be "discriminatory and unconstitutional by depriving appraisers of ... a fundamental tool."

Your Committee feels, however, that reducing the income of lessors by this new lease rent control formula, and allowing this reduced rent to adversely affect the value to be provided under condemnation, is patently unfair.

Your Committee is not convinced that allowing the condemnation land values to be established by the new lease rents is in the public interest and has retained the provision that prohibits rental amounts established by formula from affecting the land value where these values are purchased from lessors under the Land Reform Act.

Your Committee makes it explicitly clear that the lease rent formula established by this bill, as amended, is not to be viewed as a rent control measure per se to mandate a rate of return, but rather, attempts to equitably establish rents affordable to lessees and not to impair the value to lessors upon condemnation.

Your Committee is resolved to assure this by amending the bill to provide that if any provision contained in the section relating to the lease rent formula and the "unlinking" of that section and the section regarding determination of values of the leased fee interests in proceeding pursuant to part II of chapter 516, Hawaii Revised Statutes, is in violation of the United States Constitution or the State of Hawaii Constitution, then the lease rent formula section will be automatically repealed.

Your Committee has generally rewritten the bill. Your Committee has decided not to repeal per se chapter 519, but has provided that sections 519-2 and 519-3 shall be suspended. However, if the new provisions relating to the new lease rent formula and the "unlinking" of that section and the determination of leased fee values in proceedings pursuant to part II of chapter 516 are deemed to be unconstitutional or otherwise are repealed, then sections 519-2 and 519-3, Hawaii Revised Statutes, shall again become effective. Your Committee intends that no back rent under the old formula be assessed or claimed if the new formula is automatically repealed.

Chapter 519, Hawaii Revised Statutes, was created by Act 267, Session Laws of Hawaii 1969, and originally contained the provision specifying that land values determined for renegotiation purposes of leases of privately-owned lands shall be calculated upon the use to which the land is restricted by the lease document. In reviewing the original legislative intent of Act 267, your Committee was unable to verify that the application of the initial provision was limited to leases of residential property. Since it is not your Committee's intent to extend a lease rent control provision to real property other than property leased for residential purposes, your Committee has amended the bill to provide that the new residential lease rent control formula be contained within a new part, part VII, of chapter 516, Hawaii Revised Statutes. Since chapter 516 deals with residential leaseholds only, it is appropriate that a lease rent control measure for the same class of real property be contained within that statute.

Your Committee has also amended the bill to provide that the new lease rent control provisions (part VII of chapter 516) be applicable to all leases of residential lots and cooperative housing corporations which are in effect before the effective date of this act, and apply to privately-owned lands and public-owned lands (except Hawaiian Homes Lands and federal lands) to be consistent with the condemnation provisions of the Land Reform Act (Part II of Chapter 516).

The bill has been further amended to provide that leases of residential lots which are owned or held privately or owned by the State and conveyed after the effective date of the act shall contain a mandatory fee purchase option.

Specifically, the bill adds a new part, part VII, to chapter 516, Hawaii Revised Statutes, which provides that all future leases of residential lots of a term fifteen years or more shall contain a fee purchase option provision. The option period shall be during the first five years of the lease; however, the option period may be extended or other option periods may be designated if the parties to the lease mutually agree to do so. The purchase price of the fee interest shall be the fair market value of the lessor's leased fee interest.

The bill further provides that the lessee may request that the purchase price applicable during the option period or periods be established prior to the execution of the lease conveyance and such price be set forth, in writing, in the lease document. If the lessee so requests, the lessor shall be obliged to establish the purchase price.

The bill also has been amended to provide that the provisions of section 516-70, Hawaii Revised Statutes, shall not apply to leases governed by parts VII and VIII of chapter 516.

Act 307, Session Laws of Hawaii 1967, which created Hawaii's Land Reform Act, provided that at the termination or expiration of the lease term, the lessee may remove all improvements which were paid for by the lessee without compensating the lessor (Sec. 516-70, HRS). Act 184, Session Laws of Hawaii 1975, amended that section to provide that if the lessor does not extend or renew the lease for at least a thirty year term, that the lessor compensate the lessee for the current fair market value of all on site improvements.

Since this bill proposes to provide certain lessees with two new forms of protection, one at renegotiation, as provided for by new part VII of chapter 516, and a fee purchase option, as provided under new part VIII, your Committee feels these additional rights creates an unfair burden on the lessor. Thus, your Committee has amended the bill accordingly, to provide that section 516-70 shall not be applicable where the leases are governed by the protections afforded under new Parts VII and VIII.

The bill also has amended to add a new section to chapter 519, Hawaii Revised Statutes, to provide that in the renegotiation of leases or subleases of real property in multi-family apartment use, the following presumptions would apply: (1) the highest and best use of the improved leased or subleased parcel is the actual use to which the parcel is being put during the lease term; provided that the improvements were constructed in accordance with plans approved by the lessor or sublessor prior to construction; and (2) where the parcel has been subdivided in accordance with plans approved by the lessor or sublessor, the fair market rental or fair market value of the that parcel will be the aggregate of the individual lots as subdivided at the commencement of the lease or the sublease, except that these lots will be deemed to be one lot if subdivided lots have been consolidated to be used for a multi-family apartment.

Lessees have testified that their rents have increased an average of 578 per cent at lease reopenings. It is claimed that these increases in rents are due to the landowners' current practice of ignoring the lease and improvements, and considering the highest and best use of the property as if it were vacant and unencumbered.

The first presumption would benefit the lessor if the demised land is downzoned after an apartment building has been constructed. Conversely, it would benefit the lessee if the parcel is upzoned subsequent to construction of improvements. The second presumption considers the costs of infrastructure incurred by the lessee. If the parcel is appraised as one lot rather than several subdivided lots, the lessee is not given credit for the value of the subdivision improvements.

The presumptions established by this amendment are consistent with the provisions of section 519-1, Hawaii Revised Statutes.

The proposed amendment does not change the terms of existing ground leases. It merely creates statutory presumptions which apply (1) where the ground lease does not provide a precise guideline for determining lease rent; (2) where a guideline provided in the lease is ambiguous or contradictory; and (3) when the presumptions reasonably reflect probable or implied intent of the parties at the time the lease was executed.

Your Committee feels that the tenure of leasehold is an insufficiently understood concept. During Committee hearings on this bill and other related leasehold measures, lessees have repeatedly expressed dismay and alarm with the terms of the lease contract, such as renegotiation provisions or tenure expiration or reversion of the improvements. Although lease terms are contained in the lease conveyance document, such terms providing for renegotiation

periods in which lease rents will increase, and for expiration dates when the land must be returned to the landowner, do not seem to be comprehended or accepted by some lessees.

Although many factors have played a role in bringing the issue of a new lease rent ceiling to the legislature, your Committee feels that lack of understanding of the leasehold system by the lessees has contributed to the problem. Further, your Committee recognizes that lessees are not provided many options at renegotiation. Faced with unequal bargaining power at the lease reopening period, the lessee may neither be financially capable of paying the higher renegotiated lease rents nor of absorbing losses incurred if he is forced to sell his property.

Your Committee feels that the provision requiring that all new leases provide the lessee with the option to purchase the fee simple title to the lot during the lease will allow free market conditions to prevail. The lessee and lessor are forewarned that an absolute understanding of the leasehold concept and the terms of the lease document are vital to the continuance of the leasehold system. While some may feel the leasehold system is not worth preserving, your Committee sees it as a viable alternative to the system of fee simple tenure for those who are unable to afford such tenure, and one that has provided opportunities for affordable housing otherwise not possible for many Hawaii families.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 801, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 801, S.D. 1, and be recommitted to the Committee on Housing and Community Development for further study.

Signed by all members of the Committee.

SCRep. 236-86 Human Services on S.B. No. 2254-86

The purpose of this bill is to repeal section 351-34, Hawaii Revised Statutes.

Presently, section 351-34 provides that except for expenses actually and reasonably incurred as a result of the injury or death of a victim, no compensation shall be awarded under the Criminal Injuries Compensation Act to a victim if the offender is a relative of the victim, or was at the time of the victim's injury, living with the offender as a spouse or as a member of the offender's household.

This bill would provide more comprehensive compensation to a victim who is a relative of or living with an offender as a spouse or as a member of the offender's household. Specifically, this bill would provide a victim compensation for:

- 1) Expenses actually and reasonably incurred as a result of the injury or death of the victim.
- 2) Loss to the victim of earning power as a result of total or partial incapacity;
- 3) Pecuniary loss to the dependents of the deceased victim;
- 4) Pain and suffering to the victim;
- 5) Any other pecuniary loss directly resulting from the injury or death of the victim which the Criminal Injuries Commission determines to be reasonable and proper;

Your Committee finds that despite the concerns raised by the Department of Social Services and Housing regarding the potential abuse or fraud of the Criminal Injuries Compensation Act, there is a need to expand the services and awards presently available to victims. Generally, your Committee finds that victims are often ignored and taken for granted in the judicial process, and that every effort should be made to compensate or relieve the anxiety and pain experienced by victims. This bill will to an extent, provide compensation and relief to victims to effect some balance in the judicial process.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 2254-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 237-86 Housing and Community Development on S.B. No. 1803-86

The purpose of this bill is to amend Sections 46-15.1 and 46-15.2, Hawaii Revised Statutes, to provide the counties with greater flexibility in the structuring of bond issues for county housing programs.

Specifically, the bill proposes to:

- (1) Clarify that the provisions of Section 46-15.2, Hawaii Revised Statutes, relating to

tax-exempt bond financing may be applied to carry out the purposes of Section 46-15.1, Hawaii Revised Statutes, regarding county powers to develop housing;

(2) Expand the scope of Section 46-15.2, Hawaii Revised Statutes, to include the issuance of tax-exempt revenue bonds under Chapter 49, Hawaii Revised Statutes, for the purpose of financing county-owned housing;

(3) Authorize the counties to issue capital appreciation bonds in support of county housing development activities;

(4) Allow the counties to contract for support facilities on put options or for interest rate swaps so that variable-rate financings can be undertaken; and

(5) Provide the counties with greater latitude in the investment of bond proceeds and bond-related moneys, including required reserves.

The Department of Housing and Community Development, City and County of Honolulu, testified that the issuance of bonds by the City is a valuable source for providing financing to stimulate private sector development of new rental housing or for rehabilitating existing apartments with emphasis on making units available to lower income groups. Additional flexibility is needed, however, if bond issuers are to take advantage of recent innovations in tax-exempt financing techniques and new investment alternatives for bond funds in the structuring of bond issues. The City testified this flexibility would allow the counties maximum use of tax-exempt bond financing for purposes of increasing the supply of affordable rental housing.

Your Committee adopted the recommendation of the Department of Housing and Community Development, City and County of Honolulu, by amending the language of the bill in paragraph (K) of subsection 46-15.2(2) to read:

"(K) Any law to the contrary notwithstanding, the proceeds of bonds, including reserves, issued pursuant to this section and all other moneys related to such bonds may be invested in any securities or obligations authorized by the resolution providing for the issuance of the bonds or authorized by its indenture of trust;"

The proposed amendment is based on the California statute which is part of a conduit revenue bond law authorizing the financing of privately owned housing.

Your Committee further amended paragraph (K) to provide that investments which exceed state limits imposed pursuant to Chapter 39, Hawaii Revised Statutes, must first be approved by the County Council.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 1803-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1803-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 238-86 Economic Development on S.B. No. 2150-86

The purpose of this bill is to establish a fifteen member Hawaii Economic Development Council within the Office of the Governor.

The bill specifically provides that the Governor will appoint ten members representing business, labor, education and community organizations; four members will represent the counties, and the Director of Planning and Economic Development shall serve as an ex officio member.

The powers and duties of the council include:

- 1) developing a five-year uniform economic development policy;
- 2) reviewing state functions related to the policy;
- 3) making recommendations to the Governor and Legislature for program improvements and necessary funding related to the policy;
- 4) coordinating private sector assistance to implement the policy; and

- 5) studying laws and programs of other states for possible inclusion in Hawaii's policy.

Testimony submitted by the Department of Planning and Economic Development and the Commission on Employment and Human Resources support this measure to provide public input into state policy development. Your Committee finds that the proposed council would bring together representatives of business, labor, education and community organizations to recommend an economic development program for the State.

Your Committee has amended the bill to provide that the Senate President and Speaker of the House shall each appoint two members, thus providing appointment by the Governor of six members. Your Committee has also amended the bill by making clarifying language changes which have no substantive effect.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2150-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2150-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki and Henderson.

SCRep. 239-86 Economic Development on S.B. No. 2311-86

The purpose of this bill is to exempt interstate common carrier telecommunications service (long distance carriers) from the general excise tax.

Presently, long distance calls made to or from Hawaii may be placed through out-of-state carriers specializing in long distance phone calls. These calls are billed by the carrier who in turn pays a fee to the respective local telephone companies that service the calls. Carriers are not subject to Hawaii's excise tax.

This bill would codify the present practice of not imposing an excise tax on carriers and clarify the excise tax law as it affects long distance carriers.

Your Committee has amended the bill by removing the provision relating to the effective date for the application of the exemption contained in lines 14 to 16, page 1, and placing it in a new Section 2 of the bill. It is your Committee's intention that the exemption provided by this bill apply retroactively. Your Committee has further amended the bill by deleting a part of the new paragraph 16 which is actually part of the new paragraph 17, and has made technical changes which have no substantive effect.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2311-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2311-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Henderson.

SCRep. 240-86 Economic Development on S.B. No. 1674-86

The purpose of this bill is to increase the annual appropriation for the fire fighter's contingency fund from \$200,000 to \$300,000.

Chapter 185, Hawaii Revised Statutes, places the responsibility for extinguishment of forest fires on state owned or private lands within state reserves with the Department of Land and Natural Resources. Section 185-4, Hawaii Revised Statutes, provides for payment of the costs of fighting fires on such lands from the fire fighter's contingency fund. The section also provides for an annual appropriation of \$200,000 to the fund. This bill would increase the annual appropriation to \$300,000.

Testimony submitted by the Department of Land and Natural Resources supports this measure and a list of expenditures was provided which shows cost-overruns in this program for three of the past five fiscal years. The Department also noted that these costs must be taken out of other program budgets within the Department.

Your Committee finds that the requested increase for fire suppression is reasonable in light of increasing costs.

Your Committee has amended the bill to correct a typographical error.

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

No. 1674-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1674-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Henderson.

SCRep. 241-86 Economic Development on S.B. No. 1879-86

The purpose of this bill is to establish the Hawaii Industrial Development Corporation (HIDC), a corporate body politic within the Department of Planning and Economic Development (DPED), for the purpose of providing investment capital and assistance to Hawaii businesses. The HIDC will be involved in providing financial (capital) investment; technical, managerial, marketing and promotional advice; coordination with special programs and enterprise zone programs; securities transactions and investments of donations and grants; borrowing money and making loan guarantees; acquisition and disposal of property; and exercise of any other powers of a corporation organized under the laws of Hawaii. There is also established the Hawaii Venture Capital Revolving Fund into which all moneys shall be deposited, as directed by the Board of HIDC. The corporation shall submit a biennial report of activities and be subject to an annual audit. The bill also provides for two separate appropriations, for moneys into the revolving fund and to staff the corporation.

Testimony submitted by DPED supports this measure as a priority issue for the future development of new business in Hawaii. The High Technology Development Corporation and First Hawaiian Bank also testified in support of this measure as a necessary vehicle to stimulate economic growth in the future.

Your Committee finds that this measure is an important part of the State's responsibility to ensure a healthy economy for Hawaii's future.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1879-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki and Henderson.

SCRep. 242-86 Economic Development on S.B. No. 1943-86

The purpose of this bill is to provide a tax exemption for exported manufactured goods and custom computer products as follows: repeals the provision that the privilege tax is applicable to deliveries made to points outside the State; adds a new paragraph exempting from the general excise tax amounts received by licensees of tangible personal property shipped or transported out of the State, for sale in interstate or foreign commerce, tangible personal property is defined to include computer software; extends the general excise tax exemption to millers or processors of sugar and canners of pineapple and pineapple juice; and deletes the provision that the exemption from the general excise tax shall not apply to deliveries outside the State, but shall apply to the seller of products sold in the State.

Presently, the law does not provide an exemption from the general excise tax for in-state sales for out-of-state delivery. Section 237-13(1)(B), Hawaii Revised Statutes, provides that the measure of the tax on manufacturers is the value of the entire product for sale, regardless of the place of sale or the fact that deliveries may be made to points outside the State. Section 237-13(1)(C), Hawaii Revised Statutes, provides the method of determining the basis for tax assessment for products shipped out of State.

Testimony submitted by the High Technology Development Corporation and the Economic Development Corporation of Honolulu supports this measure as a positive step toward encouraging export trade of high technology industry.

Your Committee finds that this measure supports Hawaii's continuing efforts to enhance trade and diversify business in the State.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1943-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki and Henderson.

SCRep. 243-86 Higher Education on S.B. No. 1773-86

The purpose of this bill is to increase the amount of 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 amends the existing lapsing provision for this Fund by allowing the University to retain twenty-five percent of all unencumbered amounts in the Fund at the end of each fiscal year.

Your Committee has received supportive testimony on this bill from the University, the University of Hawaii Professional Assembly, and the High Technology Development Corporation. In each case, particular emphasis has been placed on the positive relationship between this Fund and the University's ability to attract additional extramural funding. Your Committee is well aware of this relationship and concurs with the University that an increase in this Fund will result in the attraction of additional extramural support for research and training purposes.

Your Committee has amended the bill by deleting the lapsing provision for this Fund which was approved by the 1984 Legislature. In so doing, your Committee is in agreement with the University that the concerns of the 1984 Committee On Conference, as expressed in Conference Committee Report No. 73-84, has 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 is in accord with the intent and purpose of S.B. No. 1773-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1773-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Henderson.

SCRep. 244-86 (Joint) Higher Education and Labor and Employment on S.B. No. 1775-86

The purpose of this bill is to allow the University of Hawaii Board of Regents to provide an alternate retirement plan for University of Hawaii employees appointed by the Board of Regents.

Act 108, Session Laws of Hawaii 1984, established a new noncontributory retirement plan for all employees appointed on or after July 1, 1984. A major change in this plan was the requirement that a person must have ten years of service to be eligible for retirement at age sixty-two rather than five years of service and retirement at age fifty-five and older, as in the earlier plan. Under the new non-contributing plan, the employee who has less than ten years of service does not enjoy any retirement benefits at all, as compared to the old plan which "vested" after five years of service.

Your Committees received testimony from the administration of the University of Hawaii, the University of Hawaii Professional Assembly, and the Hawaii Government Employees Association, and finds that the new requirement will have a stifling effect on the recruitment of outstanding, experienced, and knowledgeable faculty and administrators who may not wish to work ten more years until age sixty-two in order to qualify for retirement. Also, other prospective faculty, especially the young and promising, may decide that the noncontributory plan with its lower benefits and longer vesting period is not compatible with their career goals. The proposed bill would provide an optional retirement plan for University of Hawaii employees appointed by the Board of Regents which would tend to make the University a more attractive institution for high quality faculty and professionals, especially individuals of international reputation, who may wish to join the University System late in their careers or accept positions on a short term basis.

Your Committees have amended the bill by making a technical change which has no substantive effect.

Your Committees on Higher Education and Labor and Employment are in accord with the

intent and purpose of S.B. No. 1775-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1775-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senator Henderson.

SCRep. 245-86 Higher Education on S.B. No. 1780-86

The purpose of this bill is to provide the University of Hawaii with more flexibility in budgeting and expending appropriations. This bill has two major thrusts.

First, the bill requires the Governor to establish budget ceilings within which the University of Hawaii shall prepare its budget without modification by the Governor or Director of Finance. Under the Executive Budget Act, the Governor and Director of Finance have the authority to modify budget requests of all executive departments, including the University of Hawaii, without consent of the departments. At times, the Governor has used the authority to unilaterally change budget priorities of departments. This bill, as amended, requires the Governor to establish for each fiscal year one budget ceiling for the University of Hawaii's operating and research and development cost categories and another budget ceiling for the capital investment cost category. Each ceiling is also required to be apportioned by means of financing. The University of Hawaii is required to formulate its program budget requests within the appropriate ceilings. If the requests are within the ceilings, the Governor and Director of Finance are required to include the requests without modification in the executive budget presented to the legislature.

Second, the bill requires the establishment of an allotment ceiling for each funding source by the Governor for the University of Hawaii and the release of funds for the expenditure requests of the university if the requests are within the appropriate ceiling. In effect, the university will have the authority to expend funds according to its own priorities. The university is required to formulate its operations plan and expenditure estimates within the appropriate ceiling. If expenditure estimates are within the ceiling, the Director of Finance is required to make the allotment without modification. The bill also amends the Director of Finance's authority to modify a previous allotment for the university. One section of the current allotment law authorizes the Governor to modify a previous allotment for executive departments, including the University of Hawaii, for any reason. This section is amended to authorize the Director of Finance to modify a previous allotment only upon the request of the university or to increase a previous allotment upon notice to the university. Another section of the current allotment law authorizes the Director of Finance to reduce a previous or planned allotment because of lagging revenues. This section is amended to require the Governor to redetermine the allotment ceiling when revenues lag and notify the university of the redetermined ceiling. The University of Hawaii is required to amend its expenditure plans to conform to the redetermined ceiling. If the amended expenditure plan is in conformity with the redetermined ceilings, the allotment for the expenditure plan is required to be approved by the Governor without modification.

This bill is part of the package presented jointly by the administration and University of Hawaii to promote flexibility for the university. It is one of the more significant of the package. Implementation of public programs require moneys. Equally, if not more important than the amount of moneys itself, is the authority to budget and expend without undue interference. This flexibility is necessary in order to implement public programs successfully, responsively, and responsibly. This bill also addresses the concern of the Western Association of Schools and Colleges accrediting team which criticized inappropriate intrusion into the affairs of the university. Your Committee finds that the flexibility provided by this bill will promote the University of Hawaii's mission to provide higher education of superior quality.

The current Governor, in recent years, has allowed many of the provisions of this bill to be implemented administratively. Current law, however, gives the Governor broad discretion in rearranging and controlling the budget and expenditures of the University of Hawaii. Thus, your Committee finds that this bill should be enacted to prevent inappropriate interference by the administration in the budgetary and expenditure affairs of the university and to address the concerns of the Western Association of Schools and Colleges accrediting team. Your Committee commends the Governor's recent concurrence that statutory change is needed in this regard.

Your Committee has made many amendments to this bill. Among the more significant are the following:

(1) A statement requiring the expenditure estimate of the University of Hawaii to be within the appropriate allotment ceiling has been added to section 37-34(b), Hawaii Revised Statutes (HRS). This statement explicitly requires what is obvious, but unstated, in the bill, as received.

(2) The provisions for approval of the estimates submitted by the University of Hawaii to the Director of Finance have been amended under section 37-35, HRS. Under the bill, as received, the Director of Finance was required to approve the estimates and, in effect, the allotments to the university "...when the sum of the estimates for each funding source does not exceed the appropriate allotment ceiling established by the governor...". Your Committee has changed this provision to require the estimates to be approved "...when the estimates for each source of funding does not exceed the appropriate allotment ceiling established by the governor". Under the bill, the Governor establishes an allotment ceiling for each source of funding for the university. Approval of the estimates under the bill, as received, would have been required when the university's estimates for all sources of funding did not exceed the Governor's aggregate allotment ceiling. Conceivably, the university could have been within the Governor's aggregate allotment ceiling, but in excess of the ceiling for a source of funding. This situation could have occurred if the expenditure estimates for one source of funding was deliberately set at less than the allotment ceiling and the difference applied to set expenditure estimates for another source in excess of the ceiling for that source. Your Committee interpreted the bill, as received, as requiring the approval of the estimates and, in effect, the allotments if this situation occurred, so long as the aggregate estimates were within the aggregate allotment ceiling. Under the bill, as amended, the university is required to submit an estimate for each source of funding which is within the allotment ceiling for that source. Your Committee finds that the amendment is a more responsible manner to execute fiscal policy and keep the legislature informed of the expenditure requests of the university.

(3) The provision making approval of estimates contingent upon satisfaction of "all other legal requirements", which began on page 2, line 22, of the bill, as received, has been deleted. The precise meaning and ramifications of the provision are not known and could not be explained satisfactorily in public hearing.

(4) The Director of Finance's authority under section 37-36, HRS, in the bill, as received, to modify a previous allotment for the University of Hawaii to avoid an illegal result upon notification of the university and approval of the Governor has been amended. The bill, as amended, authorizes the Director to only increase, not modify, a previous allotment when no request for modification is made by the university and deletes the qualification that the increase be necessary to avoid an illegal result. By this amendment, the Director of Finance's authority to reduce a previous allotment for the university for no specific reason and without university request is terminated. The net effect of the bill, as amended, is that the Director may reduce a previous allotment only when revenues lag as is provided under section 37-37, HRS, but may increase a previous allotment unilaterally for any reason or upon the request of the university. The qualification that a previous allotment be modified to avoid an illegal result has been deleted because of its ambiguity. Your Committee is confident that neither the Director of Finance, Governor, nor university will modify or seek to modify a previous allotment to attain an illegal result.

In addition, the reference in the amendatory language to "amendment" of a previous allotment has been deleted. Your Committee cannot discern any difference between "modification" and "amendment" of a previous allotment.

(5) A new provision has been added to section 37-37, HRS, to explicitly require the Director of Finance to approve the revised estimate of the University of Hawaii when the revised estimate is within the redetermined allotment ceiling. This provision is inserted as the third sentence in section 37-37(b) of the bill, as amended.

(6) The language requiring the Governor to establish budget ceilings for the University of Hawaii under section 37-65, HRS, has been replaced. The new language requires the governor to establish for each fiscal year one budget ceiling for the operating and research and development cost categories and another ceiling for the capital investment cost category, with each ceiling apportioned according to the means of financing. The ceilings are to be the maximum amount within which the university may request funds for the appropriate cost categories. In effect, the university will operate under a lump sum budgeting format. Your Committee intends that each ceiling be established as the maximum amount which may be requested for all programs of the university and not be set individually for each lower level program.

(7) The language under section 37-68, HRS, concerning the University of Hawaii's authority to prepare its budget requests has been replaced. The new language requires the university to prepare its program budget request within the appropriate ceiling established by the Governor. If the program budget request is within the appropriate ceiling, the request is to be included in the executive budget or supplemental budget, as the case may be, and considered the Governor's recommendation. The provision that the university's budget request be considered the Governor's recommendation is placed into law because the Executive Budget Act states that the executive and supplemental budgets submitted to the legislature shall consist of the

recommendations of the Governor, and the Hawaii Constitution requires the Governor to submit the proposed expenditures of the executive branch.

(8) Related to paragraph (7), language has been added to sections 37-65 and 37-67, HRS, to prohibit the Governor and Director of Finance from revising the program budget request of the University of Hawaii if the request is within the appropriate ceiling. Implicit in the bill, and reflecting the intention of your Committee, is the authority of the Governor or Director of Finance to modify the budget request of the university if in excess of the ceiling.

(9) Amendments have been made to the program execution provision under section 37-74, HRS, which requires the Department of Budget and Finance to review the university's operations plan solely for consistency with the allotment ceilings established by the governor and the status of revenues to support operations plans for all state programs. The provision that the review consider the status of revenues to support operations plans for all state programs has been deleted. Your Committee feels that the provision is redundant because the Governor in practice considers projected revenues when establishing allotment ceilings. Your Committee intends in acting favorably on this provision that the Department of Budget and Finance approve the operations plans of the university so long as the planned amount of expenditures for the fiscal year or allotment period complies with the appropriate allotment ceiling.

(10) The transfer provisions of section 37-74(d), HRS, have also been amended. First, the transfers are authorized only for general funds. Your Committee feels that transfers from or to special and revolving funds is not conducive to good public or fiscal policy. These funds, theoretically, support the entire costs of specific projects or undertakings. Subsidies of general funds for those projects or undertakings, if the special or revolving funds are insufficient, should be made only through legislative appropriations and not by internal manipulations. Conversely, projects or undertakings which are successful in raising revenues should not be penalized by transfers to support other programs. Second, transfers to and from the research and development cost category are authorized. Under the bill, as received, only transfers to and from the operating cost category are authorized. By this amendment, your Committee intends that transfers be allowed between and within the operating cost category and research and development cost category. Third, the authority to transfer "between campuses within a program" has been replaced by "among programs for campuses with the same or similar objectives." This is a technical amendment. The language in the bill, as received, appears to intend to authorize transfers between level IV programs with the same titles. Level IV programs with the same titles for different campuses, however, are not part of the same "program." The amended language is technical and correctly reflects the intent of the bill. As an example of the intent, transfers under the new language are authorized between Student Services - UOH, Manoa (UOH 105) and Student Services - UOH, Hilo (UOH 215). Fourth, the language authorizing transfers between cost elements has been amended to "among cost elements in the same program." This amendment precludes direct transfers from a cost element in one program to a cost element in a different program.

The transfer authority is among the more significant provisions of this bill. The flexibility afforded the university will do much to promote timely and appropriate responses to changing needs and situations. Your Committee intends that "programs" as used in the transfer provisions mean level IV programs. Because the PPB program structure may be changed at any time, however, your Committee has hesitated to implement the intent statutorily.

Moreover, your Committee notes that the bill does not authorize transfers between system-wide support and other noncampus programs. Nor does the bill authorize transfers between noncampus programs and campus programs.

(11) The provision under section 37-74(e), HRS, preventing the use of current appropriations in a manner which may require future increases in the commitment of state resources has been amended. The provision in the bill, as received, was ambiguous and could have been interpreted to mean any use of current appropriations if broadly construed. Thus, the provision was deemed unenforceable and undesirable. Your Committee, rather, has substituted language to prohibit the use of current appropriations in any manner that would result in the expansion of programs or the initiation of new programs which is contrary to the General Appropriations Act or Supplemental Appropriations Act, as the case may be. This provision is evident in the General Appropriations Act and Supplemental Appropriations Act, but your Committee feels that it should be explicitly stated. Your Committee also intends that this provision prohibit the expansion or initiation of programs contrary to the General Appropriations Act or Supplemental Appropriations Act by the use of transferred funds.

Your Committee intends that the allotment and budget ceilings as used in this bill consist of maximum funding amounts and position counts.

This bill addresses flexibility for the University of Hawaii in its program budget requests, but retains the Governor's and Director of Finance's authority over directing the preparation of and revising the programs, program objectives, and financial plans of the university. Your Committee is aware that the Governor or Director of Finance can indirectly affect the program budget requests of the university by manipulation of programs, objectives, and plans. Your Committee, however, intends that future administrations follow the spirit of this bill and refrain from interference with the university's programs, objectives, and plans in order to preserve the flexibility provided.

Your Committee also intends that the Governor and Director of Finance allow the University of Hawaii to prepare its program and financial plans, program memoranda, and variance reports in a manner consistent with this bill. The university should be allowed to prepare the documents free from interference, other than prescription of the format of the documents.

Finally, your Committee, although in favor of greater fiscal flexibility for the University of Hawaii, makes clear that the university is still subject to the appropriation powers of the legislature. Your Committee explicitly states that this bill by itself does not authorize lump sum appropriations for the university, does not require the legislature to approve without review or modification the university's program budget requests, and does not preclude the legislature from making appropriations to the university below or above the budget ceilings established by the Governor.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1780-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1780-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Henderson.

SCRep. 246-86 (Joint) Higher Education and Human Services on S.B. No. 1783-86

The purpose of this bill is to authorize the transfer of the Hoomana School Program (UOH 859, Social Rehabilitation of Confined Adults) from the University of Hawaii to the Department of Social Services and Housing.

At present, the administrative functions of the Hoomana School Program are placed with the Department of Social Services and Housing while the operational functions rest with the University. This bill would unify the two functions in order to bring about a more efficient and productive educational experience for the beneficiaries at Oahu Community Correctional Center.

Your Committees received supporting testimony from the Office of Hawaiian Affairs which indicates that the unification proposed in this measure would impact favorably on the problem of recidivism among inmates of Hawaiian ancestry. Your Committees also received supporting testimony from the Director of Social Services which indicates that the Department is working in total cooperation with the University to effect a smooth transition in programming and services and in developing guidelines and procedures for an education program at the Oahu Community Correctional Center and other correctional facilities throughout the State.

Your Committees on Higher Education and Human Services are in accord with the intent and purpose of S.B. No. 1783-86 and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senator Henderson.

SCRep. 247-86 Higher Education on S.B. No. 1828-86

The purpose of this bill is to amend chapter 40, Hawaii Revised Statutes, in order to provide the University with the authority and responsibility for all matters pertaining to University related acquisition of goods and services, pre-audit of payments, payroll and disbursing, fund accounting, and business and accounting forms.

Your Committee has received testimony in support of this bill from the University, the Department of Accounting and General Services, and the University of Hawaii Professional Assembly. In a public hearing, your Committee has learned that this bill is the result of a cooperative effort between the University, the Department of Accounting and General Services, and the Department of Budget and Finance.

Your Committee finds that there is general agreement among the affected agencies on the intent and purpose of this bill. Upon reviewing the bill, however, it is evident that this agreement is not adequately reflected. Your Committee therefore has amended the bill as follows:

1. Section 1 of the bill has been deleted and succeeding sections appropriately renumbered. The proposed amendment is unnecessary since it duplicates the intent and purpose of section 40-66, Hawaii Revised Statutes.
2. Page 2, line 21 of the bill as received has been amended to eliminate any conflict with section 40-53, Hawaii Revised Statutes, and any other existing law as well. In addition, the word "shall" has been changed to "may" in order to accommodate the inclusion of the next amendment.
3. Page 3, line 1 of the bill as received has been amended by adding new language to allow the University to request that the Comptroller make all disbursements for the University. The reason for this amendment is twofold. One, it would allow the University to continue to be served by the Comptroller during a reasonable transition period while it develops an appropriate mechanism and staffing assignments to assume these functions. Secondly, it would allow the University to request the services of the Comptroller in the event that it is unable to adequately carry out its new functions and responsibilities.
4. Page 7, lines 8 and 9 of the bill as received has been amended by replacing the word "report" with "submit" and the words "all transactions" with "detailed financial statements." The purpose of this amendment is to free the Comptroller from having to prepare any necessary financial statements for the University for all transactional documents which the University would have been required to submit under the original language of the bill. This amendment would require the University to prepare any necessary financial statements as prescribed by the Comptroller.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1828-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1828-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Henderson.

SCRep. 248-86

Higher Education 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 losses experienced by the various University System's libraries through lost, damaged, or stolen books and periodicals have not been properly addressed. The current approach to this problem is based on a deterrence theory as reflected by traditional fines and fees, and symbolized more recently by electronic detection devices. There is no question as to the effectiveness of the present deterrence program but it does not, however, eliminate the need for the periodic repair or replacement of lost or unusable library materials.

Your Committee has received information from the University which indicates that approximately \$40,000 annually is collected by the libraries through assessments of fines and fees which are deposited into the state treasury. Although the proposed revolving fund will not completely resolve the problem, your Committee believes that it will provide a viable alternative for meeting an important part of the operational needs of the libraries. In addition, it will provide an incentive for the libraries to review their fee and fine structures and be more aggressive in their collection processes in an effort to partially offset the cost of replacing lost or damaged library materials and the administration of fines, dues, and notices which are currently supported in total by general funds.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1852-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Henderson.

SCRep. 249-86

(Joint) Higher Education and Labor and Employment on S.B. No. 1779-86

The purpose of this bill is to provide for the establishment of a civil service system for the University of Hawaii under the jurisdiction of the Board of Regents, which would conform, as do the Executive Branch, the county jurisdictions, and the Judiciary, to the statutory requirements relating to the administration of civil service systems, specifically Chapters 76, 77, and 89,

Hawaii Revised Statutes.

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 received testimony in support of this measure from the administration of the University of Hawaii, the University of Hawaii Professional Assembly, and the Hawaii Government Employees Association, and find that the University is very unique and unlike any other state department. Its multifaceted mission, diverse activities, and wide variety and volume of extramural funding sources create a need for flexibility and a demand for timeliness in personnel matters. Having the ability to handle all support personnel requirements internally, as provided in this bill, would allow the University to be more responsive to the needs of faculty, students, and the public in carrying out its teaching, research, and public service missions.

Your Committees have amended the bill by making numerous technical changes which have no substantive effect.

Your Committees on Higher Education and Labor and Employment are in accord with the intent and purpose of S.B. No. 1779-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1779-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Henderson and Yamasaki.

SCRep. 250-86 Health on S.B. No. 2370-86

The purpose of this short form bill is to amend the laws of Hawaii relating to environmental quality.

Your Committee has amended the short form bill to modify the powers and duties of the Department of Health. Specifically, this bill allows the Department to act as the certifying agency for water quality standards on dredge and fill projects conducted by the U.S. Army Corps of Engineers.

Your Committee finds that this measure is consistent with the authority provided the Department to establish water quality standards within the State, pursuant to Section 342-32, Hawaii Revised Statutes.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2370-86, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 2370-86, S.D. 1, and be recommitted to the Committee on Health for further consideration.

Signed by all members of the Committee.

SCRep. 251-86 Health on S.B. No. 986

The purpose of this bill is to amend the laws of Hawaii.

Your Committee has amended this short form bill to provide that its purpose is to conserve Hawaii's potable water sources and to minimize contamination of ground water caused by cesspools.

Specifically, the bill would amend Act 282, Session Laws of Hawaii, 1985, as follows:

- (1) Section 7, item 4.4.A, is amended to reduce the time for a percolation test to not more than four hours in the testing of disposal from injection wells. Currently, testing must be done not less than twelve nor more than twenty-four hours from the time of disposal. This provision would greatly reduce the amount of water used and would result in the conservation of considerable amounts of precious potable water.
- (2) Section 7, item 6.1.B is amended to provide that a household aerobic unit shall be required for each dwelling in a subdivision which generated more than 3,000 gallons of wastewater per day. Currently, cesspools may be installed in any unsewered area, including where there are potable water sources. This provision would require subdivisions with five or more dwelling units to treat sewerage and dispose of clear effluent on site.

- (3) Section 7, item 6.3.B(1) is amended by providing that in any case where a septic tank is followed by a subsurface disposal field, the lot topography shall permit the construction of an operable subsurface disposal field with the required absorption area, regardless of the size of the lot.

Your Committee finds that this proposal would aid in the conservation of Hawaii's drinking water and minimize ground water contamination and is therefore in the public interest.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 986, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 986, S.D. 1, and be recommitted to the Committee on Health for further consideration.

Signed by all members of the Committee.

SCRep. 252-86 Education on S.B. No. 974

The purpose of this bill is to amend the laws of the State of Hawaii.

Your Committee has amended this short form bill to require Senate confirmation for the Director of the State Foundation on Culture and the Arts.

Presently the Director is selected by the Foundation to serve in office as directed by the Foundation. This bill would require the Director to be nominated by the Foundation and confirmed by the Senate, and specifies that the term of the Director shall be not more than four years. Renominations would also be subject to Senate confirmation.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 974, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 974, S.D. 1, and be recommitted to the Committee on Education for further consideration.

Signed by all members of the Committee.

SCRep. 253-86 Judiciary on S.B. No. 1097

The purpose of this bill is to require a finding of probable cause before the family court waives jurisdiction over a minor's case and orders the case held for criminal proceedings.

Your Committee has amended the bill so that its purpose is now to provide an alternate disposition for minors who the family court chooses not to waive or who are not eligible for waiver, but have committed a serious crime or crimes which justify supervision by the criminal justice system beyond the age of majority.

Studies conducted nationally and in Hawaii have uniformly produced statistics demonstrating that most of the serious crimes attributable to minors are committed by a small percentage of repeat juvenile offenders who start committing crimes at ages younger than sixteen. A term of extended jurisdiction for minors who are fourteen years and older prevents the family court from automatically losing jurisdiction once the person reaches age eighteen or nineteen and allows the court to decide whether that person deserves to be released. If the court determines the minor should not be released, the bill provides for transfer of the person to an adult correction facility.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1097, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1097, S.D. 1, and be recommitted to the Committee on Judiciary.

Signed by all members of the Committee except Senators Cayetano, Abercrombie, Kawasaki and Kuroda.

SCRep. 254-86 Ways and Means on S.B. No. 1625-86

The purpose of this bill is to amend chapter 157, Hawaii Revised Statutes, by removing all references to the Milk Commissioner and the Division of Milk Control to permit the reorganization of the milk control division.

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 Marketing and Consumer Services Division at substantial savings to the State and the dairy industry. Placement of the milk control program in this Division is desirable because of homogeneity with other programs of the Division.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1625-86 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 255-86

Ways and Means 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.

Presently, HCDA is authorized to establish a district-wide improvement program to develop needed public improvements in redevelopment districts such as Kaka'ako. The Authority is required to assess a portion of the improvement costs against those properties that specially benefit from the 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 up to twenty years. To provide financing for these property owners, HCDA is authorized under section 206E-6, Hawaii Revised Statutes, to issue improvement district assessment bonds.

Bond Counsel has determined the Authority's assessment bonds are not revenue bonds as defined in chapter 39, Hawaii Revised Statutes, and, therefore, are not entitled to an exemption from state and county taxes. Furthermore, chapter 206E, the Authority's enabling legislation, does not include specific language exempting these bonds from state and county taxation.

Your Committee finds that the proposed amendment would permit the assessment bonds to be exempt from certain state and county taxation and would place the Authority's bonds at parity with other revenue bonds of the State. Without this exemption, HCDA's assessment bonds would be at a competitive disadvantage to other comparable revenue bonds.

Your Committee has made technical, nonsubstantive amendments for style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1685-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1685-86, S.D. 1.

Signed by all members of the Committee.

SCRep. 256-86

Ways and Means on S.B. No. 1764-86

The purpose of this bill is to authorize the Hawaii Housing Authority to issue capital appreciation bonds under the Hula Mae Program.

A capital appreciation bond, which is similar in concept to a savings bond, is purchased at a discounted price and redeemed for its full face value at maturity. During the period between the bond's purchase and redemption, a capital appreciation bond accretes in value. The principal of accretion is important since capital appreciation bonds (1) are considered to bear no interest (they increase in principal value), and (2) have no regular payments of interest. These two technical deviations from the typical characteristics of bonds are addressed 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 per cent. This is achieved by issuing capital appreciation bonds in a discounted amount equal to seven to ten per cent of the total amount of 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 has made technical, nonsubstantive amendments to this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1764-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1764-86, S.D. 1.

Signed by all members of the Committee.

SCRep. 257-86

Ways and Means 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 has amended the bill by including an appropriation of \$1. Your Committee intends to include the appropriate sum, when determined, in the bill after its return from the House or in the supplemental appropriations bill.

In addition, your Committee has corrected a clerical error by deleting the quotation mark from page 1, line 1 of the bill, as received.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2478-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2478-86, S.D. 2.

Signed by all members of the Committee.

SCRep. 258-86 Ways and Means on S.B. No. 1718-86

The purpose of this bill is to appropriate funds out of the general revenues of the State for the purpose of compensating four hundred three victims and providers of services under the Criminal Injuries Compensation Act, chapter 351, Hawaii Revised Statutes. The funds appropriated shall be deposited in the Criminal Injuries Compensation Fund, to be used for payments as authorized by the Criminal Injuries Compensation Commission for the purposes of this bill. Applicants under chapter 351 are compensated for out-of-pocket medical costs, loss of earning power, funeral and burial expenses, and pain and suffering.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1718-86 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 259-86 Ways and Means on S.B. No. 1651-86

The purpose of this bill is to appropriate moneys to satisfy claims for legislative relief, judgments against the State, settlements, and miscellaneous claims.

The bill lists 43 claims for payment and appropriates \$2,691,079.88 to satisfy them. It also requires payment by warrants issued by the comptroller upon vouchers approved by the director of taxation for tax claims and by the attorney general for all other claims. The period for accrual of interest on the claims is also limited.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1651-86, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 260-86 Ways and Means on S.B. No. 1652-86

The purpose of this bill is to grant permanent civil service status to the director of the Hawaii criminal justice data center.

Your Committee finds that the data center was transferred administratively from the judiciary to the department of the attorney general in 1981. All other positions except that of the director have since been granted permanent civil service status.

Your Committee finds that this bill is supported by the office of the attorney general, the department of the prosecuting attorney of the city and county of Honolulu, and the Honolulu police department and that there is a need to provide for continuity in direction and programs affecting criminal justice agencies in the State, and that this bill would play a significant role

in effecting such continuity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1652-86 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 261-86 Ways and Means 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 7713.1, 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 Ways and Means is in accord with the intent and purpose of S.B. No. 2050-86 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 262-86 Ways and Means on S.B. No. 1033

The purpose of this bill is to require the Board of Trustees of the Public Employees' Retirement System to correct any error leading to overpayment of retirement benefits and allow the board to forgive any overpayment.

The Public Employees' Retirement System occasionally miscalculates retirement benefits which result in overpayment to retirees. The amount of overpayment, for some retirees, may be substantial in relation to their incomes. Your Committee finds that, although the error resulting in the overpayment should be corrected, mandatory recovery of overpayment may unduly burden some retirees. Thus, your Committee agrees with the Committee on Labor and Employment that recovery of overpayment should be left to the discretion of the Board of Trustees.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1033, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1033, S.D. 3.

Signed by all members of the Committee.

SCRep. 263-86 (Majority) Ways and Means on S.B. No. 2134-86

The purpose of this bill is to provide an appropriation for the Hawaii Workers' Compensation State Fund which was created by Act 296, Session Laws of Hawaii 1985.

Your Committee finds that the present burden on employers due to high priced workers' compensation insurance premiums in the State could be significantly eased by implementation of the State Fund, as provided by Act 296. Therefore, your Committee finds that it is consistent with declared public policy and in the public interest to approve this appropriation so that the proposal may be given appropriate consideration and full access to the legislative process. The bill appropriates \$1 to the fund; this amount was chosen to allow flexibility in the budget-making process.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2134-86 and recommends that it pass Third Reading.

Signed by all members of the Committee.
Senators Henderson and Soares did not concur.

SCRep. 264-86 Ways and Means on S.B. No. 2314-86

The purpose of this bill is to establish a revolving fund account for the State Motor Pool Program for the acquisition, operation, repair, maintenance, storage, and disposition of

state-owned vehicles.

Presently, the Motor Pool Program has been operating under a revolving fund concept which has been most successful. However, a financial audit report completed in fiscal year 1985 on the program stated that while the legislature authorizes appropriations for the expenditures to be financed by a revolving fund, there is no such fund statutorily established.

Your Committee believes the revolving fund concept will encourage management to be directly responsible and more accountable for vehicular expenditures to meet their transportation requirements.

Your Committee has made technical, nonsubstantive amendments for style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2314-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2314-86, S.D. 1.

Signed by all members of the Committee.

SCRep. 265-86 Ways and Means on S.B. No. 2468-86

The purpose of this bill is to establish a permanent job-sharing program in the public library system.

The Legislature established a pilot job-sharing project for the public library system in 1982. The Legislative Auditor in an evaluation report submitted in February 1986 recommends that the job-sharing option for library personnel be made permanent. Testimonies from the State Librarian, Hawaii Government Employees Association, and several librarians indicate that the project has been a success. Your Committee finds these testimonials to be persuasive and agrees that job-sharing in the public library system should be made permanent.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2468-86, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 266-86 Ways and Means on S.B. No. 994

The purpose of this bill is to establish a revolving fund for the University of Hawaii's Interpretation and Translation Center.

The proposed Interpretation and Translation Center is to be a dual purpose facility. First, the Center will be an instructional unit which specializes in providing undergraduate and graduate instruction in foreign language interpretation and translation. Second, the Center will be a service agency to the community which specializes in providing high quality translation and interpretation services with an emphasis on technical expertise in certain areas.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 994, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 267-86 Ways and Means on S.B. No. 1781-86

The purpose of this bill is to amend section 103-23, Hawaii Revised Statutes, 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 Committee finds that this requirement is unnecessarily restrictive, preventing the university from promptly responding to emergencies and to the immediate needs of its instructional and research programs. This bill is supported by the university, the state Comptroller, and the University of Hawaii Professional Assembly.

Your Committee has made technical, nonsubstantive amendments for style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1781-86, as amended herein, and recommends that it pass Third Reading in the form attached

hereto as S.B. No. 1781-86, S.D. 1.

Signed by all members of the Committee.

SCRep. 268-86 Ways and Means 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 Committee finds 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 business sector. It is the understanding of your Committee 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.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2326-86, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 269-86 Ways and Means 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 finds that the Board's position on the matter of the University President's salary is that "it is imperative that the Board of Regents should have the authority to set the President's salary without regard to a statutory ceiling."

Your Committee finds that the Board's strong position is based on certain fundamental principles which cannot be easily ignored. By statute, the Board is entrusted with the power to select and appoint a president for the University of Hawaii system. In close consonance with this power is the Board's responsibility to select, appoint, and retain the best possible candidate to head the State's entire post-secondary educational system. When seen in this light, it is clear that the public trust which is inherent in the Board's duties and responsibilities in this area should not be hampered by a ceiling on salary.

In recognition of this finding, 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 Ways and Means is in accord with the intent and purpose of S.B. No. 2328-86, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 270-86 Ways and Means on S.B. No. 2332-86

The purpose of this bill is to amend sections 231-51 and 231-52, Hawaii Revised Statutes, to allow retention of state income tax refunds where a person has defaulted on an education loan note held by the United Student Aid Funds.

Your Committee finds that continuing availability of educational loans is predicated on default rates acceptable to the federal government and to 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 Ways and Means is in accord with the intent and purpose of S.B. No. 2332-86 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 271-86 Education on S.B. No. 2463-86

The purpose of this bill is to allow the Board of Education to provide special projects which increase the use of the study and instruction of the Hawaiian language.

Current law provides: "that the course of study and instruction in the first eight grades shall be so regulated that not less than fifty percent of the study and instruction in each school day shall be devoted to the oral expression, the written composition, and the spelling of the English language."

Your Committee finds that this law is detrimental to communities, such as Niihau, where Hawaiian, not English is the primary language used. This bill would enable the Department of Education to develop and implement special projects using the Hawaiian language when appropriate to meet the unique needs of affected students.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2463-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 272-86 Energy on S.B. No. 1496-86

The purpose of this bill is to clarify the basis for which the board of land and natural resources would consider and issue a conservation district use application permit for geothermal development in a geothermal resource subzone located within a conservation district. This bill also establishes time limits within which the board of land and natural resources would be required to make its decision on applications for conservation district use permits.

Your Committee finds that the guidelines provided by this bill will facilitate the orderly and timely development of geothermal energy in the State by establishing a consistent basis for approving geothermal development activities by the board of land and natural resources or the county, whatever the land district may be. This bill will also assist the geothermal developers in the preparation of their applications by clarifying the basis upon which land use decisions will be made. The proposed time limits for decision-making by the board of land and natural resources are also consistent with those specified for county action in non-conservation districts.

Your Committee, upon further consideration, has amended this bill to clarify that the time limits to complete a conservation district use permit application, whether a contested case hearing is held or not, may be extended by agreement between the applicant and the board.

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 1496-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1496-86, S.D. 2

Signed by all members of the Committee.

SCRep. 273-86 Transportation on S.B. No. 1967-86

The purpose of this bill is to amend section 286-203, Hawaii Revised Statutes, relating to inspection of motor vehicles.

The bill strengthens the State's power to carry out these inspections, and allows the State to delegate inspection authority to the local government. However, the bill's provision for inspection of motor vehicles is broadly worded, allowing access to many types of written documents. Your Committee believes this all-inclusive access is not necessary for a thorough inspection; furthermore, such access could lead to invasions of individual privacy.

Your Committee received testimony from the Hawaii Transportation Association stating that the bill of lading accompanying the shipment would provide information about the items being shipped. Therefore, the bill has been amended so that inspection of written documents is limited only to the bill or bills of lading, as long as the bill or bills of lading contain sufficient information about the cargo. To provide additional protection to the public, the bill has also been amended to affirm the department's authority to inspect hazardous cargo.

The department of transportation offered testimony in support of this bill.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1967-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1967-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 274-86 Transportation on S.B. No. 2403-86

The purpose of this bill is to amend section 286-41, Hawaii Revised Statutes, relating to motor vehicle registration.

Your Committee finds that in certain counties, a problem exists in registering motor vehicles. Proof of insurance is required before a motor vehicle can be registered; however, an application for insurance requires proof of registration. This bill resolves the dilemma by waiving the insurance requirement for the initial registration of a motor vehicle.

The Honolulu police department and the department of finance of the city and county of Honolulu testified in favor of the bill.

Your Committee made technical and non-substantive amendments.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2403-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2403-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 275-86 Transportation on S.B. No. 1727-86

The purpose of this bill is to amend Section 286-52, Hawaii Revised Statutes, to relieve transferors of title of a motor vehicle from liability incurred subsequent to transfer of possession of the motor vehicle to the transferee.

Your Committee heard favorable testimony from the Hawaii Automobile Dealer's Association and the Department of Finance of the City and County of Honolulu. Your Committee finds that transfer of possession is a critical element in relieving a transferor of any liability.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1727-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 276-86 Transportation on S.B. No. 1789-86

The purpose of this bill is to amend Section 286-172, Hawaii Revised Statutes, providing for the release of information on vehicles under fleet ownership with safeguards for privacy.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1789-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 277-86 Transportation on S.B. No. 2512-86

The purpose of this bill is to amend Chapter 279G, Hawaii Revised Statutes, to focus more attention to ridesharing.

The benefits of ridesharing include reduced traffic congestion, cleaner air, and savings in highway maintenance costs. Ridesharing also saves energy—an important advantage given Hawaii's dependence on oil imports.

This bill makes it a State policy to encourage ridesharing and requests the legislative auditor to present a study on ridesharing twenty days before the regular legislative session of 1987.

The department of transportation testified in favor of this bill.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2512-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator B. Kobayashi.

SCRep. 278-86 Consumer Protection and Commerce on S.B. No. 1527-86

The purpose of this bill is to reduce the time period within which a tenant shall be deemed to have wrongfully quit the dwelling unit from thirty days to fifteen days.

Your Committee received favorable testimony from the Hawaii Association of Realtors stating that the bill would reduce landlord losses that invariably occur, while retaining adequate protection to tenants. Under the current thirty day requirement, the landlord is unable to collect for damages to the unit since he or she is allowed to retain a security deposit not to exceed one month's rent. If the tenant is in default in paying rent prior to the wrongful quit, the losses to the landlord are greater and are almost never recovered.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1527-86, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, McMurdo and Young.

SCRep. 279-86

Consumer Protection and Commerce on S.B. No. 2519-86

The purpose of this bill was to add a new section to Chapter 467, Hawaii Revised Statutes, to clarify the type of license a real estate broker or salesperson may apply for after a license has been revoked or automatically terminated. This bill further provided that such an applicant, upon denial or refusal by the Commission to issue a license, shall not be entitled to an administrative hearing in accordance with Chapter 91.

Your Committee received testimony from the Real Estate Commission supporting the intent of this bill. The Commission stated there is a need for revoked licensees to be re-educated on the principles, practices, and ethical standards of real estate prior to re-entering the profession. Records indicate that occurrences of licensee fraud, misrepresentation, or deceit, have caused recovery fund payments to aggrieved persons to increase steadily.

The Hawaii Association of Realtors supported the bill with reservations. The Association was concerned about the provision prohibiting an applicant from having an administrative hearing upon denial of the application for a license. This provision curtails an applicant's right to due process. Accordingly, your Committee has amended this bill to delete this provision.

Your Committee has further amended this bill to clarify that a person may apply as a new applicant for a license after the revocation period and, if applicable, after repayment to the real estate recovery fund in accordance with Section 467-18(e).

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2519-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2519-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, McMurdo and Young.

SCRep. 280-86

Housing and Community Development on S.B. No. 1765-86

The purpose of this bill is to amend Section 516-63, Hawaii Revised Statutes, to provide that the free assignability of leases under the Land Reform Act does not apply to residential leasehold units or lots developed and sold by the Hawaii Housing Authority (HHA) or other State and county agencies.

Current language of Section 516-63, Hawaii Revised Statutes, appears to invalidate the use and transfer restrictions placed on publicly funded units and lots developed pursuant to Chapter 359G, Hawaii Revised Statutes.

Testimony submitted by HHA supports the measure as necessary to prevent the circumvention of use and transfer restrictions applicable to dwelling units involving government funds. These restrictions are intended to discourage speculation and to ensure the dwelling units benefit that segment of the public for whom the program was intended.

Your Committee finds that the proposed amendment clarifies the right of free assignability, which should not apply during the ten-year owner occupancy and transfer restriction period of residential leasehold lots under jurisdiction of the HHA.

Your Committee has amended the bill by substituting "governmental" with "state or county" in line 5 of page 1 to clarify that only the restrictions imposed by state or county agencies are exempted from Section 516-63, Hawaii Revised Statutes. Your Committee has further amended the bill by making technical changes which have no substantive effect.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 1765-86, as amended herein, and recommends that it pass Second Reading in

the form attached hereto as S.B. No. 1765-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 281-86 Housing and Community Development on S.B. No. 1761-86

The purpose of this bill is to amend the definition of "development tract" under Chapter 516, Hawaii Revised Statutes, to include residential lots previously converted to fee simple, and to include nonresidential properties such as streets and roadways developed as an integral part of the development tract.

Currently, the Land Reform Act applies to development tracts which are a single continuous area of real property not less than five acres. The proposed amendment attempts to remedy those situations in which a number of leased fee interests have been sold, either through court action or voluntary conversion, and have segmented the development tracts.

Testimony submitted by the Hawaii Housing Authority states the proposed amendment is in response to an opinion rendered by the Office of the Attorney General. The opinion stated that lots in a tract which have been converted to fee simple may not be included as part of a development tract. The opinion further stated that non-residential properties, i.e., parks, roadways, etc., also should not be included in calculating the total area of a developmental tract.

Your Committee finds that without the amendment, lessees within such development tracts, who wish to use the Land Reform Act, would no longer qualify since the properties may not be contiguous or may not meet the five acre minimum requirement.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 1761-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 282-86 Housing and Community Development 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 Authority's lease rent renegotiation program.

Presently, under chapter 519, the HHA, or its designee, is requested to arbitrate in the event the parties to a lease are unable to achieve agreement under any reopening 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 Hawaii Housing Authority, states that prior to 1984, the HHA received general fund appropriations for administration of the Land Reform Program. These appropriations partially covered expenses incurred in operating the Program; the remainder of the expenses were covered by funds in the Fee Simple Residential Revolving 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 its policy is to pass on all administrative costs incurred in the conversion process, exclusive of constitutional costs, to the lessees. Currently, the Fee Simple Residential Revolving 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 proposed amendment would serve to replenish the Fund by allowing the HHA to assess administrative costs incurred in the arbitration process to lessees and lessors using the HHA services.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 1826-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 283-86 Energy on S.B. No. 1750-86

The purpose of this bill is to provide the Governor or his authorized representative the authority to adopt rules to insure that petroleum products are made available to the public in an orderly, efficient, and safe manner.

Presently, Section 125C-4, Hawaii Revised Statutes, requires the existence of a fuel shortage before such rules can be adopted. The Director of the Department of Planning and Economic Development testified that due to the continual fluctuations in the international oil markets, prudent action must be taken now to adopt rules before another energy emergency arises. This will insure the public an opportunity to comment on the rules without the pressure of a crisis situation. This also provides the State time to test the efficiency of the adopted rules before an actual shortage is declared.

This bill also allows the Governor or his authorized representative to adopt additional rules without prior notice or hearings if additional or unforeseen measures are required. Any of the rules adopted during the declared shortage period would be effective for a period of not longer than one hundred twenty days without renewal.

Your Committee, upon the recommendation of the Shell Oil Company, has amended this bill to provide that the rules adopted shall become effective when a shortage, as defined in Section 125C-2, exists. This amendment clarifies that the adopted rules shall become effective only when a shortage exists.

Your Committee on Energy is in accord with the intent and purpose of S.B. No. 1750-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1750-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 284-86 Transportation on S.B. No. 2248-86

The purpose of this bill is to amend section 291-11.6, Hawaii Revised Statutes, to resolve two problems with the State seat belt law.

The first problem is that the law creates hazards for taxi cab drivers. These drivers are a target for criminal acts committed by their passengers. The Oahu Taxi Owners Association (OTOA) testified that in 1984, their members were the victims of eighty violent crimes, including seventeen assaults, thirty-six robberies, two rapes, and four murders. According to OTOA, the Honolulu police department recommended that a driver leave the cab quickly if threatened. However, a seat belt both hinders escape and can be used as a weapon against the driver. The bill addresses this problem by exempting those operating motor vehicles as part of a metered taxi service from wearing seat belts.

Your Committee has amended the bill by placing the proposed exemption for taxicab drivers in subsection (c) rather than (b) of section 291-11.6, as subsection (c) is the more appropriate location for the provision. Further language has been added to clarify that the exemption is operative only while the taxicab driver is carrying passengers.

The second problem the bill resolves is with subsection (c) of section 291-11.6, Hawaii Revised Statutes, which is meant to exempt seat belt use for those with medical reasons. However, the present language of the statute applies only to those with a physical disability. The bill expands this section to include all those with legitimate medical reasons for the exemption.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2248-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2248-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 285-86 Transportation on S.B. No. 1794-86

The purpose of this bill is to amend sections 279E-3 and 279E-6, Hawaii Revised Statutes.

Under section 112 of the Federal-Aid Highway Act of 1973 and other federal laws, a metropolitan planning organization (MPO) is required for municipalities with populations in excess of fifty thousand. These organizations assist state and local planners in coordinating transportation programs. Currently, the Oahu Metropolitan Planning Organization (OMPO) is the only MPO in the State. Thus, in the current statute on MPO's, there is a membership rule applicable only to OMPO. Since the establishment of MPO's for other jurisdictions may be necessary in the future, this bill amends the membership rule so that it may apply to other local

jurisdictions.

The bill also provides that for decisions of the MPO policy committee, representatives of the State, and not just the State legislature, may be counted toward quorum.

The State Department of Transportation and the Department of Transportation Services of the City and County of Honolulu both testified in support of this bill.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1794-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi and Machida.

SCRep. 286-86 Ways and Means on S.B. No. 1060

The purpose of this bill is to lapse certain capital improvement appropriations which are unencumbered or which have not yet been lapsed by law.

Your Committee finds that in prior acts of the legislature, appropriations have been made for a number of capital improvement projects for which there remain appropriations and appropriation balances which are unencumbered. The existence of these inactive appropriations, with the corresponding authorization to finance the appropriations through the issuance of bonds, represents potential additional debt service to be counted against the debt limit as defined by the State Constitution.

Amendments to the State Constitution recognize the potential problem posed by having more than one billion dollars of authorized but unissued bonds. The intent being that lapsing of inactive appropriations will facilitate accountability for capital improvement projects and will encourage a more rational development of capital improvement programs, requiring executive agencies to conduct on-going reviews of capital improvement programs.

The bill has been amended with the inclusion of projects which (1) are inactive and will not be implemented prior to June 30, 1986, as indicated by the operating departments, and (2) appropriations which have not been expended due to change in circumstances or inaction by the expending agency.

Your Committee finds the general obligation bond amounts of \$3,648,060 from Act 283, SLH 1983; \$6,744,000 from Act 287, SLH 1984; \$761,000 from Act 291, SLH 1983; and \$2,490,000 from Act 301, SLH 1983 can be lapsed prior to June 30, 1986.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1060, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1060, S.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 287-86 Ways and Means on S.B. No. 1684-86

The purpose of this bill is to broaden the scope of the high technology research and development fund to enable the high technology development corporation to accumulate revenues and pursue 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 fund of revenues generated by corporation projects and expenditures for costs relating to such projects.

The high technology development corporation will soon begin operating the Hawaii ocean science and technology park at Keahole Point in Kailua-Kona, Hawaii. Other projects being developed include the Mililani Town and Maui high technology parks. Your Committee finds that without the expansion of the fund's scope as proposed by this bill, revenues generated by these and other projects would be deposited into the general fund and would not be available to offset operating and management costs of the projects. Thus, the ultimate goal of self-sufficiency for the corporation would be greatly inhibited. Your Committee agrees with the Committee on Economic Development that this bill is in the public interest as it will facilitate the mission and enhance the effectiveness of the high technology development corporation.

Your Committee has made nonsubstantive amendments for the purpose of clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1684-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1684-86, S.D. 1.

Signed by all members of the Committee.

SCRep. 288-86 Ways and Means on S.B. No. 1855-86

The purpose of this bill is to authorize the issuance of special purpose revenue bonds in an amount not to exceed \$3,000,000 for Cyanotech Corporation.

Cyanotech Corporation is one of Hawaii's first and most prominent aquaculture biotechnology firms, specializing in the growth and commercial production of high value microalgae. Your Committee finds that Cyanotech Corporation would be an excellent candidate for special purpose revenue bonds to not only assist industrial enterprises and encourage economic growth, but to also establish Hawaii as the marine and aquacultural center of the Pacific and the United States. Your Committee finds that the issuance of special purpose revenue bonds for Cyanotech Corporation will promote economic activity and is in the public interest.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1855-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1855-86, S.D. 2.

Signed by all members of the Committee.

SCRep. 289-86 Ways and Means on S.B. No. 1958-86

The purpose of this bill is to remove the statutory limitation of \$25,000 and to place a \$100,000 ceiling for petty cash accounts assigned to state agencies.

Current law provides that the Comptroller may assign petty cash accounts to a state agency up to \$25,000. Additionally, Act 281, Session Laws of Hawaii 1985, requires that all payments for goods and services less than \$100 be paid from petty cash. Your Committee finds that the purpose of Act 281, 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 where payments are made by the issuance of state treasury checks by the Comptroller. With the \$100 payment requirement under Act 281, Session Laws of Hawaii 1985, the statutory ceiling of \$25,000 in petty cash funds should be raised. The Comptroller suggested that \$100,000 would be a reasonable ceiling.

Your Committee noted that the bill appears to have inadvertently omitted the second paragraph of the statutory section being amended and therefore made the technical, nonsubstantive change of adding the omitted paragraph.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1958-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1958-86, S.D. 2.

Signed by all members of the Committee.

SCRep. 290-86 Ways and Means on S.B. No. 2465-86

The purpose of this bill is to establish a libraries revolving fund. All fines, fees, and charges derived from the loan and use of library materials are to be deposited into the revolving fund, instead of the general fund as is provided under current law. Expenditures from the revolving fund are to be made for the replacement or repair of lost, damaged, or stolen library materials.

This bill provides the board of education with reliable resources for use to improve the condition and quality of the collection of the public library system. The authority to retain revenues provides an incentive for the public library system to be effective and efficient in the collection of fines, fees, and charges for overdue, lost, or damaged library materials.

Your Committee does not intend that the revolving fund established by this bill be the sole source of funds for the maintenance and expansion of the collection of the public library system.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No.

2465-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2465-86, S.D. 2.

Signed by all members of the Committee.

SCRep. 291-86 Ways and Means on S.B. No. 1744-86

The purpose of this bill is to consolidate the Department of Hawaiian Home Land's funding structure by reducing the number of funds from fifteen to seven.

This bill amends the Hawaiian Homes Commission Act to abolish certain funds, merge existing funds, and rename one fund to serve as a holding account. Currently, the department is responsible for handling fifteen different funds which provide loans for the development and repair of home lands; assistance to farm land operations; operating moneys for the department; trust funds for holding moneys received from other parcels; and assistance to native Hawaiian rehabilitation activities.

Your Committee finds that this measure will facilitate more efficient financial administration within the department.

Your Committee has made technical, nonsubstantive amendments for style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1744-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1744-86, S.D. 1.

Signed by all members of the Committee.

SCRep. 292-86 Ways and Means on S.B. No. 1933-86

The purpose of this bill is to allow an award of attorney's fees in any civil suit by a small business against a state agency. If a court finds that either the contested agency action or the small businesses' claims are frivolous and wholly without merit, the opposing party is entitled to recover attorney's fees at a specified rate, up to a statutory maximum.

The bill requires a party seeking attorney's fees to establish the expenses incurred in trying the action. The bill also requires that state agencies include in their annual budget requests the amounts of attorney's fees awarded against them.

Your Committee received testimony that granting attorney's fees in a civil action by a small business against a state agency is necessary to ensure that a small business is not deterred from seeking review of governmental action by the cost of attorney's fees.

Your Committee concludes that small businesses deserve special consideration since they are subject to regulations not applicable to individuals, and since no publicly funded legal assistance is available to businesses.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1933-86, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator B. Kobayashi.

SCRep. 293-86 Ways and Means on S.B. No. 2316-86

The purpose of this bill is to appropriate the sum of \$1,829,781.30 to pay a judgment entered against the state department of education and in favor of the federal Department of Education. The federal government's suit against the State alleged that the State spent federal funds for expenses that should have been met by state revenues, and that the State did not provide the required level of services in some schools.

The State of Hawaii appealed the adverse decision and succeeded in obtaining a reduction in the amount of the judgment. Any further legal action would not be likely to diminish the amount owed.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2316-86 and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator B. Kobayashi.

SCRep. 294-86 Ways and Means on S.B. No. 1783-86

The purpose of this bill is to authorize the transfer of the Hoomana School Program (UOH 859, Social Rehabilitation of Confined Adults) from the University of Hawaii to the Department of Social Services and Housing.

At present, the administrative functions of the Hoomana School Program are placed with the Department of Social Services and Housing while the operational functions rest with the University. This bill would unify the two functions in order to bring about a more efficient and productive educational experience for the beneficiaries at Oahu Community Correctional Center.

Your Committee has made nonsubstantive, technical changes to the bill for style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1783-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1783-86, S.D. 1.

Signed by all members of the Committee except Senator B. Kobayashi.

SCRep. 295-86 Ways and Means on S.B. No. 2263-86, S.D. 1

The purpose of this bill is to establish the victim-witness assistance program in the department of the attorney general.

Currently, the victim-witness assistance program operates in association with the prosecuting attorney's office in each of the four counties. Your Committee agrees with your Committee on Judiciary on the need to ensure the continued availability of the program's services to the victims of and witnesses to crime in this State by permanently establishing the program under the department of the attorney general. Bringing the victim-witness assistance program within the purview of the department of the attorney general facilitates coordination of statewide funding efforts and allows for uniformity of policies and procedures.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2263-86, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except B. Kobayashi.

SCRep. 296-86 Ways and Means on S.B. No. 1762-86

The purpose of this bill is to remove statutory provisions which inhibit the establishment and expansion of correctional industries.

Testimony from the department of social services and housing in support of this measure revealed that the correctional industries program has been hampered by the provisions in the law which: (1) impose a \$350,000 limit on the production of correctional industries; (2) require public hearings before a new enterprise with a gross annual production exceeding \$25,000 can be established; (3) restrict the use of funds from the correctional industries account only for the purchase of supplies, equipment, machinery, and the construction of buildings for the program; and (4) limit the total expenditures from the correctional industries account to \$100,000.

This bill would alleviate these restrictions by: (1) deleting the \$350,000 gross annual production value limit on correctional industries; (2) deleting the public hearing requirement and giving the department of social services and housing discretionary authority to hold hearings when necessary in the public interest; (3) permitting the use of funds from the correctional industries account for the leasing of equipment and machinery, the leasing and renovation of buildings, personnel salaries, and for expenses incurred in studying and evaluating proposed or existing correctional industrial enterprises; and (4) increasing the expenditure ceiling of the correctional industries account fund from \$100,000 to \$500,000.

Your Committee believes that these statutory constraints which were established in 1963 are no longer realistic or applicable in 1986. If this State is serious about reducing idleness among inmates and providing inmates with practical occupational skills to promote effective reintegration, the correctional industries program must be given sufficient flexibility to expand according to the needs of the correctional system.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1762-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1762-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator B. Kobayashi.

SCRep. 297-86 Ways and Means on S.B. No. 686

The purpose of the bill is to require that the department of education determine class size in the public schools, including the pupil-teacher ratio, through the collective bargaining process.

Your Committee on Ways and Means has amended the bill to provide that the department may determine class size for kindergarten through the third grade, including the pupil-teacher ratio, through the collective bargaining process.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 686, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 686, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator B. Kobayashi.

SCRep. 298-86 Ways and Means 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.

Your Committee finds that Public Law 99-198, which takes effect on October 1, 1986, bars participation in the food stamp program to states in which the Secretary of Agriculture determines that state or local sales taxes are collected on food stamp purchases. Although Hawaii does not have a sales tax per se, the general excise tax may be passed on to the consumer, and thus may be construed to be a "sales tax." The department of social services and housing is awaiting an official response on whether Hawaii's excise tax is a "sales tax." For this reason, a new paragraph was added to amend section 237-24, Hawaii Revised Statutes, to exempt food stamp purchases only if the Secretary of Agriculture determines that Hawaii's general excise tax is a "sales tax" that disqualifies the State from participating in the federal food stamp program.

The department of taxation submitted testimony requesting that the language of the added paragraph be amended to include a reference to Public Law 99-198 and to require that if a determination of disqualification is made, the director of taxation shall immediately inform the general public by public notice of the exempt status of food stamp purchases. Your Committee agrees with the requested change and has amended the bill accordingly.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2322-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2322-86, S.D. 2.

Signed by all members of the Committee except Senator B. Kobayashi.

SCRep. 299-86 Ways and Means on S.B. No. 1779-86

The purpose of this bill is to provide for the establishment of a civil service system for the University of Hawaii under the jurisdiction of the Board of Regents, which would conform, as do the Executive Branch, the county jurisdictions, and the Judiciary, to the statutory requirements relating to the administration of civil service systems, specifically chapters 76, 77, and 89, Hawaii Revised Statutes.

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 Committee has amended the bill by making technical, nonsubstantive changes.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1779-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1779-86, S.D. 2.

Signed by all members of the Committee except Senator B. Kobayashi.

SCRep. 300-86 Ways and Means 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 from other sources such as coin-operated photocopy machines, 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 expenditures to support other direct library activities.

Your Committee finds that losses experienced by the various University system's libraries through lost, damaged, or stolen books and periodicals have not been properly addressed. The current approach to this problem is based on a deterrence theory as reflected by traditional fines and fees, and symbolized more recently by electronic detection devices. There is no question as to the effectiveness of the present deterrence program but it does not, however, eliminate the need for the periodic repair or replacement of lost or unusable library materials.

Information from the University indicates that approximately \$40,000 annually is collected by the libraries through assessments of fines and fees which are deposited into the state treasury. Although the proposed revolving fund will not completely resolve the problem, your Committee believes that it will provide a viable alternative for meeting an important part of the operational needs of the libraries. In addition, it will provide an incentive for the libraries to review their fee and fine structures and be more aggressive in their collection processes in an effort to partially offset the cost of replacing lost or damaged library materials and the administration of fines, dues, and notices which are currently supported in total by general funds.

Your Committee has made a technical, nonsubstantive amendment for style and has corrected the spelling of the word "activities."

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1852-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1852-86, S.D. 1.

Signed by all members of the Committee except Senator B. Kobayashi.

SCRep. 301-86 Ways and Means on S.B. No. 1828-86

The purpose of this bill is to amend chapter 40, Hawaii Revised Statutes, in order to provide the University with the authority and responsibility for all matters pertaining to University related acquisition of goods and services, pre-audit of payments, payroll and disbursing, fund accounting, and business and accounting forms.

Your Committee finds that this bill is the result of a cooperative effort between the University, the Department of Accounting and General Services, and the Department of Budget and Finance.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1828-86, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator B. Kobayashi.

SCRep. 302-86 Ways and Means on S.B. No. 1780-86

The purpose of this bill is to provide the University of Hawaii with more flexibility in budgeting and expending appropriations. In effect, the bill establishes lump sum budgeting and expenditure formats for the university. This bill allows budget requests and expenditures of appropriations to be made according to the university's own priorities and prerogatives as long as in compliance with budget and allotment ceilings established by the governor.

The Committee on Higher Education has formulated an excellent senate draft of the bill and your Committee agrees with the statements of legislative intent in that Committee's Senate Standing Committee Report No. 245-86.

Your Committee wishes to emphasize three points made in that committee report. First, the budget or allotment ceiling for each means of financing or source of funding required to be established by the Governor is intended to include both a maximum personnel count and maximum amount of funds. Second, favorable action on this bill does not imply nor endorse a lump sum appropriation approach. The Legislature intends to continue reviewing and, when deemed necessary, modifying the budget requests of the University of Hawaii. Third, your Committee notes that the authority of the university to transfer funds among and within programs and between quarters is fundamental to providing meaningful flexibility. The transfer authority will allow the university to make timely, appropriate, and necessary responses to

changing needs and situations. The bill contains significant limitations on the transfer authority which will assure that legislative budgetary directions are not ignored and that abuses will not occur. These limitations include the authority to transfer only general funds, prohibition on using transferred funds to expand programs or initiate new programs contrary to legislative authorization, and prohibition on transfers from campus programs to noncampus programs.

Much has been made of deficiencies in the administration of the University of Hawaii by third parties. Your Committee feels that the university's administration is making substantial and substantive efforts to correct the problems and provide a higher education instructional and research system of the highest quality. Thus, your Committee finds that the university is deserving of the flexibility provided by this bill.

Your Committee has made a technical correction to the bill. The term "section" has replaced "subsection" on page 3, line 12, of the bill, as received.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1780-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1780-86, S.D. 2.

Signed by all members of the Committee except Senator B. Kobayashi.

SCRep. 303-86 Ways and Means on S.B. No. 1773-86, S.D. 1

The purpose of this bill is to increase the amount of indirect overhead funds which are deposited into the University of Hawaii Research and Training Revolving Fund from thirty per cent of the total amount of indirect overhead funds generated by the University for research and training purposes in the prior fiscal year to fifty per cent of the first \$7 million and one hundred per cent 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.

Your Committee finds that this bill is supported by the University, the University of Hawaii Professional Assembly, and the High Technology Development Corporation as an increase in this fund will result in the attraction of additional extramural support for research and training purposes.

Your Committee has made technical, nonsubstantive amendments for style.

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

Signed by all members of the Committee except Senator B. Kobayashi.

SCRep. 304-86 Ways and Means on S.B. No. 2046-86

The purpose of this bill is to clarify the credited service and eligibility for retirement requirements of those members who terminate or retire and return to government service, and those who transfer from the noncontributory to the contributory plan, or vice versa.

Your Committee finds that this bill is a housekeeping measure which will require no additional expenditures of public moneys.

Your Committee has amended the bill by making technical, nonsubstantive amendments for style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2046-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2046-86, S.D. 2.

Signed by all members of the Committee except Senator B. Kobayashi.

SCRep. 305-86 Ways and Means on S.B. No. 2147-86

The purpose of this bill is to provide for "lifeline telephone service" to be offered by telephone companies upon approval by the Public Utilities Commission. The Commission is also to determine rates and eligibility for the service by rule.

Lifeline telephone service would include a basic, residential local exchange access offered to eligible consumers identified as elderly, handicapped, or low income persons. The telephone companies providing this service would be required to file rate schedules with the Public

Utilities Commission reflecting the charge for lifeline service and would receive a tax credit equal to the service to be applied against their tax liability imposed under chapter 239, Hawaii Revised Statutes.

Your Committee finds that the concept of lifeline telephone service is commendable and should be made available to persons with low and limited incomes in the face of rising telephone service costs.

Your Committee has made technical, nonsubstantive amendments for style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2147-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2147-86, S.D. 2.

Signed by all members of the Committee except Senator B. Kobayashi.

SCRep. 306-86 Ways and Means 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 use of tax exempt bonds to fund public programs. The Hula Mae program, which has assisted approximately 4,000 first time homebuyers since 1980, will be affected detrimentally under the federal legislation.

This bill provides the Hawaii housing authority with viable alternatives to finance mortgage loans with low interest rates for first time homebuyers and, in effect, allows the continuance of the intent and purpose of the Hula Mae program.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2190-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2190-86, S.D. 1.

Signed by all members of the Committee except Senator B. Kobayashi.

SCRep. 307-86 Transportation on S.B. No. 2206-86

The purpose of this bill is amend Section 266-21.1, Hawaii Revised Statutes, relating to permits and fees for small boat harbors.

This bill encourages the commercial fishing industry by affirming that owners of commercial fishing vessels may transfer ownership from personal to business ownership without losing the permits to the vessel. The bill deletes the provision limiting such transfer to the one year period following May 29, 1984 and makes such transfer subject to department of transportation regulations. The bill also allows the department to reserve spaces in State small boat harbors for commercial fishing vessels.

To allow the department of transportation time to draft rules relating to this bill, your Committee has changed the effective date of the bill to October 1, 1986. Your Committee has also made a technical and non-substantive amendment.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2206-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2206-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 308-86 Transportation on S.B. No. 2159-86

The purpose of this bill is to clarify and limit the jurisdictional authority of the Department of Transportation.

Act 104, passed by the 1985 Legislature, was meant to establish the Department of Transportation as the primary agency for enforcement along the shoreline and beaches of the State, with the Department of Land and Natural Resources retaining management responsibilities for the conservation district lands and other state public lands seaward of the vegetation line. However, the Attorney General found Act 104 to be unconstitutional, as it would have given management authority for all ocean shores to the Department of

Transportation. Such authority conflicts with the constitutional provision that all state public lands be managed by a board or commission.

This bill resolves this problem by clearly limiting harbor jurisdiction of the Department of Transportation to only water areas, except the two sectors of Waikiki Beach over which an easement granted in favor of the public exists, and by deleting all unconstitutional material introduced by Act 104.

The Department of Transportation testified in support of this bill.

Your Committee has amended the bill to conform other sections of Chapter 266, Hawaii Revised Statutes, to the new definitions and limitations that have been established. Your Committee has further amended the bill by making technical changes which have no substantive effect.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 2159-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2159-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 309-86 Education on S.B. No. 2127-86

The purpose of this bill is to specifically authorize the superintendent of education not to appoint a principal to a school after reviewing the level of the school's enrollment and the availability of funds.

Under existing law, the superintendent need not recommend the appointment of a principal to a school. This bill requires the superintendent to first review the level of the school's enrollment and the availability of funds before exercising that discretion.

After due consideration, your Committee has amended the bill to provide the superintendent with more flexibility. The bill as amended would provide the superintendent with the authority to consolidate the administration (including the principal's position) of any school after reviewing costs, enrollment, and funding factors.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2127-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2127-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 310-86 Education on S.B. No. 2467-86

The purpose of this bill is to provide exclusive vending machine concession rights to blind or visually handicapped persons at public schools.

In 1973, the Board of Education authorized the school vending machine program to be operated by blind or visually handicapped persons pursuant to Section 102-14, Hawaii Revised Statutes, which gave preference to blind or visually handicapped persons to operate vending machines and stands in government buildings. Section 102-14 was amended in 1981 to expand the scope of the preference, including a provision which prohibits any person from selling food or beverages in a public building in competition with a blind or visually handicapped vender located in the building. Because the no competition provision would have made the school lunch program illegal, Department of Education facilities were exempted from the coverage of Section 102-14. Apparently, the Legislature was unaware of the vending machine program of the Department of Education and the 1981 amendments to Section 102-14 removed the statutory authority for the program.

This bill corrects the oversight which occurred when Section 102-14 was amended in 1981 and reaffirms the Legislature's original intent of providing exclusive concession rights to blind or visually handicapped persons at public schools.

Your Committee has amended the bill by:

- (1) Allowing vending machines only at secondary schools;
- (2) Specifying that concessions are to be operated by only blind or visually handicapped persons;
- (3) Defining "blind" or "visually handicapped" by reference to appropriate sections of the HRS;

- (4) Providing the Department of Education with control over the operation of vending machines including designating times of operation;
- (5) Deleting sections 2 and 3 of the bill as introduced because those sections were unnecessary for the purpose of the bill; and
- (6) Making technical changes to conform the bill to recommended drafting style.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 2467-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2467-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 311-86

Consumer Protection and Commerce on S.B. No. 200

The purpose of this bill was to change the membership of the Board of Private Detectives and Guards to allow for representation on the Board by one person in the business of a detective and one person in the business of a guard.

Your Committee finds that the purpose of this bill was accomplished by Act 306, Session Laws of Hawaii (SLH) 1985. Therefore, your Committee has decided to use this bill to correct an anomaly in the present law relating to the Board of Private Detective and Guards.

Act 153, SLH 1985, provides that unless otherwise provided by law, the terms of all members of boards and commissions except the Boards of Agriculture, Land and Natural Resources, and the Hawaiian Homes Commissions, shall commence on July 1 and expire on June 30.

The Department of Commerce and Consumer Affairs testified that as a result of Act 153, all boards under the jurisdiction of the Department have terms which expire on June 30, except for the Board of Private Detectives and Guards. Section 463-2, Hawaii Revised Statutes, which establishes that board specifically provides for terms to commence on January 1 and expire on December 31.

To standardize the terms of the Board of Private Detectives and Guards with the rest of the boards, your Committee adopted the recommendations of the Department and amended this bill by repealing the sentence in Section 463-2 which states that "Each term shall commence on January 1 and expire on December 31." Your Committee also made technical, non-substantive amendments.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 200, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 200, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Chang, McMurdo and Henderson.

SCRep. 312-86

Consumer Protection and Commerce on S.B. No. 225

The purpose of this bill is to require check service providers to disclose to any person the information being maintained concerning checks written by that person and to disclose the method of correcting erroneous or adverse information.

The Federal Credit Reporting Act (Act) requires credit reporting agencies to disclose to consumers all information in the consumer's credit file, provides the consumer opportunity to dispute and if necessary correct inaccurate information, and provides civil and criminal penalties for violations.

Your Committee received testimony from the Office of Consumer Protection that although this bill is similar to the Federal Credit Reporting Act, the Fair Credit Reporting Act may not pre-empt this bill since the act expressly provides for pre-emption of state law only to the extent that state law is inconsistent with the Act. Presently, the office uses the Unfair and Deceptive Practices Act to work from and feels that a more specific statute would greatly aid in the enforcement of check information service provider violations.

Your Committee is aware that the bill may duplicate federal law, but, in view of the Office of Consumer Protection's testimony, believes that a state law would further ensure effective enforcement. Your Committee has added amendments which will limit the definition of "check information service providers", clarify remedies which become available against check information providers for failure to comply with the disclosure requirements, and clarify the

extent of damages which may be sought by the consumer if the provider fails to comply. Your Committee is mindful of the Office of Consumer Protection's opinion that the federal law may pre-empt state law, where in nonconformance, and has accordingly amended the bill so that it does not conflict with federal law.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 225, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 225, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Chang, McMurdo and Henderson.

SCRep. 313-86 Consumer Protection and Commerce on S.B. No. 1571-86

The purpose of this bill is to extend the Motor Vehicle Industry Licensing Board for six years starting December 31, 1986 until December 31, 1992 under the Sunset law.

Your Committee agrees with the Legislative Auditor's Report on Motor Vehicle Industry Licensing, that continued licensing of motor vehicle dealers and auctions is necessary to ensure the safety of the public. Without regulation, the public would be exposed to potentially unscrupulous, fraudulent, and deceptive industry practices.

Your Committee received testimony from the Hawaii Automobile Dealers Association and the Motor Vehicle Industry Licensing Board in support of this bill.

Your Committee has adopted the recommendation of the Legislative Auditor's Report on Motor Vehicle Industry Licensing Board to delete the requirement that prohibits a licensee from doing business outside the county for which the license was issued and has amended the bill accordingly.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1571-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1571-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Chang, McMurdo and Henderson.

SCRep. 314-86 Consumer Protection and Commerce on S.B. No. 1576-86

The purpose of this bill was to provide for decisions within thirty days of disputes between purchasers and manufacturers of new motor vehicles as to warranty coverage.

In the absence of such decisions, the cases were to be referred to the Regulated Industries Complaint Office, Department of Commerce and Consumer Affairs, for hearing and investigation.

In its consideration of this bill your Committee received testimony from the Regulated Industries Complaint Office pointing out that the thirty-day limit "appears to complicate and interrupt both the Federal and Hawaii law which enforce the warranty programs," and recommending a longer period.

Similar testimony was presented on behalf of the General Motors Corporation, suggesting that the period be extended to forty-five days, which would match the time "provided in Federal legislation dealing with the same area."

The Hawaii Auto Dealers' Association testified in support of the "Lemon Law," with which this bill deals.

Upon review of the bill and testimony, your Committee concluded that extension of the statutory period from thirty to forty-five days was warranted, and amended the bill accordingly.

The bill has been further amended on page 1, line 15 by changing "hearing and investigation" to "investigation and hearing." Reversing the order of the words "hearing" and "investigation" is for the purpose of clarity as an investigation would precede a hearing.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1576-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1576-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Chang, McMurdo and Henderson.

SCRep. 315-86 Consumer Protection and Commerce on S.B. No. 1604-86

The purpose of this bill is to exclude from the Residential Landlord-Tenant Code the unique relationship between a seller and a prospective buyer who occupies an apartment unit or home prior to the completion of the sale or transfer of property.

Your Committee is in agreement with the Hawaii Association of Realtors and the Office of Consumer Protection (OCP) that the landlord-tenant relationship between a seller and a prospective buyer of property is of a special nature and should be exempt from the Code.

Your Committee adopted the recommendations of the OCP by amending the bill for the purpose of statutory consistency, substituting "purchaser" for "buyer" and "owner's" for "proposed seller's vested."

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1604-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1604-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Chang, Kawasaki and Henderson.

SCRep. 316-86 Consumer Protection and Commerce on S.B. No. 1912-86

The purpose of this bill is to prohibit automobile insurers from unfairly charging higher automobile insurance rates for handicapped persons.

This bill would include "physical handicap" as a condition or reason which may not be used by insurers to charge higher automobile insurance rates. The bill also specifies that a motor vehicle reconstructed to adapt to the needs of a handicapped driver shall not be a factor in establishing insurance rates by insurers.

Your Committee finds that although handicapped persons should not be discriminated against when purchasing automobile liability insurance, an insurer should be able to establish automobile collision and comprehensive insurance rates pursuant to the actual costs of repairing or replacing a vehicle - irrespective of the driver. Therefore, your Committee has amended the bill by deleting lines 8 and 9 to allow insurers to provide collision and comprehensive insurance according to the type of vehicle being insured.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1912-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1912-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Chang, McMurdo and Henderson.

SCRep. 317-86 Consumer Protection and Commerce on S.B. No. 2300-86

The purpose of this bill is to allow corporations to purchase liability insurance for any agent of the corporation from an insurance company in which the corporation has an equitable or other interest.

The current insurance problem which plagues not only the insurance industry, but business in general, has affected the ability of many corporations to obtain liability insurance for its officers and directors.

This bill would allow corporations to purchase liability insurance for their board of directors from insurance companies which may be considered captive insurance subsidiaries. In essence, this bill provides for corporate self insurance.

Your Committee finds that this bill will help to alleviate the problem of increasing insurance premiums, and represents an essential improvement and clarification of Hawaii's laws.

Your Committee has amended the bill by correctly renumbering the bill sections on page 2.

Your Committee on Consumer Protection and Commerce is in accord with the intent and

purpose of S.B. No. 2300-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2300-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Chang and McMurdo.

SCRep. 318-86

Labor and Employment on S.B. No. 1669-86

The purpose of this bill is to require employers to submit detailed wage data on a quarterly basis to the Unemployment Insurance (UI) Division starting July, 1988.

Currently, employers are required to report only total wages for all employees on a quarterly basis and detailed wage data for each employee only upon the job separation of an employee. At the present time, Hawaii is one of only nine states that does not have a quarterly wage record system in operation.

Under this bill, five sections of the Hawaii Employment Security Law are amended to:

- 1) Permit the UI Division to require employers to submit wage data on a quarterly basis, together with contributions, effective July 1, 1988, and eliminate the current mandatory separation reports effective the same date.
- 2) Substitute wages for weeks of employment for monetary qualification and requalification purposes to relieve employers of the burden of providing additional information on the quarterly wage reports. The current law provides that an individual must be employed for at least fourteen weeks to establish a valid UI claim, and be reemployed for five consecutive weeks to requalify for benefits following a disqualification. This bill will change the monetary qualifying requirement of fourteen weeks to an equivalent of earnings in two quarters and change the requalifying requirement from five consecutive weeks to a comparable amount of five times the weekly benefit amount.
- 3) Change the base period from the last four completed quarters to the first four of the last five completed quarters. The collection and processing of quarterly wage reports during the succeeding quarter renders it administratively impossible to make available wage data to accommodate the existing base period.
- 4) Establish the filing requirement and penalty for failure to submit the quarterly wage reports.

Your Committee received supporting testimony from the Department of Labor and Industrial Relations and finds that Public Law 98-369, the Deficit Reduction Act of 1984, mandated all states to establish an income and eligibility verification system under which all employers are required to report employee wages on a quarterly basis effective September 30, 1988. The uniform wage reporting system is intended to assure easy exchange of information within the individual states and to allow exchange of information among states when necessary.

Your Committee further finds that unless this bill is passed during the current legislative session, the Department will be unable to make necessary preparations to design, test, and fully implement the quarterly wage record system by 1988. Failure to comply with the requirements of Public Law 98-369 is serious in that Hawaii will face federal decertification of its UI program. This would entail loss of the offset credit against the FUTA tax and would ultimately translate into higher unemployment tax rates for all employers.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 1669-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 319-86

Labor and Employment on S.B. No. 1672-86

The purpose of this bill is to eliminate the "reachback" provision of the unemployment compensation law.

Under current law, benefits paid are charged on a pro rata basis against the accounts of base period employers, regardless of the reason for separation. This bill would charge only those base period employers from whom the claimant was separated for non-disqualifying reasons.

The bill would also raise the maximum employer rate of contribution to the fund from 5.4 percent to 5.8 percent if the fund falls below the adequate level as a result of non-charging produced by this bill or other factors.

Your Committee heard testimony by the Department of Labor and Industrial Relations, the Hawaii Business League, Small Business Hawaii, the Small Business Council, and others and finds that the reachback provision in unemployment compensation law is inequitable and injurious to many businesses who have to subsidize all or part of a claimant's benefits even though the claimant might have quit without good cause or been discharged for misconduct connected with work. This measure would correct this situation and provide a measure of relief to many of Hawaii's employers which in turn would have positive impact on the efforts of the State, the legislature, and the public sector to stimulate Hawaii's economy and create additional employment opportunities for Hawaii's people.

Your Committee, upon further consideration, has amended the bill by deleting the proposed increase in the maximum employer contribution to the fund. Your Committee finds that the fund is in a healthy condition and that such action is not warranted at this time. Your Committee has also amended the bill by making a technical change which has no substantive effect.

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

Signed by all members of the Committee.

SCRep. 320-86

Labor and Employment on S.B. No. 2049-86

The purpose of this bill is to clarify that the authority for development and maintenance of the Excluded Managerial Compensation Plan (EMCP) lies within Chapter 89C rather than partially under Chapter 77, Hawaii Revised Statutes.

The compensation plan for the managers excluded from collective bargaining was adopted several years ago. If authority over the plan is divided between chapters 77 and 89C, the plan could be developed with some features from the civil service compensation law and some from the chapter relating to excluded workers. Your Committee believes that the intent of the original EMCP legislation was to place the authority over it with the executive branch, not under civil service.

Your Committee heard testimony by the Director of Personnel Services and the Executive Secretary of the Public Employees Management Association of Hawaii and finds that removing the EMCP provisions from chapter 77 will place all EMCP matters within one chapter of law and pinpoint the responsibility for development and maintenance of the plan upon the directors of personnel services and the chief executives of the various offices.

Your Committee has amended the bill by inserting language, which was inadvertently omitted from the bill as introduced, to provide that the chief executives shall determine the number of salary ranges as well as the number of steps for the excluded white-collar managers, and by making technical changes which have no substantive effect.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 2049-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2049-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 321-86

Labor and Employment on S.B. No. 2053-86

The purpose of this bill to clarify and strengthen the laws relating to job separation procedures in the public service.

Specifically, the bill distinguishes between a quit and resignation; provides for notification procedures; establishes new procedures for suspensions, dismissals, and demotions of public employees; provides for investigative procedures; and provides for notice requirements and the employer's authority to reassign an employee to another work site or other duties.

A recent United States Supreme Court Decision ruled that before a tenured civil service employee may be terminated, the employee must first be informed of the charges against him and given an opportunity to respond. This ruling has necessitated that Hawaii's public employers initiate statutory changes to avoid legal conflicts and undue delays in removing

employees from their positions and replacing them in a timely manner. For example, an employee who fails to report for work for several consecutive days has, for all intents and purposes quit, but because there is no such separation category in the law, under the Supreme Court ruling the employer would have to terminate the employee and initiate the lengthy termination proceedings before a replacement could be hired. This bill provides definitions of "quit," "resignation," "dismissal," and "termination," which will allow the employer to take the action which is appropriate to the specifics of each case.

Your Committee heard testimony on this bill by the Director of Personnel Services and the Hawaii Government Employees Association and finds that changes in the job separation provisions of the civil service law are needed in order for public employers and employees to meet the requirements and procedures necessitated by the Supreme Court ruling. However, your Committee does not believe that it is necessary to statutorily create new job separation categories to achieve such purposes. Therefore, your Committee has amended the bill as follows:

- 1) Deleted the definitions of "quit" and "resignation";
- 2) Deleted section 2 of the bill;
- 3) Provided that subsequent to the written notice of dismissal but prior to the actual separation, an employer may place the employee on leave with pay until the separation is finalized;
- 4) Provided that when an employee is under investigation for wrongdoing, that instead of removing the worker from service with pay while the investigation is proceeding, the employer shall place the employee on leave with pay until final determination of the investigation; and
- 5) Provided that an employer may demote an employee for the good of the service with at least ten days written notice specifying the reasons for the demotion.

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

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 2053-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2053-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 322-86

Labor and Employment on S.B. No. 2170-86

The purpose of this bill is to provide that laborers or mechanics employed on public works projects shall be paid at least one and one-half times their hourly rate for any hours in excess of forty worked in any work week.

The law presently requires the payment of one and one-half times the basic hourly rate for work on Saturday, Sunday, or a legal holiday of the State, and for work in excess of eight hours on any other day.

Your Committee received testimony in support of this bill from the Department of Labor and Industrial Relations, the Business Association of Hawaii, and the Hawaii Business League, among others, and finds that the federal Work Hours and Safety Act, which applies to laborers and mechanics employed on federal public works contracts covered by the Davis-Bacon Act, presently require overtime pay at one and one-half times the basic hourly rate for hours worked in excess of forty hours per week. The federal law was recently amended to delete the overtime required for work in excess of eight a day. This bill would make the state law consistent with the federal Work Hours Act, and would allow unions and management to determine overtime provisions and holiday schedules through the collective bargaining process.

Your Committee has amended the bill by providing that sub-minimum wages for temporary summer hires, where agreed upon by labor and management, shall be part of the prevailing wage schedules issued by the Director of Labor and Industrial Relations. Your Committee has further amended the bill by making technical changes which have no substantive effect.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 2170-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2170-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 323-86

Labor and Employment on S.B. No. 2261-86

The purpose of this bill is to grant civil service status to the Branch Chief of the International Service Branch of the Department of Planning and Economic Development.

Your Committee heard supporting testimony by the Director of Planning and Economic Development, the Director of Personnel Services, and the Acting Director of Labor and Industrial Relations, and finds that this Branch Chief position is the only non-civil service position among the six branches in the Business and Industry Development Division of the Department of Planning and Economic Development. This bill would provide continuity of the incumbent's service and contribute to the efficient operation of the Branch.

Your Committee has amended the bill by rewording Section 2 to conform to recommended language relating to conversion and classification, and by changing the effective date of the Act to July 1, 1986 to allow classification procedures to be completed upon implementation.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 2261-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2261-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 324-86

Labor and Employment on S.B. No. 2427-86

The purpose of this bill is to amend Part I, Discriminatory Practices, of the Employment Practices Law, to include "mental handicap" as an unlawful basis for discrimination in employment.

Presently, it is unlawful for any employer, labor organization, or 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. This bill would include "mental handicap" which is defined as "a substantial mental impairment where such handicap is verified by finding of a licensed psychologist or psychiatrist, but where the person is not imminently dangerous to self, to others, or to property."

Your Committee received supporting testimony from the Department of Labor and Industrial Relations, the Department of Health, the Hawaii Psychological Association, and the Mental Health Association in Hawaii, and finds that mentally handicapped persons who are not dangerous to self or others and who may be reasonably accommodated should be afforded the right to employment in situations in which their skills would merit their selection or retention.

Your Committee, upon further consideration, believes that the protection provided by this bill should be extended to as many persons as possible. Therefore, your Committee has amended the bill by deleting the definition of "physical handicap" in section 378-1, Hawaii Revised Statutes, and by inserting a definition of "handicapped status" to be interpolated throughout section 378-2. This new definition would encompass all physically and mentally handicapped persons by providing that they may not be discriminated against because of "a physical or mental impairment which substantially limits one or more life functions, having a record of such impairment, or being regarded as having such an impairment."

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 2427-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2427-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 325-86

(Majority) Transportation on S.B. No. 310

The purpose of this bill is to delete the definition of "reconstructed vehicle" from section 286-2, Hawaii Revised Statutes, and to further amend the Hawaii Revised Statutes to conform with this deletion.

Under present statutes, reconstructed vehicles must pass special inspections to be operated in the State. Your Committee received testimony from Alfred Santos of the Maui Contractors' Association, Herman Silva of Vintage Rods, Paul Allen, a private citizen, and other owners of reconstructed vehicles stating that since reconstructed vehicles are required to pass the regular motor vehicle safety tests, no additional inspection should be required of reconstructed vehicles. According to the owners, reconstructed vehicles are also often safer than

non-reconstructed vehicles, as special safety accessories are installed in reconstructed vehicles.

However, your Committee believes that special inspections are still necessary for reconstructed vehicles used substantially for commercial purposes. Therefore, your Committee has amended the bill to allow the present statutes on reconstructed and rebuilt vehicles to stand. The bill has been amended further to exempt privately owned reconstructed vehicles used substantially for charitable or recreational purposes from the statutes governing reconstructed vehicles. Your Committee has also limited this exemption to counties with a population of less than five hundred thousand.

Your Committee is in accord with the intent and purpose of S.B. No. 310, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 310, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senators Cobb, George and Soares did not concur.

SCRep. 326-86 Transportation on S.B. No. 1770-86

The purpose of this bill is to amend Sections 286-26 and 286-41, Hawaii Revised Statutes, exempting aircraft servicing vehicles used exclusively on airport lands from registration and inspection standards required for motor vehicles.

The Department of Transportation has testified in favor of S.B. No. 1770-86 indicating that it intends to establish procedures for the inspection and registration of aircraft servicing vehicles.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1770-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator B. Kobayashi.

SCRep. 327-86 Transportation on S.B. No. 1056

The purpose of this bill is to relieve owners of aircraft from absolute liability for injuries to persons or property caused by the aircraft, by repealing Section 263-5, Hawaii Revised Statutes.

Your Committee finds that the present statute imputes absolute liability to owners of aircraft for injuries connected with the aircraft, regardless of whether the aircraft was leased, was operated by someone not the owner, or was reported as stolen, at the time of the injuries.

Your Committee is in agreement with the Department of Transportation and the General Aviation Council of Hawaii that owners of aircraft should be relieved of absolute liability for injuries caused by the aircraft. However, your Committee feels that certain portions of the current statute remain applicable, and should be retained. Your Committee has amended the bill to retain the statute with an amendment to relieve owners of aircraft from absolute liability. As amended, Section 263-5, Hawaii Revised Statutes, provides that owners of aircraft would be "presumed" liable for injuries caused by their aircraft.

The purpose of the amended bill is to amend Section 263-5, Hawaii Revised Statutes, holding the owner of aircraft presumably liable for injuries to persons or property caused by aircraft.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1056, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form hereto as S.B. No. 1056, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hagino.

SCRep. 328-86 Transportation on S.B. No. 1673-86

The purpose of this bill is to amend Section 265A-1, Hawaii Revised Statutes, to clarify the authority and duty of the counties to control, maintain and repair certain highways which may be under State title but not designated for inclusion in the State highway system.

This bill defines "county highways" as a public highway not designated for inclusion in the state highway system and charges the county with control and responsibility for all county highways, notwithstanding that title to a county highway may be vested in the State.

Your Committee has received testimony from the Department of Transportation in support of S.B. No. 1673-86.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1973-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator B. Kobayashi.

SCRep. 329-86 Transportation on S.B. No. 1875-86

The purpose of this bill is to amend Section 286-108, Hawaii Revised Statutes, to include drivers licensed by the Commonwealth of the Northern Mariana Islands (Marianas) among those persons allowed to be exempted from road test needed to receive a driver's license.

Your Committee finds from testimony that the Marianas require written, eye, and driving tests compatible with Hawaii's standards. Your Committee is in agreement with the Department of Finance of the City and County of Honolulu that drivers licensed by the Marianas should be accorded the same treatment given to those persons who have driver's licenses from other jurisdictions.

Upon consideration of this measure, your Committee has concluded that a corresponding amendment should be made to Section 286-105(3), Hawaii Revised Statutes, which exempts any persons from certain other jurisdictions who is at least eighteen years of age and who has a valid driver's license issued by the other jurisdiction from having a Hawaii driver's license in order to operate a motor vehicle in the State. Accordingly, the bill has been amended to include the Marianas as one of the jurisdictions listed in Section 286-105(3), thereby allowing drivers licensed by the Marianas to drive in Hawaii without obtaining a Hawaii driver's license as allowed by Section 286-105(3).

Your Committee has made technical and non-substantive changes.

The purpose of the amended bill is to amend Sections 286-105 and 286-108, Hawaii Revised Statutes, making licensed drivers from the Commonwealth of the Northern Mariana Islands exempt from license and eligible for waiver from examination.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1875-86, as amended herein, and recommends that it pass Second Reading in the form hereto as S.B. No. 1875-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator B. Kobayashi.

SCRep. 330-86 Agriculture on S.B. No. 1629-86

The purpose of this bill is to amend Chapter 142, Hawaii Revised Statutes, by adding a new section to require every owner of animals being sold or transported to complete a livestock ownership and movement certification.

Your Committee received favorable testimony from the Board of Agriculture stating that rustling causes substantial economic loss to the industry. This bill will address the ranchers' concern to strengthen controls to curb rustling.

The Board further testified that most western States already require strict brand inspection prior to the sale or transportation of animals.

Currently the inspection of brands is done on the slaughterhouse floor where the inspection of meat for wholesomeness should and does take precedence. Your Committee finds that effective control of rustling must occur before the animal reaches the slaughterhouse.

Your Committee concurs with the intent of this bill to require that every owner complete a certificate providing a description of the animal and brand and indicating the ownership or consignee and origin and destination of shipment.

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 placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 331-86 Agriculture on S.B. No. 1644-86

The purpose of this bill is to authorize the Department of Agriculture to establish and assess fees to defray various costs associated with the enforcement of Chapter 142, Hawaii Revised Statutes (HRS).

Presently Section 141-5, HRS, authorizes fees only for inspection, disinfection, fumigation and quarantine. This bill provides for fees to be assessed for facilities usage, vaccinations, medical treatments, emergency transportation of quarantined animals and other similar services. The Chairman of the Board of Agriculture testified that except for the costs of the initial inspection, the owner, consignee or handler should be responsible for the costs of these services.

Your Committee has amended this bill to clarify that if the Department of Agriculture provides these services, the owner, consignee or handler is responsible for the costs of the services. In some instances the owner, consignee or handler may not utilize the services of the Department to comply with the provisions of Chapter 142, HRS, so should not be subject to the fees proposed in this bill. Your Committee has also amended the bill to clarify that the department may establish and assess fees in accordance with Chapter 91, The Administrative Procedure Act.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1644-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1644-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 332-86

Agriculture on S.B. No. 1908-86

The purpose of this bill is to transfer all functions relating to the administration of agricultural park leases from the Department of Land and Natural Resources to the Department of Agriculture.

As provided by this bill, agricultural park lands would be master-leased by the Board of Agriculture from the Board of Land and Natural Resources. Your Committee received favorable testimony in support of this bill from the Department of Agriculture and the Department of Land and Natural Resources.

Your Committee agrees with the Department of Agriculture that the Legislature should adopt more explicit goals and objectives for the agricultural park program; that the agricultural park law should be amended to provide criteria for joint venture agricultural parks and to qualify agricultural cooperatives as lessees of agricultural park land; and that all agricultural park planning, development, and management functions should be transferred to the Department of Agriculture as lead agency.

The Department of Land and Natural Resources testified that agricultural park lands should be transferred to the Department of Agriculture in accordance with the set-aside provisions of Section 171-11, Hawaii Revised Statutes, rather than by master lease.

Your Committee finds that at present, appropriations of funds for agricultural park capital improvement projects have been made to the Department of Agriculture, while the Department of Land and Natural Resources is the lead agency for agricultural park development, lot disposition, and monitoring and enforcement of leases. Your Committee finds that planning, development, and management functions for agricultural parks should all be located in one lead agency for maximum accountability.

Inasmuch as the Department of Agriculture has been providing planning, leadership and guidance for the agricultural park program, your Committee finds that this Department should assume full responsibility and accountability for the program.

Your Committee also agrees with the Department of Agriculture that a clear and up-to-date expression of legislative intent regarding agricultural parks is needed; that the Board of Agriculture should be mandated to adopt rules governing the agricultural park program; and that agricultural park land should be acquired by the Department of Agriculture through the Governor's set aside powers, rather than by master lease.

Accordingly, your Committee has amended the bill in its entirety to:

- 1) Establish a new chapter on agricultural parks under the Department of Agriculture, with sections providing for legislative findings; definitions; authority to plan, develop, and manage agricultural parks; park development; joint ventures; disposition; applicants; preference right; rules; and an agricultural park special fund. The bill as amended will serve to better clarify the administration of agricultural parks and the role of the Department of Agriculture.
- 2) Amend Sections 171-112, and 171-117, Hawaii Revised Statutes, to provide that lands

designated by the Board of Land and Natural Resources as agricultural parks may be set aside to the Department of Agriculture pursuant to Section 171-11, Hawaii Revised Statutes.

- 3) Repeal Sections 171-111, 171-116.5, and 171-118, Hawaii Revised Statutes, in addition to the sections repealed by the bill as introduced, which are Sections 171-113 through 171-116, all of which relate to agricultural parks under the Department of Land and Natural Resources. Section 171-117, which was repealed in the bill as received by your Committee, was not repealed but was amended as indicated above.
- 4) Change the effective date of the Act from upon approval to July 1, 1986.

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

Signed by all members of the Committee.

SCRep. 333-86 Agriculture on S.B. No. 1646-86

The purpose of this bill is to clarify the language of Section 142-74, Hawaii Revised Statutes, and increase the penalty imposed on owners of free-roaming dogs that injure or destroy property or animals of another person.

Your Committee received favorable testimony from the Board of Agriculture stating that damages to livestock caused by free-roaming dogs has been a long standing problem. Abandoned dogs gather in packs and become a formidable threat to all livestock. Animal losses occur when dog owners fail to observe leash laws and refuse to control those dogs known to attack livestock. In addition to animal losses, the constant harassment by these dogs prevent cattle from adequately gaining weight while living under range conditions.

Your Committee is in agreement with the Department that unleashed dogs pose a threat to livestock, and that this bill is necessary to improve enforcement and compliance in this area.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1646-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 334-86 Tourism and Recreation on S.B. No. 2025-86

The purpose of this bill is to amend section 188-35, Hawaii Revised Statutes, to include a portion of Waimea Bay, Oahu, and all commercial and small boat harbors under the jurisdiction of the Department of Transportation, among other areas of the State restricted to pole-and-line fishing only.

Your Committee finds that conflicts frequently arise between net and pole fishermen, particularly in certain protected harbors and embayments of the State. To resolve such conflicts, certain areas have been designated for fishing only by line, one rod and line, and small nets for crab and shrimp.

The boundaries of the areas to be included by this bill will be delineated by the Department.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2025-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 335-86 Tourism and Recreation on S.B. No. 2245-86

The purpose of this bill is to add a new chapter to the Hawaii Revised Statutes, establishing reasonable safety standards for the operation of water sports areas and for persons using them.

The new chapter as proposed by this bill establishes:

- (1) The legal responsibilities of water sports area operators and their agents and employees;
- (2) The responsibilities of persons using such water sports areas; and

- (3) The rights and liabilities existing between the water sports area operator and persons utilizing those water sports areas.

Your Committee finds that it is in the interest of the State to establish safety standards relating to water sports areas and activities.

Your Committee heard testimony by the Departments of Land and Natural Resources and Transportation, the state Attorney General, and the Hawaii Hotel Association. Concerns were raised in two major areas:

- (1) The requirements that operators of water sports areas post and maintain signs warning of dangers inherent in particular water sports activities, as well as warning of hazardous water sports area conditions. Concerns raised were that an effective warning sign is difficult to develop as it must contain sufficient information with a minimum number of words in a limited space; that responsibilities for posting signs are unclear in an area used by several operators, and that the number of signs posted could detract from the natural beauty of the water sports areas.
- (2) The inclusion of the State, its political subdivisions, and agencies as operators of water sports areas. Concerns raised were that the Departments of Land and Natural Resources and Transportation would fall within the definition of water sports area operators because they have jurisdiction over the various ocean waters and shore lands of the State.

To allow sufficient opportunity to address these concerns, your Committee held this bill until the interested parties could work out their differences.

Your Committee amended the bill, taking the recommendations of the interested parties into account. The requirement of warning signs was deleted and substituted with water safety pamphlets. The pamphlets will be developed by the Director of Transportation and shall be distributed by water sports area operators. The definition of water sports area operators was also clarified by specifically excluding the State, its political subdivisions, agencies and employees. Your Committee also made technical, non-substantive changes.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of S.B. No. 2245-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2245-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 336-86

Transportation on S.B. No. 1659-86

The purpose of this bill is to amend Section 291C-131, Hawaii Revised Statutes, requiring that vehicle loads susceptible to being blown by the wind be entirely covered to prevent traffic hazards.

Your Committee finds that currently Section 291C-131, Hawaii Revised Statutes, is unclear regarding securing of vehicle loads consisting of loose materials light enough to be blown by the wind. As proposed by this bill, Section 291C-131 is amended to require that such loads be entirely covered to prevent spilling of the load.

During testimony heard by your Committee, concerns were raised that:

- 1) The requirement that loads be entirely covered would inconvenience passengers riding in the back of trucks; and
- 2) The burden of penalties for violations of this Section 291C-161(b), would fall unduly on drivers, not owners, of vehicles.

To address these concerns, your committee amended the bill by specifying that, if not completely covered, loads may be physically secured by passengers of the vehicle; and by specifying that the penalty for violations of Section 291C-131 include suspension of the motor vehicle registration, by adding a new subsection (e) which provides as follows:

- (1) First conviction - mandatory suspension of motor vehicle registration for 5 working days and a fine of not less than \$100 and not more than \$500;
- (2) Conviction of a second offense committed within one year after the date of the first offense - mandatory suspension of motor vehicle registration for ten working days and a fine of not less than \$250 and not more than \$500; and

- (3) Conviction of a third or subsequent offense committed within one year of the date of the first offense - mandatory suspension of motor vehicle registration for thirty days and a fine of not less than \$500 and not more than \$1000.

Your Committee has also amended the bill by changing the effective date from upon approval to October 1, 1986.

The purpose of this amended bill is to amend 291C-131, Hawaii Revised Statutes, requiring that vehicle loads susceptible of being blown by the wind be entirely covered or physically secured by passengers to prevent traffic hazards and to provide penalties for violation of this section.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1659-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1659-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Soares.

SCRep. 337-86 Housing and Community Development on H.B. No. 2022-86

The purpose of this bill is to amend subsection 206E-6(b), Hawaii Revised Statutes, to authorize the Hawaii Community Development Authority (HCDA) to create statutory liens against properties assessed for certain improvement costs under its District-Wide Improvement Program. The bill further provides such liens shall have priority over all liens except the lien of property taxes.

HCDA is authorized to establish a District-Wide Improvement Program to develop needed public improvements in its redevelopment districts. The HCDA is required to assess a portion of the improvement costs against those properties which specially benefit from the improvements. To mitigate the financial impact of the assessment amounts, HCDA allows property owners to make installment payments, with interest, over a period of up to twenty years. To provide financing for these property owners, HCDA is authorized to issue improvement district assessment bonds.

Your Committee received testimony from HCDA indicating that the creation of statutory liens against properties within an improvement district, as security for unpaid assessments, is standard and customary for any improvement district program, including that of the City and County of Honolulu and the neighbor island counties. The State's bond counsel has determined the creation of statutory liens against properties must be expressly authorized or clearly implied in the statutes. This amendment will enable HCDA to provide financing to assessed property owners at the lowest possible interest rate.

Your Committee on Housing and Community Development is in accord with the intent and purpose of H.B. No. 2022-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 338-86 Housing and Community Development on S.B. No. 2091-86

The purpose of this bill is to clarify that the Hawaii Housing Authority (HHA) is exempt from land use district boundary amendment proceedings in the development of housing projects.

The Legislature's intent in its enactment of chapter 359G, Hawaii Revised Statutes, (Act 105, Session Laws of Hawaii 1970) was to provide for the development of affordable dwelling units at minimum cost to the consumer. The statutory powers granted the Hawaii Housing Authority to by-pass land development controls is clear. Although these powers were intended to exempt qualified HHA projects from obtaining land use district boundary amendments, the exemption does not specifically mention boundary amendments.

Although your Committee feels that by-passing the Land Use Commission is presently authorized, this bill removes any doubt regarding HHA's exemption from land use district boundary amendment proceedings. The clarifying language will ensure expedient redesignation of land use districts for qualified HHA projects, thereby reducing the associated costs.

Your Committee has adopted the recommendations of the Authority by amending the bill as follows:

- (1) Subsection 356-20(b), Hawaii Revised Statutes, has been amended to clarify the Authority may develop multi-story housing projects for the elderly wherever practicable — a clarification of the powers provided the Authority under section 359G-4.1;

(2) Section 359G-10.5, Hawaii Revised Statutes, has been amended to allow the Authority to independently develop economically integrated housing; and

(3) Section 359G-10.5 has further been amended by amending paragraph (b)(1) to clarify that economically integrated housing units shall be randomly dispersed individually or in clusters, and paragraph (b)(2) has been amended to provide that below-market priced economically integrated units shall be subject to the restrictions provided under sections 359G-9.2, 359G-9.3 and 359G-9.4.

Your Committee has further amended the bill to clarify that the exemption from land use district boundary amendment proceedings applies in county development of experimental and demonstration housing projects.

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

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 2091-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2091-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 339-86 Ways and Means on S.B. No. 2318-86

The purpose of this bill is to fund a survey to gather the facts necessary to take legal action against those responsible for the presence of asbestos in state-owned buildings. The survey will locate asbestos in the State's buildings, assess any health hazard to the buildings' occupants, determine the manufacturer of the asbestos by analyzing the material, and estimate the cost of removing it. The office of the attorney general is authorized to shape the survey so that it supplies the information needed to litigate the matter.

Your Committee has amended the bill to appropriate \$300,000 for the survey and has made other nonsubstantive, technical amendments for style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2318-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2318-86, S.D. 1.

Signed by all members of the Committee.

SCRep. 340-86 (Majority) Ways and Means on S.B. No. 2317-86

The purpose of this bill is to provide funds for litigation expenses for the recovery of costs incurred by the State in the removal of asbestos from buildings owned by the State.

The State has already spent millions of dollars to remove asbestos from state buildings and it is anticipated that more millions of dollars will be spent in the future for asbestos removal from other state buildings. This bill would enable the State to commence litigation for recovery which could amount to over \$50,000,000.

Your Committee directs the attorney general to thoroughly evaluate the possibility of recovery before entering any court action.

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

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2317-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2317-86, S.D. 2.

Signed by all members of the Committee.
Senator Matsuura did not concur.

SCRep. 341-86 Ways and Means on S.B. No. 2095-86

The purpose of this bill is to establish enterprise zones in the State.

Enterprise zones are areas of the State declared as such by the Governor and administered by the department of planning and economic development which provide certain benefits to businesses that are established therein. Those benefits include state tax credits, general excise tax exemptions, and local incentives (i.e. reduction in permit fees, user fees, etc.).

The purpose of enterprise zones is to create commercial activity in economically depressed areas of the State. Currently, there are no statutory provisions for the establishment of enterprise zones.

Your Committee finds that the health, safety, and welfare of the people of this State are dependent upon the continual encouragement, development, growth, and expansion of the private sector, and that there are certain areas in the State that need the particular attention of government to help attract private sector investment. Enterprise zones will address this concern by stimulating business, increasing industrial growth, and revitalizing economically stagnant communities by means of regulatory flexibility and tax incentives.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2095-86 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 342-86 Ways and Means on S.B. No. 2072-86, S.D. 1

The purpose of this bill is to grant 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.

Presently, section 281-17, Hawaii Revised Statutes, provides the liquor commission with the exclusive jurisdiction to control, enforce provisions, and grant licenses for the manufacture and sale of liquor. Section 281-17.5, Hawaii Revised Statutes, restricts the use of liquor license fees for the operation and administration of the county liquor commissions.

Your Committee finds that the intent of this bill is to enable the liquor commission to expand its programs, to complement the traditional functions of the commission, and to provide that surplus moneys from liquor license fees may be used for these programs.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2072-86, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 343-86 Ways and Means on S.B. No. 2308-86

The purpose of this bill is to substitute a gallonage tax for the present ad valorem tax levied on the sale of liquor in this State. The bill places a tax of unknown amounts on six types of liquor and adds appropriate definitions to the liquor tax law. It further provides for the county liquor commissions to assist the department of taxation in carrying out the administration of the liquor tax law and provides for the taxation of the sales of liquor to the military.

Your Committee finds that the constitutionality of the ad valorem liquor tax law has been in question in the courts since 1979 and, in 1984, the predecessor to the current law was declared unconstitutional. The present law is also being challenged in court on constitutional grounds. The liquor tax moneys from the 1979 court case and other moneys, because of the present court case, have been deposited in escrow and are not available to the State. Your Committee does not agree that the present ad valorem liquor tax law is unconstitutional, but does find that in order to avoid further court challenges, the loss of revenues during such challenges, and the use of state money to defend these challenges, the taxation of the sale of intoxicating liquor should be changed to a tax on the gallonage sold. This bill will accomplish these purposes. Your Committee heard testimony in favor of the gallonage tax by the department of taxation, the Tax Foundation of Hawaii, and the various concerned liquor wholesalers.

Your Committee has amended this bill by adding a new section requiring the department of taxation to report on the effect of this bill as enacted in order to assist the legislature in determining its impact and to determine if it is necessary to amend the tax to maintain state revenues. Your Committee notes that unlike the ad valorem tax which grows automatically through inflation and price increases, the gallonage tax will only grow due to increased sales.

Your Committee has decided on a tax on gallonage on distilled spirits, still and sparkling wine, and beer, including wine coolers, as being the easiest to carry out for the department of taxation and the fairest to the industry. The tax rates imposed appear to be revenue neutral. The inclusion in this bill of a repeal of the exemption from taxation of liquor sale to the military should result in an increase in revenues of approximately \$10 million. Such an increase should more than offset any loss of revenues due to an increase in the drinking age, if such an increase takes place.

The definitions of absolute alcohol, proof, and proof standard, have been deleted as unnecessary to the bill as amended. The definition of distilled spirits has been clarified to state that it does not include wine or beer. The definition of gallon has been amended to substitute 128 fluid ounces for 231 cubic inches as being the better understood term.

Your Committee finds that wine coolers contain substantially less alcohol by volume than wines and that the main competition of wine coolers in the market place is beer not wine. With this in mind, your Committee finds that wine coolers and the like should be taxed at the same tax rate as beer, their main competition. In order to tax wine coolers at the lower tax rate of beer, your Committee has rewritten the definitions of wine and beer. Wine which contains products such as fruit juices, water (plain, carbonated, or sparkling), and the like in an amount of more than fifteen per cent of the product and containing less than seven per cent alcohol by volume is deemed to be beer for the purposes of taxation under this bill.

Your Committee agrees with the testimony regarding the inclusion of the liquor commission within the chapter on taxing liquor. The Honolulu City and County liquor commission testified in favor of such inclusion. Your Committee has reviewed the bill and made amendments to assure that the function of the liquor commission is purely discretionary and that being discretionary is not a mandated program within the meaning of Article VIII, section 4, of the Hawaii Constitution. The bill has been further amended to ensure that the liquor commission may inspect documents related to the taxation of liquor under this law. The amendments to sections 244D-10 and 244D-13, Hawaii Revised Statutes, further make it clear that such authority only extends to documents related to the taxation of liquor and not to other returns, return information, or reports related to other taxes levied by this State which shall remain confidential. Your Committee is aware of the concern of the department regarding the IRS-State Exchange Program, but your Committee finds that the provisions of sections 9 and 10 of the bill clearly limit the county liquor commissions to access to documents relating only to the liquor tax. These documents are not part of the IRS-State Exchange Program, and if these documents include information that might be the subject of that program as well as of the liquor tax, then the department should keep such documents separate or eliminate such information from the documents before allowing the liquor commission to view them. Your Committee finds that the incorporation of the liquor commission in the Liquor Tax Law brings the essence of a free audit program to the department in an area in which more audit capacity and review is necessary. Your Committee encourages the department and the commission to make every attempt to work together within the constraints of confidentiality.

The amendment of section 281-17, Hawaii Revised Statutes, in this bill has been amended to include the whole section as section 281-17 has no subsections. Finally your Committee has clarified the effective date so that only those sales of liquor after June 30, 1986, will be taxed under the new gallonage method contained in this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2308-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2308-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 344-86

Ways and Means on S.B. No. 2002-86

The purpose of this bill is to add certain conditions, based on actions of the federal government, to the present law which would increase the state tax credit for installation of solar or wind energy devices or heat pumps.

Presently, section 235-12(a), Hawaii Revised Statutes, provides that if federal energy tax credits 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.

The federal tax credits for solar and wind energy devices and heat pumps expired on December 31, 1985, and no action has been taken by Congress to reenact such a federal tax credit. However, it appears that Congress might reenact a federal energy credit and retroactively apply the old federal credit or establish a new credit. This bill provides that if Congress does enact legislation that would again provide for a federal tax credit, the state tax credit would remain at ten per cent.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2002-86 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 345-86

Ways and Means 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 per cent 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 has amended this bill by making technical changes which have no substantive effect, and by clarifying that the tax credit for ice storage systems is only applicable to systems installed and in service after December 31, 1985. The effective date of the bill has been amended to reflect this clarification.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2471-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2471-86, S.D. 2.

Signed by all members of the Committee.

SCRep. 346-86

Ways and Means on S.B. No. 2325-86

The purpose of this bill is to amend section 243-4, Hawaii Revised Statutes. It is intended to correct legislative oversight, setting the diesel fuel tax at a penny less per gallon than the regular fuel tax.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2325-86 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 347-86

Ways and Means on S.B. No. 1800-86

The purpose of this bill is to provide an administrator to staff the state fire council; specify staff support from the city and county of Honolulu; designate the Honolulu fire chief as chairperson of the council; and appropriate funds to support the administrator's office.

Your Committee finds the administration and operation of the legislated responsibilities of the council requires appointing a person experienced in fire prevention, fire codes, and building codes, as well as an appropriate clerical staff.

The bill provides that the administrator shall be a member of the Honolulu fire department and that the city and county of Honolulu shall be reimbursed annually by the State for all operating costs of the council.

Your Committee has amended this bill by increasing the appropriation to \$56,200 from state general revenues for operating expenses of the administrator's office, and made nonsubstantive, technical amendments for style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1800-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1800-86, S.D. 2.

Signed by all members of the Committee.

SCRep. 348-86

Ways and Means on S.B. No. 2474-86

The purpose of this bill is to establish a children's advocacy program under the Department of Social Services and Housing to provide a more cooperative and coordinated and less traumatic approach to the investigation and treatment of child sexual abuse. Under the program, a

Children's Advocacy Center is to be established.

Cases of child sexual abuse have risen dramatically in recent years. Your Committee finds that this bill will improve the capabilities of public agencies to investigate allegations of abuse, prosecute perpetrators, and treat victims and their families.

Your Committee has made the following amendments to the bill as received.

- (1) The word "sexual" has been inserted between "child" and "abuse" on page 2, lines 5 and 8.
- (2) The word "central" has been replaced with "administrative" on page 2, lines 18 and 22.
- (3) The reference to "the department of social services and housing" on page 3, lines 13 and 14 has been deleted. The reference in the provision on interagency agreements is unnecessary and inappropriate since the Children's Advocacy Center is a program within the Department.
- (4) The word "on" has been replaced with "to develop" on page 3, line 18.
- (5) The language "including the use of one interviewer who shall conduct one interview over an appropriate period of time unless such interviewer becomes unavailable, however" beginning on page 4, line 10, has been deleted. The word "successor" on page 4, line 14, has been deleted. The reference to "grand jury" on page 5, line 12, has been replaced with "any." These amendments are intended to provide the Children's Advocacy Center with more flexibility.
- (6) An appropriation of \$1 has been inserted. Your Committee intends to make the proper appropriation when this bill is returned from the House of Representatives or in the Supplemental Appropriations Act.

In addition, the technical, nonsubstantive amendments have been made.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2474-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2474-86, S.D. 2.

Signed by all members of the Committee.

SCRep. 349-86

Ways and Means on S.B. No. 1827-86

The purpose of this bill is to integrate all of the statutory provisions designed to assure children a safe home environment, whether with their natural families or in an adoptive home.

It is currently necessary to initiate separate legal proceedings to undertake permanent planning for the child's welfare and attempt reunification of the family, then to terminate parental rights, and finally to arrange adoption or guardianship. The proposed amendments consolidate the several processes. As amended, the statute will serve the best interests of the child by eliminating undue delay and avoiding an unsettling series of temporary placements for the child.

Your Committee has deleted the section providing for the visual or oral recording, or both, of a statement of a child for admission into evidence in a proceeding under chapter 587, Hawaii Revised Statutes. Your Committee has also deleted a subsequent reference to a visual or oral recording of a child's statement.

Your Committee has amended the bill to make technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1827-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1827-86, S.D. 2.

Signed by all members of the Committee.

SCRep. 350-86

Higher Education on S.B. No. 1778-86

The purpose of this bill is to provide resident status 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 as entitled 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 is aware of other problems caused by the rigidity of the law on resident status. Some students have not qualified for resident status because of overly strict application of the residency criteria. Thus, your Committee has amended this bill by inserting a provision in section 304-4(c), Hawaii Revised Statutes (HRS), stating:

"In the event of a conflict with the criteria for residency as provided in this subsection, the board of regents shall determine residency status; provided that the intent and purpose of this subsection is met on a case by case basis."

Your Committee intends that this provision allow the Board of Regents to make a case by case determination of resident status for students who may be disqualified for technical reasons, but whose situation complies with the spirit and intent of the residency criteria. Your Committee has provided this flexibility because overly strict enforcement of the residency criteria may be a barrier to student access to the university. In addition, a provision has been added which requires the Board to submit an annual report on the disposition of cases of conflict with the criteria which were considered by the board.

Your Committee has also made amendments to the existing language in section 304-4(c), HRS, to reflect the Board's flexibility in determining resident status.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1778-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1778-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 351-86

Higher Education on S.B. No. 1974-86

The purpose of this bill is to implement the 1978 amendment to the State Constitution which delegates to the Board of Regents exclusive jurisdiction over the internal organization and management of the University of Hawaii.

This bill amends section 26-11, Hawaii Revised Statutes, by establishing a more meaningful definition of the phrase "exclusive jurisdiction over the internal organization and management of the University." The wording and intent of the new language is substantially similar to that which is found in Standing Committee Report No. 39 of the Committee on Education of the 1978 Constitutional Convention, the pertinent part of which provides:

Among examples of matters which would fall under the exclusive purview of the Board of Regents, under the proposed amendment, would be the authority to establish or abolish an administrative or program unit, to establish or abolish subordinate offices or positions and to transfer officers and employees between positions, subject only to the limitations of available appropriations and the provisions of such laws of general application as the civil service and collective bargaining laws.

Your Committee finds that the provisions of this bill will conflict with existing laws in the Hawaii Revised Statutes, more specifically, sections 26-38 and 26-39, which delegate the authority over such matters as discussed previously to department heads with the approval of the Governor. However, your Committee finds that the intent of the 1978 constitutional amendment is for the Board of Regents, and not the Governor, to be the controlling authority in this area where the internal organization and management of the University is affected. The bill contains language to make clear your Committee's intent that the provisions of this bill supersede other inconsistent laws.

It is the intent of your Committee that this bill effect no changes to the authority or review capabilities of the Legislature. The University shall continue to be bound by legislation and appropriations enacted by the Legislature, bound by any general laws affecting state agencies, and accountable to the Legislature as the primary law making body of the State. The net effect of the amendment proposed in this bill is to free the University from submitting proposals for organizational and personnel changes to other state departments, such as the Department of Budget and Finance and the Department of Personnel Services, for review and to the Governor for subsequent approval. The provisions of this bill will allow the University to conduct such changes internally, with the Board of Regents having sole and ultimate authority in this area.

Your Committee agrees that this bill is in keeping with the spirit and intent of the 1978 constitutional amendment. Additionally, by having such authority rest with the Board of Regents, your Committee believes that the University could move more expeditiously in responding to the organizational and management deficiencies uncovered by the Legislative

Auditor in the 1981 review of the University's organizational and management practices. The University, in turn, would be held more directly accountable for action taken or not taken in response to that, or any other similar, audit.

More recently, you Committee has also been made aware of the fact that the failure to clarify the constitutional powers of the Board of Regents has served to jeopardize the accreditation of the University of Hawaii at Manoa. Specifically, the Western Association of Schools and Colleges cited the need for the University to correct irregularities in the "...responsibilities and scope of authority for the Board, administration and faculty." The recommendation of the accreditation team is as follows:

"It is therefore recommended: that the University continue to pursue obtaining acceptance and respect for the 1978 constitutional amendment granting exclusive jurisdiction to the board over the internal organization and management of the University. If necessary, this may necessitate legal actions as well."

Your Committee believes that the concerns of the accreditation team, as reflected in their report, is adequately addressed by this bill.

Your Committee on Higher Education is in accord with the intent and purpose of S.B. No. 1974-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 352-86 Ways and Means on S.B. No. 1963-86

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 record-keeping 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 on Ways and Means is in accord with the intent and purpose of S.B. No. 1963-86, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 353-86 Government Operations on S.B. No. 2392-86

The purpose of this bill is to allow a voter precinct to prohibit ohana zoning in its precinct.

Section 46-4, Hawaii Revised Statutes, provides general jurisdiction and powers to the counties to adopt zoning ordinances. Subsection 46-4(c), commonly known as the "Ohana Zoning" provision, was originally enacted to allow for resident owners to construct a second dwelling for family members on lots not previously zoned for such dwellings.

This bill would prohibit ohana units unless residents within each voter precinct so approve by majority vote every four years, if ten percent of the voters of the precinct request such a vote. Further, this subsection shall not be applicable to further subdivision of conforming lots and horizontal property regimes.

Your Committee received testimony from residents of Kailua and Kaimuki indicating that abuses of this Ohana provision have resulted in the development of multi-family structures on these lots. These residents also indicated that the application and permit process at the local level is not sufficient to preclude investor speculation.

Your Committee finds that the original intent of this subsection has been subverted and thus agrees with the amendments contained in this bill in order to protect the integrity of single-family residential neighborhoods.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 2392-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 354-86

Government Operations on S.B. No. 2296-86

The purpose of this bill is to extend the period an applicant must wait before reapplying for a liquor license to six months.

Section 281-60, Hawaii Revised Statutes, provides if an applicant for a liquor license is refused a license for any other reason than having had a sufficient number of protests filed and sustained, that applicant can reapply to the Commission after a period of ninety days.

Your Committee heard testimony from the City and County of Honolulu, indicating that the repeated submittal of a new application every ninety days places undue stress on those persons within the proximity of the proposed premises who are opposed to the issuance of the license, by requiring their repeated appearance at hearings.

Your Committee finds that this measure is necessary to lessen the amount of resubmitted applications while allowing for the consideration of the views of all persons interested in establishments which have applied for liquor licenses.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 2296-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 355-86

Government Operations on S.B. No. 2070-86

The purpose of this bill is to provide clarification of section 103-22, Hawaii Revised Statutes, by reformatting the language and to exempt the purchase of emergency life-saving equipment by hospitals from the advertising and bidding requirements.

Presently the law requires that expenditures of public moneys be made after advertising unless exempted from the requirement.

Your Committee received testimony from the Department of Accounting and General Services opposing this bill, as the actual purchase of emergency life-saving equipment is not usually made during emergency situations. Additionally, the Department noted that the amended language removes any reference to purchases over \$8000, which they believe is a drafting oversight.

Your Committee finds that the purchase of emergency life-saving equipment should be exempt only during emergency situations, and has amended the bill to read as follows:

"The purchase of life-saving equipment by hospitals and health agencies of the state and counties in emergency situations."

Your Committee has further amended the bill to correct the omission of references to purchases over \$8000.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 2070-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2070-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 356-86

Government Operations on S.B. No. 2309-86

The purpose of this bill is to allow a county with a population of less than 500,000 persons to regulate the use of public passenger vehicles similar to the authority granted in Section 70-75, Hawaii Revised Statutes, to the City and County of Honolulu.

Section 70-75, HRS, provides that the City and County of Honolulu may regulate the use of public passenger vehicles, limit the number of vehicles when necessary in the interest of the public safety, and fix the rates to be charged for these services. This bill expressly provides this same authority to the other counties with populations of less than 500,000 persons. Additionally, this bill provides an exemption for the counties from anti-trust liability upon a finding that the regulation by the county has a public purpose.

Your Committee heard testimony from the Oahu County and Maui County Taxicab Associations in support of this measure.

Your Committee finds that the other counties in the State should be extended the same authority to regulate passenger vehicles as is now provided in Honolulu. However, your Committee also believes that any regulations promulgated under this section should not be specifically exempt from anti-trust provisions. Your Committee further finds that S.B. No. 2306-86, which exempts all counties from anti-trust liability in this context, and which was favorably considered by your Committee is the appropriate measure to address these concerns. Your Committee has therefore amended this bill to exclude the exemption from anti-trust liability.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 2309-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2309-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

7 SCRep. 357-86 Government Operations on S.B. No. 1423

The purpose of this bill is to place the level of compensation of the Vice-Director of Civil Defense in parity with other first assistants and deputies of heads of departments.

Presently, the Vice-Director's compensation is established under chapter 77, Hawaii Revised Statutes, which deals with positions within the civil service system.

Testimony submitted by the Director of Personnel Services and the Public Employees Management Association of Hawaii stated that the Vice-Director of Civil Defense is in charge of the Division of Civil Defense of the Hawaii Department of Defense and is subordinate to the head of the department, who serves as Adjutant General and Director of Civil Defense.

Your Committee believes that the Vice-Director is equivalent to the Deputy Adjutant General who assumes full authority in military matters and whose compensation should therefore be in line with a first deputy of a department head.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1423 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 358-86 Government Operations on S.B. No. 1520-86

The purpose of this bill is to require that Hawaiian standard time be advanced one hour commencing at 2:00 a.m. on June 1 through August 31 of each year.

In testimony presented by the Honolulu Airlines Committee, an organization representing twenty air carriers currently servicing Hawaii, it was expressed that any proposal to place Hawaii under daylight savings time should follow the Uniform Time Act of 1966, which provides for a six month period from April through October of each year.

After considering the testimony, your Committee has amended the bill to reflect a six month period of daylight savings time, under which Hawaiian standard time would be advanced one hour commencing at 2:00 a.m. on the last Sunday of April and ending at 2:00 a.m. on the last Sunday of October of each year, in accordance with the conversion provisions of the Uniform Time Act of 1966. This amendment would place Hawaii in consonance with the rest of the country.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1520-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1520-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 359-86 Government Operations on S.B. No. 1561-86

The purpose of this bill is to expressly provide authority to the counties to eliminate the requirement for annual business licenses imposed by ordinance.

Current law authorizes the counties to require licenses for businesses within the county, but is silent as to the elimination of the requirement.

Testimony submitted by the City and County of Honolulu and the County of Hawaii request

that express authority be provided for them to eliminate license requirements. 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 serves the interest of efficient county administration.

Your Committee on 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 placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 360-86 (Majority) Health on S.B. No. 1490-86

The purpose of this bill is to extend the prohibition of Honolulu Ordinance No. 85-60, preventing smoking in public places, to the rest of the State, and to repeal present state law.

The protection offered to non-smokers from tobacco smoke in public places other than state facilities is currently extended only to residents of the City and County of Honolulu. Repealing the existing state law and codifying the current Honolulu ordinance prohibiting smoking in public places, as proposed in this bill, would help to ensure uniform statewide protection of the non-smoking public.

Your Committee heard testimony in support of this measure by the Department of Health, the Honolulu Police Department, the Honolulu Fire Department, the American Cancer Society, the Hawaii Lung Association, and others, and finds that smoking in enclosed public places is deleterious to the health of smokers and non-smokers alike, and that prohibition thereof is consonant with the State's obligation to protect the public health and welfare and is therefore in the public interest.

Your Committee especially notes that the Honolulu Police Department has not received reports of violations of Ordinance 85-60 since its enactment on July 18, 1985. Your Committee finds that there appears to be a voluntary compliance by the public. It is the intent of your Committee in approving this legislation, that the State will follow mandates to counties and pay for reasonable costs involved, although the expectation is that there will be none.

After further consideration, your Committee has amended the bill by providing that smoking shall be prohibited in retail department stores with selling floor spaces of at least twenty-two thousand square feet, rather than in retail stores with more than five thousand square feet.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1490-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1490-86, S.D. 2.

Signed by all members of the Committee except Senator Solomon.
Senator Kawasaki did not concur.

SCRep. 361-86 Health on S.B. No. 1667-86

The purpose of this bill is to limit free tuberculosis examinations by the Department of Health to those required for tuberculosis control and to establish the authority of the Department to order examination of individuals suspected of having tuberculosis.

In the past, mass x-ray screening was believed to be an effective means to help control the disease; however, many people have been regularly requesting free x-rays which are inappropriate for tuberculosis control, at the expense of personnel and other resources which may better be utilized in other ways. In addition, the Department currently lacks the authority to require further examination of suspected tuberculosis carriers.

Your Committee received testimony in support of this bill from the Director of Health and finds that this measure will grant the Department the authority to limit free tuberculin tests to those which are appropriate for control purposes. It would also allow the Department to obtain court orders for examination of suspected tuberculosis carriers who do not voluntarily accept recommendation for examination, which is necessary to extend to the people of Hawaii optimum protection against the disease.

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

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1667-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1667-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 362-86 Health on S.B. No. 1837-86

The purpose of this bill is to permit hospital administrators to request the next of kin of a decedent to consent to the gift of all or any part of the decedent's body to any potential donee who demonstrates that there is immediate and substantial need for such donation.

Your Committee heard supporting testimony by the Department of Health and the Hawaii Lions Eye Bank and Makana Foundation and finds that this measure will have a positive impact on Hawaii's current shortage of organs and tissue available for transplant and therefore is in the public interest.

Your Committee has amended the bill by deleting the requirement that consent information be entered on the death certificate.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1837-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1837-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 363-86 Health on S.B. No. 1660-86

The purpose of this bill is to clarify the term "medical records" and to establish a retention period for preserving basic medical information.

Currently, certain medical records may be destroyed after seven years but basic information must be retained forever. This bill would permit their disposal after thirty years and has further clarified the types of documents that are exempt from the term "medical records".

Your Committee heard supporting testimony by the Department of Health, the Hospital Association of Hawaii, and the Hawaii Medical Record Association, among others, and finds that this measure will help to alleviate the burden and cost of maintaining and storing medical records and will thus contribute to the efforts of the State, the Legislature, and the health care profession to contain the rising cost of health care in the State of Hawaii.

Your Committee has amended the bill by changing the reference to a thirty year retention period on page 3, line 7 to a twenty-five year period to reflect the intent of this legislation and to be consistent with the subsequent reference to a twenty-five year retention period on line 9 of the same page. Your Committee has also amended the bill by providing that x-rays, E.E.G. tracings, and similar imaging records shall be retained for at least five years and then may be given to the patient or destroyed, provided that the basic information from them is retained for the mandatory twenty-five year record period. Your Committee has further amended the bill by making clarifying language changes which have no substantive effect.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1660-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1660-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 364-86 Health on S.B. No. 2370-86

The purpose of this bill is to allow the Department of Health to act as the certifying agency for water quality standards on dredge and fill projects conducted by the U.S. Army Corps of Engineers.

Your Committee received supporting testimony from the Department of Health and the Environmental Center of the University of Hawaii and finds that this measure is consistent with the authority provided the Department to establish water quality standards within the State, pursuant to Section 342-32, Hawaii Revised Statutes.

Your Committee has amended the bill by changing the reference to "40 C.F.R. 121.2(e)(1985)," located on page 5 lines 5 and 6 of the bill, to "40 C.F.R. 121.1(e)", which is the correct citation, and by making technical changes which have no substantive effect.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2370-86, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2370-86, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 365-86 (Majority) Health on S.B. No. 1411

The purpose of this bill is to require that the Director of Health possess either an academic degree in medicine, health, public health, or a biologic science or have at least six years experience in medical, health, or public health programs.

Currently the statutes are silent regarding specific academic or experiential requirements for the position.

Your Committee considered testimony presented by the Department of Health, the Hawaii Medical Association, the Hawaii Public Health Association, and the Society for Public Health Education, among others, and finds the effective coordination of all the programs and services provided by the Department of Health requires that the Director should be knowledgeable about a wide range of health-related subjects. This bill would enhance the overall ability of the Department to provide for the public's health and is therefore considered to be in the public interest.

Your Committee has amended the bill by deleting the degree in biological science as satisfying the academic requirement under this proposal. Your Committee finds that the biological sciences do not relate to the activities of a Director of Health as intended by this legislation.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1411, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1411, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

Senators Machida and Kawasaki did not concur.

SCRep. 366-86 (Majority) Health on S.B. No. 1986-86

The purpose of this bill is to prohibit restaurants and similar establishments from using or dispensing monosodium glutamate (MSG) unless notice is given to customers.

Your Committee heard testimony by the Department of Health to the effect that some people have experienced allergenic reactions to restaurant-prepared food which is high in MSG content. Therefore, your Committee believes that there is sufficient justification to require eating establishments to advise customers that they may be consuming MSG in order to protect them from predictable but avoidable physical ailments.

Your Committee has amended the bill by specifying that the notice is required only when MSG is a specific and separate ingredient added by the establishment. Your Committee finds it inappropriate to attempt to require notification regarding foods which, by their nature, contain the substance. Your Committee has also amended the bill by making technical changes which have no substantive effect.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1986-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1986-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

Senators Matsuura, George and A. Kobayashi did not concur.

SCRep. 367-86 Health on S.B. No. 2295-86

The purpose of this bill is to protect members of hospital quality assurance committees from civil liability in the same manner as peer review committees are now protected.

Much of the 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. Currently, peer review committees are protected from civil liability for acts done in furtherance of the purpose of the committee, but hospital quality assurance committees are not. This bill would extend protection to hospital quality assurance committees.

Your Committee heard testimony in support of this bill by the Department of Health, the Hospital Association of Hawaii, the Honolulu Medical Group, and the Hawaii Nurses Association, and finds that this measure would allow members of hospital quality assurance committees to discharge their duties more effectively and 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.

Upon further consideration, your Committee has amended the bill by including clinics within the definition of hospital quality assurance committee. Your Committee has further amended the bill by providing that, for purposes of reporting decisions to the Department of Commerce and Consumer affairs, the final peer review committee shall mean the final committee in the State, and that hospital or clinic quality assurance committees shall report to the Department on disciplinary actions unless the information is immediately transmitted to a peer review committee.

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

Your Committee on Health is in accord with the intent and purpose of S.B. No. 2295-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2295-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 368-86 Health on S.B. No. 1657-86

The purpose of this bill is to include freestanding birthing centers and adult day health centers among the facilities subject to regulation by the Department of Health.

Your Committee heard supporting testimony by the Director of Health and finds that patients in freestanding birthing centers and adult day health centers are unable to care for themselves because of illness or disability and therefore fall within the mandate of the Department to protect the public health. This bill would statutorily provide for the regulation of such centers and is therefore in the public interest.

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

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1657-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1657-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 369-86 Health on S.B. No. 1846-86

The purpose of this bill is to include all university affiliated facilities or satellite centers and the State Protection and Advocacy Agency as members of the State Planning Council on Developmental Disabilities.

Your Committee heard supporting testimony by the Department of Health and the Chairperson of the State Planning Council on Developmental Disabilities and finds that this measure would bring Hawaii law into compliance with specific recommendations made by the federal administration and would further promote the coordination and delivery of service to the developmentally disabled population in the State.

Your Committee has amended the bill by adding the flexibility to drop agencies or groups from the Council's membership if they are no longer in existence, without the necessity of further statutory provisions.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1846-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1846-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 370-86 Government Operations on S.B. No. 2315-86

The purpose of this bill is to authorize the state's risk manager to settle and pay claims arising out of the operation of vehicles owned by the State or in the custody and use of

departments of the State, when those vehicles are self-insured.

The State motor vehicle No-Fault law mandates that claims be settled and paid promptly. 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. It allows the State to continue operating as self-insured under the No-Fault laws, to minimize the expense of owning and operating vehicles.

Your Committee heard testimony from the Department of Accounting and General Services indicating that self-insuring the State for automobile liability coverage is a viable alternative to purchasing insurance. Records show that the State has paid substantially more in premiums than losses incurred from automobile accidents. Since Fiscal Year 1981, the State paid over \$2,000,000 in premiums, but incurred losses of less than \$700,000.

Your Committee finds that the settlement of No-Fault claims against the state can be handled more cost-effectively through self-insurance and the State's Risk Manager.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 2315-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2315-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee

SCRep. 371-86 Labor and Employment on S.B. No. 1681-86

The purpose of this bill is to delete the requirement that the Director of Personnel Services must attend all meetings of the State Civil Service Commission, and to provide that county personnel directors must attend these meetings.

Chapter 76-13, Hawaii Revised Statutes, relating to the specific duties and powers of the Director of Personnel Services, requires the Director's attendance at all meetings of the Civil Service Commission, which was appropriate when the Commission was an administrative as well as an adjudicatory body. Today, however, the Civil Service Commission serves only in the adjudicatory capacity and the Commission and the Director are independent of each other. Therefore, your Committee finds that requiring the attendance of the Director is unnecessary.

Your Committee further finds that by amending chapter 76-13, it is also necessary to require the County Personnel Directors to attend all Commission hearings, in order to accommodate their relationships with their respective Commissions.

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

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 1681-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1681-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 372-86 Labor and Employment on S.B. No. 2051-86

The purpose of this bill is to update, clarify, and strengthen the provisions of section 76-47, Hawaii Revised Statutes relating to appeals from suspensions, dismissals, and demotions in the civil service.

Specifically, the bill does the following: (1) removes antiquated discriminatory provisions; (2) permits more flexibility to the Civil Service Commission in fashioning appropriate remedies when a finding is made that a suspension, demotion, or dismissal was done contrary to applicable statutes; (3) clarifies provisions that are confusing or apparently in conflict with other provisions in the law; and (4) deletes gender references pursuant to recommended drafting procedures.

Your Committee considered testimony presented by the Director of Personnel Services and the Hawaii Government Employees Association, and finds that this bill will enable the Civil Service Commission to consider a wider range of discriminatory practices or actions as inappropriate reasons for suspension, demotions, or dismissals, and will enable the Commission to be more flexible in determining when to uphold, set aside, reduce, or otherwise change a suspension, demotion, or dismissal action taken against an employee.

Your Committee has amended the bill by restoring the Commission's discretion to place an employee on a reemployment list even if the employee is dismissed and not reinstated after an appeal. This provision was deleted in the bill as introduced, but your Committee finds that there are circumstances where reinstatement on a reemployment list is warranted and that the Commission should be able to do so.

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

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 2051-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2051-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 373-86 Labor and Employment on S.B. No. 2052-86

The purpose of this bill is to provide that a regular public employee who is dismissed because of a non-work related injury and for whom there is no other available work that he is capable of performing, is entitled to have his name placed on the appropriate reemployment list for a period of three years after the dismissal.

Current job separations which qualify a public employee for inclusion in the reemployment list are demotion because of lack of work, resignation in good standing, ordinary or accidental disability retirement, or reclassification of the position to a lower class.

Your Committee heard supporting testimony by the Director of Personnel Services speaking for the Conference of Civil Services Commissioners and Personnel Directors and finds that this bill will clarify the law so that employees will be aware of all their rights and the procedures applicable to job separation in the public service.

Your Committee has amended the bill to make technical changes which have no substantive effect.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 2052-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2052-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 374-86 Labor and Employment on S.B. No. 2169-86

The purpose of this bill is to exclude vacuum cleaner salespeople, who are paid solely by way of commission, from the workers' compensation law.

Vacuum cleaner salespeople are already excluded from the unemployment insurance and temporary disability insurance laws on the basis that they are independent contractors; however, the Department of Labor and Industrial Relations is not authorized by law to exempt them from workers' compensation, even though such exemption would provide a measure of consistency throughout the various employment-related statutes.

After reviewing the testimony presented by the Department of Labor and Industrial Relations, the Hawaii Business League, the ILWU, the Hawaii Insurers Council, and several members of the vacuum cleaner industry, your Committee finds that vacuum cleaner salespeople who are paid strictly by commission are independent contractors and should be excluded from workers' compensation coverage. However, your Committee wishes to note that the piecemeal approach to excluding specific occupations from statutory coverage is unsatisfactory, and for that reason your Committee intends to introduce a resolution asking for a study to develop a uniform definition of independent contractor which will be applicable to all of the employment-related statutes.

Your Committee, upon further consideration, has amended the bill by adding services performed by individual owners of taxicabs to the exclusions under the workers' compensation law, and by making a technical change which has no substantive effect.

Your Committee on Labor and Employment is in accord with the intent and purpose of S.B. No. 2169-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2169-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 375-86

Consumer Protection and Commerce on S.B. No. 1510-86

The purpose of this bill is to amend Section 403-65, Hawaii Revised Statutes, by increasing the loan amount reportable for review by the board of directors of a bank from \$100,000 to \$500,000.

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 feels that this bill would greatly alleviate the practical difficulties created by the outdated loan limit. Passage of the bill would 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 S.B. No. 1510-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Kawasaki and Young.

SCRep. 376-86

Consumer Protection and Commerce on S.B. No. 1511-86

The purpose of this bill was to amend Chapter 479, Hawaii Revised Statutes, to limit the application of freedom of choice provisions to lenders engaged in the business of making loans; to amend the written notice requirement; and to strengthen the penalty provisions for violations under this chapter.

Currently, persons making insured loans who inadvertently fail to deliver a technical notice indicating that the borrower is free to procure the required insurance policy from any insurance company authorized to do business in the State, 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 notice requirement appears to extend to agreements of sales, in which case individuals selling property on credit may be in violation of this section.

In addition to limiting the scope of this chapter, this bill also revises the form of the notice required under Section 479-2, Hawaii Revised Statutes, to make it consistent with Section 479-1, Hawaii Revised Statutes.

Finally this bill will provide a significant penalty, in which 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.

Your Committee received testimony from the Advisory Committee to the Commissioner of Financial Institutions and other groups in support of the bill.

Your Committee has amended the bill to further clarify language within section 479-2, related to the required written notice. The new language allows that "written notice substantially stating that the insurer for any required insurance may be chosen by the borrower will also constitute compliance with this section."

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1511-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1511-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Kawasaki and Young.

SCRep. 377-86

Consumer Protection and Commerce on S.B. No. 1514-86

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.

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.

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. All supported 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% the annual rate of interest which may be established by written contract in consumer credit transactions; (3) retains at 18% 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- provides definitions applicable throughout the revised chapter. The definition 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 confirming that equity lines of credit enjoy 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 corporation 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 in addition to what is customarily understood to be real property.

(2) Section 478-3 is divided 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% per month, or 12% per annum, to 1 1/2% per month, or an 18% 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% 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 4, line 2, the word "eighteen" has been deleted and the word "twelve" inserted in its place.

(d) On page 4, line 2, the period at the end of that line has been deleted, a comma substituted therefor, and the following language added:

"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 one and one-half per cent per month or eighteen per cent per year."

(e) On page 4, line 5, the words "or any" have been deleted.

(f) On page 4, line 8, the word "eighteen" has been deleted and the word "twelve" inserted in its place.

(g) 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 eighteen per cent, 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 exclude any charges from the finance charge."

(h) On page 4, in line 13, a comma has been inserted following the word "transaction" and the words "a home business loan" have been inserted following the comma.

(i) Your Committee has added a new subparagraph to this section making clear that the rate limitations provided for in Section 478-3 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 paragraphs (a) and (b) of this section shall not apply to any credit transaction authorized by, and entered into in accordance with the provisions of chapters 408 and 476."

(3) Section 478-4 is amended by the bill to remove interest rate limitations with respect to commercial credit transactions and make 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. Your Committee has also 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 of the Hawaii Revised Statutes and your Committee believes the amendment to Section 478-4 is appropriate to avoid any possible inconsistency between Chapters 407 and 478. The amendments made by your Committee are as follows:

(a) On page 4, in line 19, a comma has been added following the word "transaction", and the words "any home business loan" have been inserted following the comma.

(b) On page 5, line 4, between the words "bank" and "may" the words "or savings and loan association" are inserted.

(4) The bill repeals 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.

(5) 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. Your Committee made one amendment to the bill to correct a typographical error in preparation of the bill. On page 6, in line 8, the word "of" has been deleted, and the word "or" inserted in its place.

(6) 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. Therefore, your Committee has amended the bill as follows:

On page 6, lines 15 - 17, the words "No person shall charge interest on interest in any consumer credit transaction or on any credit card agreement." have been deleted.

(7) 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% 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 is similarly unnecessary in view of the exemption afforded commercial credit transactions and is deleted by the bill.

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 as follows:

(a) On page 7, line 17, a closing bracket has been added after the words "as amended". to indicate the end of the statutory matter being repealed.

(b) On page 7, line 18, the letter and punctuation "(c)" has been placed brackets for

deletion and the punctuation and letter "(a)" has been inserted.

(c) On page 7, line 18, the words "the provisions of" have been added as the first words of the sentence and the words and punctuation "(except for this section and section 478-2)" have been added to clarify that the exemption from application of the provisions of the chapter, rather than all provisions of the chapter, (including the exemption), applies to the transactions enumerated in the subsection and further to clarify that the provisions of Section 478-2, pertaining to the rate of interest allowed upon a judgment, apply to the mortgage loans referred to in the subsection. The continued applicability of Section 478-2 to such loans is necessary in the event such mortgage loans are foreclosed and any monetary judgment is rendered as a part of such foreclosure proceedings. As to any such judgment, the limitations provided by Section 478-2 should continue to apply.

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 proposes to redesignate this paragraph and eliminate certain of the exemptions as being unnecessary in view of the earlier exemption provided for commercial credit transaction. 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. The first amendment made by your Committee is the redesignation of this paragraph as "(b)". Your Committee has inserted in the first sentence of this paragraph the same language as that inserted in paragraph (a) for the same reasons as noted with respect to that section.

(a) Subparagraph (a) of this paragraph 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 corporations 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. Specifically, the amendments made by your Committee are as follows:

(b) On page 8, in lines 12 - 13, the words "or by a first lien on stock in a residential cooperative housing corporation" have been deleted;

(c) On page 8, in lines 15 - 19, the words "provided that for the purposes of this section a wraparound lien wherein the wraparound lender has committed to loan a sufficient funds to pay off the principal amount of all prior liens shall be considered a first lien" have been deleted.

(d) On page 8, in lines 19 - 22, the words "and in which the principal amount equals or exceeds \$100,000 or in which there is an express written commitment to extend credit in a principal amount equal to or in excess of \$100,000" have been deleted. First mortgage liens are generally exempt from any interest rate limitation at present, notwithstanding the amount of the mortgage. The proposed limitation of the exemption to loans in excess of \$100,000 was opposed by nearly every industry group which testified concerning the bill. Your Committee believes that such opposition was justified and that the imposition of a limitation on the exemption based upon the mortgage amount is not appropriate, particularly in view of the retention of the 12% rate limitation. The past five years of experience with first mortgages being unrestricted as to interest rate have demonstrated that the market provides adequate protection for consumers and there is sufficient competition among various lenders to continue the existing first mortgage lien exemption.

(e) Subparagraph (2) of this paragraph, as contained in the bill, 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 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. The specific amendments made by your Committee are as follows:

(1) On page 9, on line 1, the beginning bracket is deleted and the words "Consumer credit" are inserted.

(2) On page 9, on line 4, the words "or the manner in which such rate shall be determined"

are inserted between the words "interest" and "is."

(3) The last sentence of the paragraph is inserted as the second sentence of the paragraph.

(4) On page 9, line 4, the words "provided that" have been deleted and the remaining portion of the sentence which begins on that line has been reworded to read as follows:

"Notwithstanding the first sentence of this paragraph, upon extension at maturity or renegotiation of any agreement of sale made on or after [July 1, 1985], the maximum rate of interest charged thereafter shall not be more than the greater of the rate of interest payable under the agreement of sale immediately prior to such maturity or renegotiation or four percentage points above the highest weekly average yield on United States Treasury securities adjusted to a constant maturity of three years, as made available by the Federal Reserve Board [at] within sixty days prior to the time of extension or renegotiation."

(f) Your Committee believes the exemption for purchase money mortgages should be continued and has amended the bill to achieve that result.

(g) Your Committee has added a new subparagraph to the bill to eliminate the need for the so-called "merchant exception" provided by Section 478-8(h) of the present law. The present wording of the exemption is imprecise and potentially too broad in its scope. Your Committee does not intend, however, by the inclusion of the designated transactions in this section to preclude, for example, a seller from charging open account interest under Section 478-1. Accordingly, your committee, on page 10, at line 10, has added the following subparagraph:

"(4) Any transaction for the sale of goods, services, or both, by a seller in the business of selling such goods or services, if the transaction is subject to Chapter 476 or the rate or interest charged by the seller in the transaction does not exceed eighteen percent a year; provided that this paragraph shall not apply to any transaction regulated by Chapter 403, 406, 407, 408, 409, 410, or 431, or to any transaction for the sale of financial services."

(h) The bill proposes deletion of subparagraph (f) of Section 478-8. This is not appropriate in view of the retention of the 12% rate limit and your Committee has amended the bill to retain the exemption afforded by this subparagraph. The wording of the subparagraph is improper in that it is doubtful any plan of the type referred to would qualify for the exemption. Your Committee, therefore, has amended the subparagraph in the same manner as Act 16, of Session Laws of Hawaii 1985, which amended Chapter 237 to afford a tax exemption to employee benefit plans. This amendment will achieve the intent of the original exemption.

(i) 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 repeals 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 S.B. No. 1514-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1514-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Kawasaki and Young.

SCRep. 378-86

Consumer Protection and Commerce on S.B. No. 1517-86

The purpose of this bill was to enable Hawaii state-chartered trust institutions to compete more effectively with Mainland-based national competitors.

Current Hawaii law does not specifically authorize trust institutions to provide the type of access to funds that the Mainland security brokers are presently providing. The Commissioner of Financial Institutions has authorized one local trust company to provide such access through drafts that are cleared through the Commercial Banking System. This program has been operating successfully, without problems, since November 1983.

This bill 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.

This bill also provides adequate protection for the public by requiring prior approval of the Hawaii Commissioner of Financial Institutions before any new services are provided.

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.

Because of concerns expressed in testimony before your Committee about trust activities proposed in subparagraph (2) of the bill, your Committee has amended the bill by deleting that subparagraph.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1517-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1517-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Kawasaki and Young.

SCRep. 379-86 Consumer Protection and Commerce on S.B. No. 1518-86

The purpose of this bill was to provide greater protection to consumers by requiring that all debt collectors, and not merely collection agencies, abide by standards of reasonableness in debt collection activities.

Currently, the standards of reasonableness apply only to third party collectors, that is, collection agencies. This bill would extend the standards of reasonableness to persons and firms collecting their own consumer debts as well.

In its consideration of this bill, your Committee heard testimony from members of the Advisory Committee to the Commissioner of Financial Institutions supporting its passage. The Advisory Committee found a real need for the bill, citing cases in which regulated lenders have demanded and collected charges for which borrowers are not obligated, sometimes taking advantage of borrowers who speak little English and are unsophisticated in business matters. Other cases cited involved a health spa and a video retailer that have frequently engaged in high pressure collection efforts. According to the Advisory Committee, Hawaii Lawyers Care (a pro bono legal services referral project) has received calls from "hysterical" people who have received harassing calls, sometimes at night, from creditors trying to collect their debts. These calls are from the creditors themselves, not from collection agencies, and they tend to be from the same companies.

The Department of Commerce and Consumer Affairs also endorsed this bill. The Hawaii Bankers Association and the Hawaii Financial Services Association expressed philosophical opposition to the inclusion of regulated lenders under this bill; however, given the specific evidence of abuses in debt collection practices by creditors, including regulated lenders, your Committee concludes that there is no reason to exclude any business or person collecting a debt from standards of reasonableness in collection activities. Therefore, your Committee has amended the bill by deleting the exclusions from the definition of "collection agency". Your Committee has also amended the bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1518-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1518-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Chang, Kawasaki and Henderson.

SCRep. 380-86 Consumer Protection and Commerce on S.B. No. 1528-86

The purpose of this bill was to allow landlords to provide in rental agreements for recovery of costs incurred in enforcing provisions of the Residential Landlord Tenant Code, and to remove the existing twenty-five percent of unpaid rent limit on attorney's fees in litigation to recover unpaid rent.

Your Committee considered testimony by the Hawaii Association of Realtors in support of the bill, which noted that the law currently fails to provide for the recovery of attorney's fees when a landlord initiates legal action for other than the recovery of unpaid rent.

The Office of Consumer Protection testified that the bill contained "no parallel provision which allows tenants to recover costs and attorney's fees" in actions brought under the code. Further, the removal of the twenty-five percent recovery limit would run counter to various other statutory provisions similarly limiting the award of attorney's fees.

Your Committee concluded that major amendments to the bill were necessary in order to equitably apply the Residential Landlord Tenant Code to the principals involved. The bill was amended by preserving the twenty-five percent limit on attorney's fees, and by providing for reasonable attorney's fees in other actions not involving the non-payment of rent. Your Committee has further amended the bill by making nonsubstantive changes for the purposes of clarity and conformance with recommended drafting style.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1528-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1528-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Kawasaki and Young.

SCRep. 381-86

Consumer Protection and Commerce on S.B. No. 1530-86

The purpose of this bill is to require insurers to issue proof of insurance cards to owners of insured motorcycles.

The bill also provided that the cards be kept in the vehicle at all times and exhibited to a law enforcement officer upon request.

In December 1985, your Committee received a communication from the Office of the Ombudsman conveying its finding that there appears to be little or no enforcement by the finance departments of the respective counties of motorcycle insurance requirements.

Act 231, Session Laws of Hawaii 1985, amended Chapter 294, Hawaii Revised Statutes, to exempt motorcycles from the no-fault insurance requirements of the chapter but require that motorcycles be covered by a liability insurance policy. However, despite the existing requirements in section 286-26(h), HRS, that vehicle owners produce and display the no-fault insurance identification card as part of the inspection process, section 286-26(h), HRS, was not amended to require that motorcycle owners similarly produce proof of liability insurance cards.

As a result of this deficiency in the existing law, safety inspection stations and police officers are unable to determine if these vehicles have valid insurance in force while operating on public roads. This bill seeks to remedy the deficiency by providing for the issuance of liability insurance cards to the owners of insured motorcycles.

Your Committee heard testimony in support of this bill from the City and County of Honolulu Department of Finance, the Honolulu Police Department, and the Department of Commerce and Consumer Affairs. Additionally, your Committee heard testimony from the Hawaii Business League that it is not opposed to the issuance of motorcycle liability insurance cards.

Your Committee also heard testimony from the Department of Finance and the Hawaii Business League expressing concern that some motorcycles and motor scooters do not have compartments which can be locked to secure the proof of insurance card. Your Committee has taken these concerns into consideration and has amended the bill by changing page 4, lines 7 through 10 to read: "The proof of insurance card shall be in the possession of the operator or in the insured motorcycle or motor scooter at all times and shall be exhibited to a law enforcement officer upon demand."

Your Committee has further amended the bill by adding a new requirement that the liability insurance card show the year of the motorcycle.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1530-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1530-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Kawasaki and Young.

SCRep. 382-86 Consumer Protection and Commerce on S.B. No. 1567-86

The purpose of this bill was to extend the Pest Control Board until December 31, 1992.

The Legislative Auditor's report found that there is a significant potential for harm to the public's health, safety, and welfare from the activities of pest control operators and that these activities may cause serious property and financial loss to consumers. The Auditor recommended that the regulation of this occupation should continue but under the Department of Agriculture rather than the Pest Control Board.

Your Committee finds that the regulation of pest control operators should continue, and has amended this bill to extend the Board until December 31, 1989. The Auditor made recommendations which your Committee believes the Board should adopt and implement. Your Committee has also required the Board to report to the Legislature prior to the convening of the regular session of 1987 on its progress in implementing the Auditor's recommendations.

The Auditor also recommended that the Board abolish its moral character requirement; clarify the grounds for disciplinary action; abolish the two-year statute of limitations for disciplinary action, update its penalty provisions; eliminate the requirement for financial statements for license applications; require liability insurance verification for license renewals; and develop an enforcement information reporting system. Your Committee concurs with these recommendations and has amended the bill accordingly.

The Auditor also recommended that the Department of Commerce and Consumer Affairs (DCCA) develop greater expertise in licensing examinations, and work with the Department of Agriculture to develop valid examinations for pest control operators. Your Committee concurs with these recommendations, and recommends that the DCCA give serious consideration to its adoption.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1567-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1567-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Kawasaki and Young.

SCRep. 383-86 Consumer Protection and Commerce on S.B. No. 1699-86

The purpose of this bill is to clarify and strengthen certain provisions of Chapter 437B, Hawaii Revised Statutes (HRS), relating to regulation of the motor vehicle repair industry.

Specifically, the bill would do the following:

- (1) Clarify that government officers and employees are exempt from registration or certification as motor vehicle repair dealers or mechanics under Section 437B-2, HRS, only when they are carrying out the functions of their government employment.
- (2) Allow a licensee to place his registration on inactive status.
- (3) Provide for the automatic suspension of a registrant's registration immediately upon the expiration or cancellation of his bond, with the possibility of termination of the registration should the registrant fail to reactivate the bond to a current and valid status.
- (4) Make it unlawful for a registered repair dealer or mechanic to aid or abet an unregistered dealer or mechanic with the intent of evading the motor vehicle repair law.
- (5) Repeal Sections 437B-6 and 437B-18, HRS, to bring chapter 437B into conformance with the meaning and intent of Act 204, Session Laws of Hawaii 1982.

Your Committee received supporting testimony from the Motor Vehicle Repair Industry Board and the Hawaii Business League and finds that these proposals are necessary to strengthen and improve the regulation of the motor vehicle repair industry and are therefore in the public interest.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1699-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Chang, Kawasaki and Henderson.

SCRep. 384-86 Consumer Protection and Commerce on S.B. No. 2131-86

The purpose of this bill is to regulate changes of control of state savings and loans associations or state savings and loan holding companies.

The bill provides public disclosure of any acquisition or proposed acquisition and gives the Savings and Loan Associations Control Commission the authority to scrutinize the qualifications of individuals or companies seeking to acquire control of state savings and loan associations or state savings and loan holding companies. Generally, the bill prohibits a person or company from acquiring "control" of a savings and loan association without the prior approval of the Commission. The Commission 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 and from Mr. Sam Okinaga, president of MGS Hawaii Corporation and CTE Hawaii Corporation, and the former chairman of the board of directors of State Savings and Loan Association. Mr. Okinaga 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 addresses an unfulfilled gap in the present state law which allows changes of control to occur without any state regulatory review and approval.

Your Committee has generally amended the bill by:

- 1) Redefining the terms: "association," "control," and "savings and loan holding company"; deleting definitions of "commission," and "equity security"; and adding definitions of "acting in concert," "commissioner," "foreign association," "foreign holding company," and "voting stock"; and
- 2) Deleting the provisions establishing and providing authority to the Savings and Loan Associations Control Commission and instead authorizing the Commissioner of Financial Institutions to assume the responsibility to carry out the purposes and intent of the bill as amended.

The Department of Commerce and Consumer Affairs, (DCCA) supports the concept of the bill which is a necessary part of its statutory responsibility of examining and supervising savings and loan associations.

Your Committee concurs with the testimony submitted by the DCCA and has further amended the bill to reflect the recommendations proposed by the DCCA which are:

- 1) To broaden the scope of the bill to include:
 - A) Changes in control involving all savings and loan associations, including foreign associations or corporations;
 - B) Acquisitions resulting from the issuance of stock or other securities;
 - C) Friendly or unfriendly acquisitions; and
 - D) Acquisition of a savings and loan association or holding company, regardless 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; and
- 2) To give the commissioner the authority to disapprove any proposed acquisition under certain conditions.

Your Committee finds that this bill as amended, would not only provide the State with additional authority to regulate financial institutions, but would also provide greater protection and security of funds deposited by consumers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2131-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2131-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Kawasaki and Young.

SCRep. 385-86 Consumer Protection and Commerce on S.B. No. 2346-86

The purpose of this bill is to insure that all checks and drafts deposited in an escrow depository clear the institution from which they were drawn prior to release by an escrow depository of any funds involving the checks or drafts.

Presently, funds deposited into an escrow depository may be made by check or draft from a financial institution. Although these items may take several days to clear, parties to an escrow account often expect their transaction to close as soon as items such as checks or drafts are tendered.

These situations cause escrow depositories to advance their own funds or commingle other funds or deposits to cover the period between the disbursement of funds from escrow and final settlement of the deposited items. This causes a great deal of risk to escrow depositories and their clientele should the items fail to clear.

This bill prevents an escrow depository from disbursing funds until cash, or checks or drafts have been received and final settlement has been made or the escrow depository has verified with the financial institution upon which the item was drawn that there are sufficient funds in the drawer's account to cover the item in escrow.

Your Committee concurs with the supporting testimony provided by the Department of Commerce and Consumer Affairs and finds that this legislation will protect the consumer by preserving the integrity and stability of escrow depositories.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2346-86, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Chang, Kawasaki and McMurdo.

SCRep. 386-86 Consumer Protection and Commerce on S.B. No. 2350-86

The purpose of this bill is to require that gasoline dealers post the retail price of gasoline per gallon for the information of consumers.

In its disposition of this bill, your Committee received testimony in opposition on grounds that it would require service stations which dispense different grades of gasoline under different payment plans (e.g., credit cards, cash, etc.) to post multiple prices; it would increase dealers expense of operation; and it would not necessarily reduce confusion among patrons, who have become familiar with purchase of gasoline by the liter.

Your Committee carefully evaluated all aspects of the implementation of this bill and concluded that the importance of an informed consuming public cannot be depreciated. This overriding factor justifies price posting per gallon of gasoline sold at retail in the State of Hawaii. The Chairman of your Committee noted that in all other states gasoline is sold by the gallon, an anomaly which would be offset in part by the passage of this bill.

Your Committee, upon the recommendation of the Hawaii Automotive and Retail Gasoline Dealers Association, has amended this bill to provide that the price posting be in numerals comparable in size to any other posted pump prices.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2350-86, S. D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S. B. No. 2350-86, S. D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Kawasaki and Young.

SCRep. 387-86 Consumer Protection and Commerce on S.B. No. 2481-86

The purpose of this bill was to amend the property and casualty rate making provisions of Chapter 431, Hawaii Revised Statutes, to provide that due consideration shall be given to investment income in developing property-casualty insurance rates.

The Department of Commerce and Consumer Affairs supported the proposal of considering investment income as a significant factor in the Insurance Commissioner's evaluation of rates, and testimony by the Hawaii Independent Insurance Agents Association indicated no opposition to this bill. However, the Hawaii Insurers Council observed that this provision would require the Insurance Commissioner to "calculate independently" the investment income and loss reserves upon which fees are based, which would place an extra burden on staff and cause delays in processing rate filings.

After considering the testimony, your Committee finds that although insurance companies periodically operate at an underwriting loss in many lines of insurance, most such companies realize a return on net worth of healthy proportions due to investment income. Therefore, your Committee finds that investment income should be considered a significant factor in the Insurance Commissioner's evaluation of whether rates are excessive, inadequate, or unfairly discriminating.

Your Committee has amended the bill by relieving the Insurance Commissioner of the mandatory obligation to independently calculate the investment income and accuracy of loss reserves upon which filings are based. Your Committee intends that the Insurance Commissioner may do so but should not be so obligated by law.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2481-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2481-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Kawasaki and Young.

SCRep. 388-86 Consumer Protection and Commerce on S.B. No. 2518-86

The purpose of this bill was to require real estate salespersons and brokers to complete a minimum of eight hours of continuing education prior to renewal of their license, and provided that upon the forfeiture of the license, the licensee is denied access to the administrative hearing process.

Your Committee received testimony from the Real Estate Commission in support of this bill. In recent years the real estate industry has reached a point of such complexity that mandatory continuing education is needed to insure the consuming public of the continued competence of licensees. Research done by the Social Science Research Institute of the University of Hawaii indicates that licensees who have taken Commission-sponsored seminars have had fewer complaints lodged against them, than licensees who have not participated. In addition, those individuals who had more complaints lodged against them had been licensed for a longer period of time.

In addition, payments out of the Real Estate Recovery Fund have continued to rise. Payments from this fund are made to consumers who have been damaged in a real estate transaction by a licensee's fraud, misrepresentation or deceit, who have not been able to collect on their judgment. The states of California and Oklahoma have experienced a decrease in recovery fund payments, once continuing education was introduced.

The Hawaii Association of Realtors supports the intent of the bill, with reservations about the minimum requirement of eight hours. The Association believes that the initial legislation on continuing education should not require a minimum of eight hours because the details and specifics have yet to be worked out by the Real Estate Commission. Accordingly, your Committee has amended the bill to address this concern.

Your Committee has further amended this bill to delete reference to denial of an administrative hearing upon the forfeiture of the license. Your Committee believes that licensees should not be precluded from the administrative hearing process.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2518-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2518-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Kawasaki and Young.

SCRep. 389-86 Economic Development on S.B. No. 1680-86

The purpose of this bill is to provide an exemption from prior approval by the Governor and Legislature, for easements on submerged lands that are used for piers, moorings, seawalls, cables, pipelines and other similar uses.

Section 171-53, Hawaii Revised Statutes, provides that the prior approval of the Governor and prior authorization of the Legislature are required before the Board of Land and Natural Resources may issue leases for submerged lands or tidal lands suitable for reclamation.

Your Committee received testimony from the Board stating that each year numerous requests are made for easements on submerged or tidal lands, and current statutory language creates undue delay in the issuance of such easements. Additionally, the Attorney General issued a memo to the Board stating that this section is applicable to easements of submerged and tidal lands. The Sierra Club, Hawaii Chapter, testified that it had concerns with a general exemption for all cables and pipelines, and requested additional language to except cables used for electrical transmissions and slurry pipelines.

Your Committee finds that the approval process required for leases of submerged and tidal lands should not apply to easements for the limited uses as specified in this bill.

Your Committee agrees with the concerns of the Sierra Club and has amended the bill to specifically except easements related to cables used for electrical transmission, and slurry pipelines used for the transport of mined materials and their related waste products.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1680-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1680-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 390-86 Economic Development on S.B. No. 1682-86

The purpose of this bill is to provide that the Director of the Department of Planning and Economic Development (DPED) may defer up to two years, interest payments on loans made under the Hawaii Capital Loan Program.

Section 210-6, Hawaii Revised Statutes, provides the terms and provisions under which loans may be made for the capital costs of establishing or expanding small businesses. One of the provisions allows the Director of DPED to defer, up to five years, principal payments on these loans.

Testimony submitted by the Department, requests this authority to defer debt service as an additional mechanism to assist small businesses to maximize their chances for success, in the event of changes in the business and economic environment. The Department further testified that these deferred interest payments would have a minimal short term impact on the amount of lendable funds, and a positive long term impact toward reducing the default rate.

Your Committee finds that this measure is consistent with the State's efforts to assist small businesses, providing flexibility for debt repayment while still encouraging responsible business practices.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1682-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 391-86 Economic Development on S.B. No. 2352-86

The purpose of this bill is to insure that goods sold and marketed as "made in Hawaii" are manufactured, assembled, or fabricated within the State.

Chapter 486, Hawaii Revised Statutes, provides general provisions and restrictions relating to the packaging and labeling of goods sold within the State.

Your Committee has amended this bill, by amending Chapter 486 to include a provision which would identify as "made in Hawaii" only those goods which are manufactured, assembled, or fabricated within the State, and which have had at least fifty per cent of its retail value added by activities within the State.

Testimony submitted by the City and County of Honolulu supports this measure to identify

and protect legitimate items representing Hawaii from foreign imitation items.

Your Committee finds that this measure is necessary to maintain the integrity of "made in Hawaii" products, and insure that customers are not buying imitation products represented as "made in Hawaii."

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2352-86, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 2352-86, S.D. 1, and be placed on the calendar for Second and Third Reading.

Signed by all members of the Committee.

SCRep. 392-86 Economic Development on S.B. No. 2185-86

The purpose of this bill is to give the Department of Land and Natural Resources the authority to defer lease rental payments by lessees of public lands being used for commercial, industrial, hotel, resort or other business uses, if such lessees are financially distressed.

Your Committee finds that periodic downturns in the State economy coupled with rising land values can have a disproportionately negative impact on certain lessees of public lands. It is in the public interest to minimize the negative economic impact on financially distressed lessees of public lands, thereby preserving jobs within the State.

As defined by this bill, "financial distress" is being either insolvent or having reported cash operating losses for the three consecutive years preceding the request for rent deferral. The amount to be deferred is limited to fifty percent of the rent due. The deferred period is to be the earlier of five years or when the lessee is no longer insolvent or has earned a profit for the most recent fiscal year.

This bill also provides for repayment in equal installments beginning when the deferrals cease and ending upon the later of five years or the next rental renegotiation date.

Your Committee has amended the bill to make technical changes which have no substantive effect.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2185-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2185-86, S.D. 1, and placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 393-86 Economic Development on S.B. No. 2319-86

The purpose of this bill is to amend the Hawaiian Homes Commission Act by adding a new section to authorize the Department of Hawaiian Home Lands (DHHL) to contract with private developers to develop available lands. The development would be for residential, commercial, or agricultural purposes and, would generate income for the DHHL through lease rentals.

Section 204 of the Hawaiian Homes Commission Act authorizes DHHL to dispose of lands not leased for homesteading purposes on the same terms, conditions, restrictions, and uses applicable to the disposition of public lands as provided by Chapter 171, Hawaii Revised Statutes (HRS), except that, generally, the DHHL may not sell or dispose of its land in fee simple. The revenues derived from such dispositions are used to cover operating and administrative costs of the Department because the DHHL does not receive any external funding for these costs. Consequently, the generation of income is essential to provide for administering the homesteading program and other benefits to native Hawaiians. Additionally, Section 171-60, HRS, requires DHHL to obtain the Governor's approval and legislative authorization, through a concurrent resolution, before DHHL can enter into an agreement with a private developer to develop or subdivide Hawaiian home lands as a leasehold project. Testimony received from DHHL states that this requirement is time-consuming, creates uncertainty, will likely result in costly delays, and is not responsive to development opportunities that may arise.

The DHHL also testified that in carrying out its trust responsibilities, the Hawaiian Homes Commission must adhere to high fiduciary standards owed by a trustee to its beneficiaries. These obligations include ensuring that lands not leased for homesteads are used productively to provide income and opportunities to benefit native Hawaiians. In the case of unimproved lands that can be developed for homesteads or lands that have the potential for income, the development of those lands through private sector participation is a prudent course because

DHHL does not have sufficient funds to finance major infrastructure and development costs. This bill would provide DHHL with alternative methods to achieve its objectives in a timely and responsive manner. The bill would require DHHL to follow procedures similar to those imposed by Section 171-60, HRS, but would not require DHHL to obtain approvals from the Governor and the Legislature in developing land through developer agreements.

Your Committee concurs with the proposal to facilitate development of Hawaiian home lands for purposes authorized by the Hawaiian Homes Commission Act, but finds that the bill in its present form lacks clarity. Accordingly, your Committee has amended this bill to set forth the extent of authority to be given the Department and the applicability of that authority with respect to developments by contracts and developer agreements. The amendments are summarized as follows:

Subsection (a) has been rewritten to authorize the DHHL to enter into contracts to develop Hawaiian home lands for homestead projects, commercial projects, and a combination of the two. The Department will not be subject to the competitive bidding requirements of Chapter 103, HRS, if State funds or DHHL funds are not to be used in developing the project. This type of development will not provide the contractor with an interest in the land.

Subsection (b) has been amended in its entirety and authorizes DHHL to enter into project developer agreements to develop homestead and commercial projects, or a combination of such projects, in accordance with procedural requirements similar to those established by Section 171-60, HRS. It is expressly intended that in negotiating the details of the developer agreement the Department may require that benefits to promote socio-economic opportunities for native Hawaiians be included such as subcontract set-asides, job training, employment opportunities, and improving homestead areas.

Subsection (c) establishes the terms and conditions that must be included in any project developer agreement.

Subsection (d) provides a maximum term of 65 years for any project developer agreement and also gives DHHL the right of withdrawal of lands disposed of through a project developer agreement.

Subsection (e) allows the developer to assign or sublease the developer's interest, subject to the DHHL's approval, only after the developer has completed construction of any required off-site improvement.

Subsection (f) provides that the DHHL shall provide for the purchase of a completed homestead development project in order that the homestead lots or units will be leased to qualified native Hawaiians. This subsection also precludes any existing homestead lease in the project area from being encumbered.

Subsection (g) provides definitions for "commercial project," "developer," "homestead project," "multi-purpose project," "project," and "project developer agreement."

Finally, subsection (h) authorizes the DHHL to adopt administrative rules to implement the new section.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2319-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2319-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 394-86 Economic Development on S.B. No. 2320-86

The purpose of this bill is to allow the Department of Hawaiian Home Lands (DHHL) to use moneys pledged to its loan accounts as collateral to secure additional new loans.

Section 214, Hawaiian Homes Commission Act, 1920, as amended, provides the purposes for which loans may be made by DHHL, and the types of financing the Department may issue or guarantee.

Your Committee received testimony by DHHL indicating that this measure provides a way for the Department to obtain additional funding for the improvement of homestead lots awarded to native Hawaiians. Your Committee finds that this measure is consistent with the efforts of DHHL to accelerate distribution of lands and moneys for improvements.

The Department also requested that this bill be amended to clarify that loan repayments will

be made by the homesteaders and not from receivables already pledged, and further, to allow the Department to transfer any available and unpledged loan amounts to other accounts to allow participation in federal HUD loan programs.

Your Committee accepts the recommendations of the Department and has amended the bill as follows:

The first recommended amendment is to delete the following words beginning on line 12 of page 4: "is payable solely from the receivables pledged to the repayment of the loans, and that such loan..." The remaining portion of the proviso would then read: "provided that any loan agreement entered into under this paragraph by the department shall include a provision that the money borrowed by the department is not secured directly or indirectly by the full faith and credit or the general credit of the State or by any revenues or taxes of the State other than the receivables specifically pledged to repay the loan;...."

The second recommended amendment to this bill is to add a new paragraph (9) to Section 214(b) of the HHCA:

Notwithstanding any other provisions of this Act to the contrary, transfer into the Hawaiian home trust fund any available and unpledged monies from any loan funds, the Hawaiian loan guarantee fund, or any fund or account succeeding thereto, except the Hawaiian home loan fund, for use as cash guarantees or reserves when required by a federal agency authorized to insure or guarantee loans to lessees.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2320-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2320-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 395-86 Government Operations on S.B. No. 1795-86

The purpose of this bill is to permit the City and County of Honolulu to sell abandoned school property, and retain the proceeds for their use.

Section 70-92, Hawaii Revised Statutes, requires that when an abandoned school site is sold, the proposed sale must first be approved by the Superintendent of Education, and the proceeds must be used for acquiring land or buildings for school purposes.

The City and County of Honolulu submitted testimony that they should be able to dispose of these sites they own and receive the benefits of its disposal. When the responsibility for school properties was transferred to the State, many properties, as well as the bond debt obligations, remained with the City and County. Currently, there are 85 abandoned school sites that need to be disposed of.

Your Committee finds that this measure is in the best interest of the City and County to enable them to determine the disposal of such properties.

Your Committee further finds that prior approval from the Superintendent of Education is no longer consistent with this measure, and therefore, has amended the bill to require that the sale shall be agreed to by the Superintendent. Your Committee has further amended the bill by making technical changes which have no substantive effect.

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 1795-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1795-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 396-86 (Joint/Majority) Government Operations and Housing and Community Development on S.B. No. 1937-86

The purpose of this bill is to provide that if prior to a zoning change a property had a reasonable use but now has no reasonable use due to the zoning change, or now has a reasonable use of lesser value, that the county shall proceed with eminent domain or other land disposition proceedings.

After considering testimony presented by the Department of General Planning of the City and County of Honolulu, the Land Use Foundation of Hawaii, and Brian Moore, a private landowner, your Committees find that it is appropriate and equitable and in the public interest

for a county to remunerate a landowner for property which the county, through its arbitrary zoning authority, has rendered valueless or of little value to the owner.

Your Committees have amended the bill to make technical changes which have no substantive effect.

Your Committees on Government Operations and Housing and Community Development are in accord with the intent and purpose of S.B. No. 1937-86, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1937-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Senator Solomon.
Senators Cobb and McMurdo did not concur.

SCRep. 397-86 Housing and Community Development on S.B. No. 801

The purpose of this bill is to establish a new formula to determine lease rents which a lessor of residential lots and land under a cooperative housing corporation may charge lessees upon expiration of fixed rent periods during the lease term. The bill requires that lease rent reopenings shall not be scheduled more frequently than once every ten years, and is applicable to leases in effect before the effective date of this part. 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, HRS.

The bill "unlinks" the lease rent controls in part VI from the compensation paid to a lessor upon a condemnation under part II of chapter 516, HRS, by providing that such lease rents shall not be used to determine the value of the leased fee interest for leases governed by part VI. The intent of this provision is to acknowledge that the legislatively established lease rent control formula contained in part VI has been imposed primarily to address affordability needs of lessees and should not be utilized as a post hoc justification to lower the "market" value provided to a lessor upon condemnation.

The bill also requires that all new leases, of a term of fifteen years or more, of residential lots and land under cooperative housing corporations contain a provision which provides the lessee an option to purchase the fee simple title to the land during the first five years of the lease. This requirement is contained in a new part (Part VII) to chapter 516, HRS.

The bill further provides that the provisions contained in section 516-70, HRS, (requiring the lessor to compensate the lessee for the value of the improvements where the lessor does not extend the lease or issue a new lease to the lessee) shall not apply to leases applicable under the new lease rent control formula, as provided in part VI, and to leases which contain the mandatory fee purchase option, as provided in part VII. However, the bill provides that a lessee who is governed by Part VI or Part VII may remove all on-site improvements constructed by him or otherwise paid by him, without compensating the lessor.

The bill further provides that in the renegotiation of leases of property in multi-family apartment use, it is presumed 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 that parcel will be the aggregate of the values of the individual lots as subdivided. The intent of this new section to Chapter 519, HRS, is to provide equity in the renegotiation process, by ignoring increases or decreases in property values caused by rezoning and land use changes.

A more detailed discussion of the issues and history of the amendments proposed in this bill follows.

LEASE RENT CONTROL

Under current law embodied in chapter 519, Hawaii Revised Statutes, the existing formula provides that a lessor may charge up to four per cent of the "owner's basis" in the residential lot upon such reopenings. Lessees have sought relief from rents that have escalated to levels which they contend are unaffordable and have asked the legislature to establish an alternate formula to make lease rents "affordable" and provide mortgage lenders with less uncertainty of risk to finance such properties scheduled for rent reopenings.

Your Committee, through an appointed panel of economists, lenders, and real estate professionals, held hearings and meetings during the 1984-85 interim and obtained data and input from lessee and lessor representatives. The panel's objective was to investigate alternative formulae to recommend to the Senate. The panel's report previously was transmitted to the Senate for distribution, and the formula recommended by the panel is

contained in this bill.

Specifically, the proposed formula contained in the bill establishes renegotiated lease rents by a three-step process. First, 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.

Second, 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.

Third, 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.

The Standard and Poor's 500 Composite Stock Dividend Yield measures the historical return for the top 500 industrial, financial, transportation, and utility stocks in the United States. In general, stocks provide the investor an income stream and an opportunity for potential capital appreciation. Inasmuch as income-producing leased land was considered to be an asset with similar investment qualities as stocks, the advisory panel selected the Standard and Poor's 500 Composite Stock Dividend Yield as a rate of capitalization for the initial rent since it appears to represent a safe, reasonable rate of return for an investment which provides such a combined return.

The specific United State Consumer Price Index used in the proposed formula, CPI(W), measures the increase in total price of a "market basket" of goods, and is used to adjust the original hypothetical raw land estimate to a current estimate. Although it was recognized that the components which comprise this index, such as housing costs, may exhibit considerably more price change variability than the index itself, and that there may be no correlation between CPI(W) and Hawaii land values, it was selected because it appears to represent a reasonable measure of inflationary trend and has a recorded history.

Additionally, since the advisory panel was instructed to consider affordability in arriving at a renegotiated lease rent formula, CPI(W) was selected since there appears to be a correlation between this index and changes in personal incomes.

Section 3 of the bill has been amended to provide that the new lease rent control provisions (part VI of chapter 516) be applicable to leases of fifteen years or more of residential lots and cooperative housing corporations which are in effect before the effective date of this act.

Further, the "applicability" section of part VI has been amended to clarify that existing leases which have reopened and renegotiated under the provisions of chapter 519, HRS, and which do not provide for further reopenings are not governed by this part. Because such leases will not be provided protection under the new lease rent control measure, this clarification ensure the provisions of subsection 516-70(b), HRS, shall apply to such leases.

Since it is clear that parts VI and VII also apply to publicly-owned lands (except Hawaiian Homes Lands and federal lands) as stipulated in section 516-2, Hawaii Revised Statutes, repetitive language stating same has been deleted.

Language in the bill specifying the three-step formula for calculation of renegotiated lease rents has been amended for clarity.

UNLINKING OF RENT CONTROL AND CONDEMNATION VALUE

Your Committee held a public hearing on S.B. No. 801, S.D. 1, on February 26, 1986, and received voluminous testimony in support of, and in opposition to, the concept of lease rent control or to items contained in the bill.

Specifically, testimony was received from Myron Daniels and John Hulten, representatives of the Hawaii Leaseholders Equity Coalition, and Peter Aurand, lessee, in opposition to precluding the rental amount established by the formula proposed in this bill from being used to ascertain the amount paid to a lessor via condemnation under chapter 516, Hawaii Revised Statutes, since to do so "denies the use of the new formula to the thousands of lessees who are trying to buy the fee interest in the land under their homes, while providing an increase of the leasehold value to all other lessees of up to 25% or more."

Your Committee feels, however, that reducing the income of lessors by this new lease rent control formula, and allowing this reduced rent to adversely affect the property value under

condemnation, is patently unfair.

Your Committee makes it explicitly clear that the lease rent formula established by this bill is to be viewed as a rent control measure imposed by the legislature to make renegotiated lease rents affordable to lessees. Your Committee is particularly sensitive to those lessees who are fixed-income retirees. Nonetheless, the artificially depressed lease rents produced by this formula do not reflect true land values or market conditions and as such should not be used to determine leased fee values of property condemned under the Land Reform Act.

Your Committee is resolved to insure this by retaining the provision that if the "unlinking" section relating to prohibiting use of the lease rent control formula to determine values of the leased fee interests in proceedings pursuant to part II of chapter 516, Hawaii Revised Statutes, is in violation of the United States Constitution of the Constitution of the State, or is found to be otherwise unlawful, then the lease rent control formula section automatically will be repealed.

Further, your Committee has retained the provision that sections 519-2 and 519-3, Hawaii Revised Statutes, be suspended. If the new provisions relating to the new lease rent control formula and the prohibition of that formula to determine leased fee values in proceedings pursuant to part II of chapter 516 are deemed to be unconstitutional or otherwise are repealed, then sections 519-2 and 519-3, Hawaii Revised Statutes, again shall become effective. Your Committee intends that no back rent under the old formula be assessed or claimed if the new formula is repealed automatically.

Chapter 519, Hawaii Revised Statutes, was created by Act 267, Session Laws of Hawaii 1969, and originally provided that land values determined for renegotiation purposes of leases of privately-owned lands shall be calculated upon the use to which the land is restricted by the lease document. In reviewing the legislative intent of Act 267, your Committee was unable to verify the application of the initial provision was limited to leases of residential property. Since it is not your Committee's intent to extend a lease rent control provision to real property other than property leased for residential purposes, the bill's provision that the new residential lease rent control formula be contained within a new part, part VI, of chapter 516, Hawaii Revised Statutes, has not been amended. Since chapter 516 deals with residential leaseholds only, your Committee feels it is appropriate that a lease rent control measure for the same class of real property be contained within that statute.

REVERSION OF IMPROVEMENTS

Act 307, Session Laws of Hawaii 1967, provided that at termination or expiration of the lease term, the lessee may remove all improvements which were paid by the lessee without compensating the lessor (section 516-70, HRS). Act 184, Session Laws of Hawaii 1975, amended that section to provide that if the lessor does not extend or renew the lease for a minimum thirty year term, the lessor shall compensate the lessee for the current fair market value of all on-site improvements.

Since this bill provides certain lessees with two new forms of protection, one at renegotiation, as provided in new part VI of chapter 516, and a fee purchase option, as provided under new part VII, your Committee feels other additional rights create an unfair burden on the lessor. Therefore, your Committee has retained the provision that the right to a thirty year extension or renewal, or to compensation of improvements by the lessor, shall not be applicable where the leases are governed by the protections afforded under new parts VI and VII.

Section 1 of the bill has been amended to include the provision that at the termination or expiration of all leases governed by chapter 516, Hawaii Revised Statutes, the lessee may remove all improvements paid for by the lessee without compensating the lessor. This amendment conforms to the original intent of Act 307, Session Laws of Hawaii 1967, which created the Land Reform Act.

OPTION TO PURCHASE

Section 4 of the bill has been amended to include under the "abandonment of suit" section comparable requirements of a lessor or any party in interest regarding imposed liability for attorneys' fees and court costs if the lessor or party in interest abandons or discontinues the lawsuit.

Your Committee recently has been made aware that Fannie Mae and Freddie Mac have "checklists" for leasehold financing and that the mandatory fee purchase option may necessitate new or amended lease forms. Your Committee respectfully requests the House of Representatives, in its review of the bill, to solicit input from mortgage lending institutions with regard to financing leases with the option provisions.

MULTI-FAMILY APARTMENT LEASES

The bill adds a new section to chapter 519, Hawaii Revised Statutes, to provide that in the renegotiation of leases or subleases of real property in multi-family apartment use, the following presumptions would apply: (1) the highest and best use of the improved leased or subleased parcel is the actual use to which the parcel is being put during the lease term; provided that the improvements were constructed in accordance with plans approved by the lessor or sublessor prior to construction; and (2) where the parcel has been subdivided in accordance with plans approved by the lessor or sublessor, the fair market rental or fair market value of that parcel will be the aggregate of the values of the individual lots as subdivided at the commencement of the lease or the sublease, except that these lots will be deemed to be one a lot if the subdivided lots have been consolidated to be used for a multi-family apartment.

Lessees have testified that their rents have increased an average of 578 per cent at lease reopenings. Lessees claim these rent increases are due to the landowners' practice of ignoring the lease and improvements, and considering the highest and best use of the property as if it were vacant and unencumbered.

The first presumption would benefit the lessor if the demised land is downzoned after an apartment building has been constructed. Conversely, it would benefit the lessee if the parcel is upzoned subsequent to construction improvements. The second presumption considers the costs of infrastructure incurred by the lessee. If the parcel is appraised as one lot rather than subdivided lots, the lessee is not given credit for the value of the subdivision improvements.

The proposed amendment does not change the terms of existing ground leases. It merely creates statutory presumptions which apply (1) where the ground lease does not provide a precise guideline for determining lease rent; (2) where a guideline provided in the lease is ambiguous or contradictory; and (3) when the presumptions reasonably reflect probable or implied intent of the parties at the time the lease was executed.

SUMMARY

Your Committee's decision to exclude residential condominiums from this bill recognizes the complexities involved with such real property. Since preliminary information indicates that many condominium lessees are not homeowners, that condominium lease rents were established in a multitude of ways (i.e., landowners may have been provided condominium units in the project in exchange for lower initial rents), and that time share units would be involved, your Committee feels further research should be compiled before condominiums are encompassed in the regulations.

Although the purpose of the lease rent control formula is to address affordability needs of lessees, affordability *per se* requires an evaluation of an individual's ability to pay specific lease rental rates. Towards this end, your Committee finds one possible method to achieve true affordability would be a procedure which establishes lease rents based on an individual lessee's ability to pay. For example, one suggested proposal is to establish the lease rents at a level not to exceed a specified percentage of a lessee's gross income. While your Committee has not had the opportunity to thoroughly examine such an alternative, it finds this proposal equitable, and respectfully requests the House of Representatives to consider it.

Your Committee feels that the tenure of leasehold is an inadequately understood concept. During Committee hearings on this bill and other related leasehold measures, lessees have repeatedly expressed dismay and alarm with the terms of the lease contract, such as renegotiation provisions, tenure expiration, and reversion of improvements. Although lease terms are contained in the lease contract, such terms do not seem to be comprehended or accepted by some lessees.

Although many factors have played a role in bringing the issue of a new lease rent ceiling to the legislature, your Committee feels a lack of understanding of the leasehold system by lessees has contributed significantly to the problem. Further, your Committee recognizes that certain lessees may not be provided many options at renegotiation. Faced with unequal bargaining power at the lease reopening period, the lessee may neither be financially capable of paying the higher renegotiated lease rents nor of absorbing losses incurred if he is forced to sell his property.

By requiring that all new leases provide the lessee with the option to purchase the fee simple title to the land and permitting the lessee and lessor to negotiate fee purchase prices and lengths of option periods prior to the signing of the lease contract, open market conditions will be allowed to provide alternatives for lessees uncomfortable with or unable to remain under the terms of leasehold tenure. Future lessees are forewarned that lease rent control is not extended to them and that the legislature cannot continually amend the "rules of the game."

An understanding and awareness of lease contract provisions and the benefits and drawbacks of the leasehold system is the responsibility of the lessee and should be investigated prior to the signing of contract.

The lessee and lessor are strongly advised that an absolute understanding of the leasehold concept and the terms of the lease contract are vital to the continuance of the leasehold system. Lessees must accept or be reconciled to the fact that the tenure of leasehold involves renegotiation dates when the lease rent will escalate and expiration dates when the land must be returned to the landowner.

While some may feel the leasehold system is not worth preserving, your Committee sees it as a viable alternative to the system of fee simple tenure for those who are unable to afford such tenure, and one that has provided opportunities for affordable housing otherwise not possible for many Hawaii families.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 801, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 801, S.D. 2.

Signed by all members of the Committee.

SCRep. 398-86 Government Operations on H.B. No. 107

The purpose of this bill is to amend sections 40-56 and 40-57, Hawaii Revised Statutes, to provide flexibility in issuing state payments by expressly authorizing certification of bills for advance payment or deposit when specified in the related purchase order or contract.

Current law does not allow for advance payment or deposit. While the current requirements that payment be made only after work has been performed or goods have been received can be applied in the majority of cases, there are instances in which an advance payment or a deposit is necessary or is the common business practice.

Your Committee on Government Operations is in accord with the intent and purpose of H.B. No. 107, H.D. 2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 399-86 Consumer Protection and Commerce on S.B. No. 1551-86

The purpose of this bill was to allow the formation of groups or associations to obtain general casualty insurance, thus providing such groups or associations an opportunity to enjoy the potential savings in reduced insurance premiums, or to make available to them previously unavailable coverage.

During its consideration of this bill your Committee received the testimony of the Insurance Commissioner supporting the goals and concepts of the bill, but noting that it contained a serious statutory conflict and presented other technical difficulties. As an alternative approach the Commissioner proposed the provisions of Section 431-751 to 431-766, Hawaii Revised Statutes, Mass Merchandising of Motor Vehicle Insurance, utilizing language developed in 1981 at the request of the Chairman of your Committee by an interim study group led by the then Insurance Commissioner.

Similar views were expressed by spokesmen for the Hawaii Independent Insurance Agents Association and the Hawaii Insurers Council.

Your Committee also received testimony reflecting the insurance problems currently being experienced by rental car operators in Hawaii, who have seen their premium rates for no-fault vehicle coverage rise sharply and who are having difficulty obtaining suitable coverage. While representatives of the rental car industry acknowledged the goals and concepts of S. B. No. 1551-86, they indicated that their immediate problem could not readily be accommodated through the formation of groups or associations as provided in the bill because their financial situation would not permit it, and, in their view early legislative assistance was required. This would include authorization of specialty insurance carriers to do business with rental car operators in the State of Hawaii without having to offer all lines of casualty insurance to all potential customers and without participating in the Hawaii Joint Underwriting Plan and accepting assigned risks, as is presently the case. Mainland insurance carriers were said to be interested in doing business with the rental car operators if appropriate waivers could be authorized.

Your Committee, aware of the magnitude of the problem facing rental car operators, and appreciating the potential savings offered by the mass merchandising of insurance, concluded that substantial amendment of the bill is necessary. Accordingly, it deleted the substance of the bill as referred, adapted the language proposed by the Insurance Commissioner dealing with Sections 431-751 through 431-766, and further amended the bill by:

(1) Adding a new section authorizing specialty insurers to offer no-fault insurance policies for only U-drive motor vehicles;

(2) Adding a new section exempting such insurers from participating in the Joint Underwriting Plan.

Your Committee highlights the urgency of the problem faced by the rental car operators, whose operation is integral both to the all-important tourist industry and to local residents who rely upon them for domestic, commercial and recreational transportation. Noting that the time required for mainland insurance carriers to obtain authorization to do business in Hawaii is sometimes extremely protracted, your Committee urges that every reasonable effort be made to authorize as soon as practicable specialty insurance carriers to do business in the State of Hawaii in a manner consistent with the amended bill which this report recommends.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S. B. No. 1551-86 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S. B. No. 1551-86, S. D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Chang and Young.

SCRep. 400-86 Consumer Protection and Commerce on S.B. No. 1569-86

The purpose of this bill was to extend the term of the Board of Cosmetology until December 31, 1992.

The Legislative Auditor, in their sunset review findings on the regulation of beauty culture, recommended that Chapter 439, Hawaii Revised Statutes, be allowed to expire as scheduled on December 31, 1986, on the basis that the practice of beauty culture poses minimal potential harm to the public health, safety, or welfare and that the Board has not always acted responsibly and with good judgment.

Your Committee received testimony from numerous beauty operators stating their concern that deregulation would expose consumers to a variety of health and safety risks such as communicable diseases, chemical burns, skin infections, allergic reactions, and accidental injuries. The operators believe that there is substantial need to continue regulating this profession in the public interest.

Your Committee, upon consideration of the Legislative Auditor's report and the testimonies of the beauty operators, finds that some type of regulation of this profession is necessary but shares some concerns raised in the Auditor's report. Accordingly, your Committee has amended this bill to extend the Board until December 31, 1989, to provide adequate time to incorporate and implement some of the recommendations so that the sunset report in 1989 will more clearly indicate whether there is a need to continue regulating this board.

Among the recommendations your Committee has adopted are eliminating the good moral character requirement, deleting the Board's authority to inspect beauty shops, reducing the ratio of beauty operators to apprentices to a one to one ratio, and transferring the regulation of electrologists from the Department of Commerce and Consumer Affairs to the Department of Health.

The Auditor further recommended that the licensing categories for permanent wave operators, Japanese hairdressers, and facial cosmeticians be eliminated on the basis that such licenses are not specifically authorized in the statutes. At the hearing your Committee expressed concern that a number of licensing categories of beauty operators were unnecessary. The Board assured the Committee that steps were being taken to eliminate the permanent wave operators, Japanese hairdressers, and facial cosmeticians, and that the categories would be reduced to six. Your Committee has amended this bill to require that there be only six licensing categories and that the Board may modify the number of categories only if passed by a two-thirds vote of the profession.

The Auditor also recommended eliminating requirements for practical and oral examinations and limiting written examinations to health and safety issues. The Board testified that the

practical exam was totally revised and administered for the first time in October 1985. Examination sessions subsequent to the initial session have shown improvements.

Your Committee, interested in keeping informed on the progress of the practical exam, has provided that the Board shall report to the Legislature on progress made in improving the practical exam prior to the convening of the Regular Sessions of 1987 and 1988. Further, the Board is required to develop new written exams based on current job analyses surveys.

Finally, your Committee disagrees with the Auditor's Report that there is minimal potential hazard of disease transmission, and that the responsibility for disease control rests with the Department of Health, not the Board. Your Committee believes there is a potential for disease transmission in beauty culture practice because of the extensive "hands on" contact, and that the Board should also be responsible for monitoring disease transmission. Your Committee has amended this bill to authorize the Board, at its discretion, to request that appropriate medical clearance tests, including blood tests, be taken by licensees to protect the public health.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1569-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1569-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Chang and Young.

SCRep. 401-86 Consumer Protection and Commerce on S.B. No. 1570-86

The purpose of this bill was to extend the term of the Board of Barbers until December 31, 1992.

A Legislature Auditor's Report recommended that Chapter 438, Hawaii Revised Statutes, be allowed to expire as scheduled on December 31, 1986 because barbering poses little danger to the public and does not require regulation.

Your Committee received testimony from the Board of Barbers and members of the barbering profession in support of extending the Board because it has done a good job in protecting the public from those who have not acquired the ability to practice safely.

Your Committee, upon consideration of the Auditor's report and the testimonies submitted, believes that regulation of barbers should continue. However, in view of the Auditor's recommendation to allow expiration, your Committee has amended the bill to extend regulation for four years rather than six years, thereby allowing the Legislature to reconsider the need to continue regulation at an earlier date. Your Committee has also adopted recommendations from the Auditor's report recommending expansion of the scope of practice to include permanent waving and hair coloring and deleting the good moral character requirement for certification.

The Auditor further recommended elimination of the practical exam and deletion of the rule requiring barbers to work only in barber shops. Your Committee has adopted these recommendations with minor amendments. Your Committee has retained the practical examination only as it applies to permanent waving and hair coloring, and has amended the definition of barber shop to embrace any establishment or place of business wherein the primary purpose of the practice of barbering is engaged in or carried on.

Your Committee has further amended this bill to clarify sanctions which may be imposed against persons who violate the certification laws.

Finally, your Committee is concerned about the potential hazard of disease transmission. Although Section 438-7, Hawaii Revised Statutes, requires clearance from infectious or contagious diseases upon filing of an application for certification, it does not provide for the control of disease transmission thereafter. Your Committee believes there is always a potential for disease transmission in barbering because of the extensive "hands on" contact, and that the Board should also be responsible for monitoring disease transmission. Your Committee has therefore amended this bill to authorize the Board, at its discretion, to request that appropriate medical clearance test, including blood tests, be taken by licenses to protect the public health.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1570-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1570-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Chang, and Young.

SCRep. 402-86 Consumer Protection and Commerce on S.B. No. 2310-86

The purpose of this bill is to amend Chapter 431D, Hawaii Revised Statutes, to allow insurers to surcharge policyholders directly to recoup assessments paid to the Hawaii Insurance Guaranty Association.

Present law provides that surcharges shall be recovered in premiums. Your Committee heard testimony from the Hawaii Insurers Council that urged favorable consideration of this bill because a surcharge on policies of no more than two per cent would enable companies to recover the exact amount they paid.

Your Committee also heard testimony from the Hawaii Independent Insurance Agents Association in support of this bill because it would increase overall insurance capacity in the State of Hawaii and increase the availability of insurance which has heretofore been diminished by recent failures of insurance carriers doing business here.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2310-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2310-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Chang, Kawasaki and Young.

SCRep. 403-86 Consumer Protection and Commerce on S.B. No. 1578-86

The purpose of this bill was to allow groups of small business employers engaged in a common business activity to form an association for the purpose of being self-insured under Section 386-121(a) (2) or 386-121(a) (3), Hawaii Revised Statutes.

Your Committee is in agreement with the intent of this bill but prefers the approach by which such groups are certified by the Insurance Commissioner and exempted from the insurance laws and rules, as provided in the Private Employer Workers' Compensation Group Self-Insurance Model Act. Under this concept employers in a workers' compensation self-insurance group would be subject to the provisions of a new part under Chapter 386 and would secure compensation to their employees under section 386-121(a) through their membership in the group with a valid certificate of approval issued by the Insurance Commissioner. Your Committee has amended the bill accordingly by deleting the substance and substituting therefor the substance of the Private Employer Workers' Compensation Self-Insurance Model Act.

Your Committee wishes to express concern that the implementation of the provisions of this bill would require seven full-time permanent positions with current expenses and equipment, at a cost of \$177,000. An additional \$50,000 to \$80,000 would also be required to engage the services of an actuary. Your Committee requests that these items be considered for inclusion in the 1986-1987 supplemental budget

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1578-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1578-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Chang and Young.

SCRep. 404-86 Human Services on S.B. No. 1661-86

The purpose of this bill is to clarify the definition of child abuse and neglect prevention and to change the name and composition of the Child Abuse and Neglect Prevention Advisory Council.

Your Committee finds that current statutes on child abuse and neglect prevention programs refer to the technical term "secondary prevention." The removal of the specific references to "secondary" as proposed by this bill will allow a focus on prevention in general, and will

facilitate coordination and planning efforts by the Department of Health in the area of child abuse and neglect prevention.

This bill also increases the membership of the Child Abuse and Neglect Prevention Advisory Council from seven to eleven members. The composition of the Council will also be expanded to specifically include representatives from the Departments of Health, Social Services and Housing, and Education, along with members from the Office of Children and Youth, the Judiciary, private agencies and the community.

Your Committee is in agreement with the Departments of Health and Education, and the Office of Children and Youth, that the inclusion of these various agencies and community members should provide a wider perspective to the child abuse and neglect prevention effort.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1661-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 405-86 Human Services on S.B. No. 1662-86

The purpose of this bill is to clarify Section 46-4, Hawaii Revised Statutes, to specify the inclusion of the mentally ill as an appropriate target group living in domiciliary care facilities.

The current statute reflects legislative and administrative support for community based residential care of certain individuals with special needs, when feasible, as an alternative to hospitalization.

Your Committee finds that, while the current statute does not refer to the mentally ill, members of the mentally ill population are currently residing in domiciliary care facilities and should be specifically included.

Your Committee amended the bill by repealing the limitation of domiciliary care facilities to areas zoned for residential use, to broaden the opportunities available to such facilities. Your Committee also made technical, non-substantive amendments to the bill.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1662-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1662-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 406-86 Human Services on S.B. No. 1663-86

The purpose of this bill is to amend Act 272, Session Laws of Hawaii (SLH) 1985, by deleting independent group residences from the adult residential care homes requiring licensing by the Department of Health.

Act 272, SLH 1985, provides that responsibility for the licensure of all adult residential care homes, including independent group residences (IGRs), shall be transferred from the Department of Social Services and Housing to the Department of Health, effective July 1, 1986. Deletion of IGRs from Act 272, SLH 1985, as proposed by this bill, would mean that no state agency would be regulating IGRs.

According to written testimony from the federal Department of Housing and Urban Development, removal of licensing by the State would result in the IGRs losing federal rent subsidy funds under the Section 8 Housing Assistance Payments Program.

Despite the loss of federal rent subsidy funds, your Committee agrees with the Department of Health that IGRs should be removed from licensing requirement statutes. IGRs are intended for self-determining individuals who are mentally and intellectually capable of making their own living arrangements. Although they may have physical disabilities, they neither want nor require the close, twenty-four-hour supervision and other restrictions which adult residential care home licensing rules would impose upon them.

To allow the Department of Health to oversee IGRs generally, your Committee amended the bill by amending Section 321-11, Hawaii Revised Statutes, to include IGRs under general regulations of the Department of Health.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No

1663-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1663-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Henderson.

SCRep. 407-86 Human Services on S.B. No. 1716-86

The purpose of this bill is to provide opportunity to all eligible Medicaid recipients to enroll in a health maintenance organization (HMO) or a prepaid health plan.

Your Committee finds that current statutes limit the participation in HMOs and health plans only to families in the Aid to Families with Dependent Children (AFDC) program. There is also a demonstration project for a six-month guaranteed enrollment program, which is likewise limited to AFDC families.

Your Committee is in agreement with the Department of Social Services and Housing and the Hawaii Medical Association that the opportunity to participate in HMOs and prepaid health plans should be extended to the entire Medicaid population, as proposed by this bill.

To establish consistency with the requirements for Federal Financial Participation, which limits federal matching funds for the six-month guaranteed enrollment program to federally qualified HMOs, this bill also clarifies that the six-month guaranteed program is available only to HMOs.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1716-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 408-86 Human Services on S.B. No. 1658-86

The purpose of this bill is to exempt adult family boarding home facilities licensed prior to the effective date of Act 272, Session Laws of Hawaii (SLH) 1985, from the physical requirements necessary to upgrade to a category one if the health and safety of the residents will not be compromised in any way.

Your Committee finds that Act 272, SLH 1985, created transitional categories to facilitate the required upgrading of adult family boarding home facility standards. However, when the health and safety of a patient is not compromised, the transfer of those patients should not be required due to the failure to satisfy certain technical requirements.

Your Committee adopted the recommendations of the United Group of Home Operators and amended the bill for purposes of clarity by specifying July 1, 1986 instead of the effective date of Act 272 as the cutoff date for category two facilities. The bill has been further amended to make technical changes that have no substantive effect.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1658-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1658-85, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Yamasaki and Henderson.

SCRep. 409-86 Human Services on S.B. No. 1763-86

The purpose of this bill is to standardize the state asset disregard limit for public financial assistance eligibility to \$1,000 for all applicants, and to conform the state Medicaid asset disregard limit to the federal limit.

Your Committee finds that current statutes provide a graduated asset disregard limit based on family size. Hawaii is one of three remaining states that has not standardized the limit to \$1,000 as permitted by federal regulations.

Your Committee is in agreement with the Department of Social Services and Housing that standardizing the asset disregard limit as proposed by this bill will facilitate the administration of the financial assistance program, as well as reduce administrative errors occurring in the application of multiple standards.

This bill also amends the state Medicaid asset disregard limit by making it compatible with the limits of the federal Supplemental Security Income (SSI) program thereby eliminating the

discrepancies between the current state limit and the SSI limit.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1763-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee

SCRep. 410-86 Human Services on S.B. No. 1962-86

The purpose of this bill is to enable Hawaii to join the Interstate Compact on Adoption and Medical Assistance, to allow children from Hawaii who are eligible for medical assistance to continue to receive such assistance even if they move to another state after being adopted.

Your Committee finds that Public Law 96-272 permitted, for the first time, partial federal reimbursement to states, under Title IV-E, for adoption assistance made to eligible children with special needs. Adoption assistance includes a monthly subsistence payment, as well as Title 19 medical benefits. These benefits follow the child and the adoptive parents regardless of where within the United States the family resides, during their continued eligibility.

However, it is rare that health care providers accept Medicaid cards from outside the state in which they are located. Consequently, some of Hawaii's children eligible for Title 19 medical benefits have not been able to receive the benefits when their adoptive families moved outside the State.

For prospective adoptive parents, this problem may deter their adopting children with special medical needs which are often extensive and long-term. If not adopted, such children remain in foster care and continue to be dependent on the State.

The Interstate Compact on Adoption and Medical Assistance assures continued access to medical services for children receiving Title IV-E adoption assistance who move across state lines with their adoptive parents. The Compact binds member states to meeting the medical needs of these children, as with all other eligible state residents.

Your Committee is in agreement with the Department of Social Services and Housing that adoption assistance, and assurance that this assistance will continue regardless of where within the United States the family resides, provides incentive for prospective parents to adopt these children with special needs, facilitating the placement of Hawaii's children in need of permanent families.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1962-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 411-86 Human Services on S.B. No. 2126-86

The purpose of this bill is to include all specialized training programs for children which promote fluency in the Hawaiian language among other programs which are exempt from the provisions of child care facility statutes.

Your Committee finds that there are Hawaiian language programs for children, such as the Punana Leo school which promotes fluency in the Hawaiian language through total immersion teaching techniques. Although Hawaiian language programs are currently exempted under Section 346-152, Hawaii Revised Statutes, the Department of Social Services and Housing has regarded programs such as Punana Leo as child care facilities, subject to child care facility licensing requirements.

Your Committee finds, however, that the purpose of such programs is not to provide child day care, but to promote the survival of the Hawaiian language as a spoken tongue. Currently, the number of fluent Hawaiian speaking people is limited.

Your Committee finds that there is a necessary and compelling government interest necessitating this legislation. As the survival of a culture is linked to the survival of its language, restricting the establishment of Hawaiian language programs is cultural and linguistic genocide.

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

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 2126-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2126-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 412-86 Human Services on S.B. No. 2173-86

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 eligibility.

Your Committee finds that, since psychologists are recognized by the Hawaii Revised Statutes, Chapter 465, as independent practitioners, inclusion of psychologists as providers of medical care eligible for Medicaid reimbursement will benefit Medicaid patients in need of psychological services.

Your Committee amended the bill by deleting the provision that allowed psychologists to take Medicaid patients without a referral from another health care practitioner, for the purpose of allowing examination to rule out possible physical diseases or problems.

Your Committee also amended the bill by specifying that a Medicaid patient in need of psychological services must be seen by two individual psychologists; one psychologist to provide diagnostic services, and another psychologist to provide treatment services. The purpose of this amendment is to ensure a check and balance system in the diagnosis of Medicaid patients.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 2173-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2173-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 413-86 Human Services on S.B. No. 2484-86

The purpose of this bill is to establish statutory protection for officers and employees of the Department of Social Services and Housing (DSSH) in the performance of their duties and responsibilities.

This bill proposes to:

- 1) establish procedures for reporting of violent incidents against DSSH employees;
- 2) establish procedures for disposing of any incidents reported; and
- 3) indemnify DSSH employees from civil liabilities incurred by the performance of their duties and responsibilities.

Your Committee finds that, in the Child Protective Services especially, social workers are experiencing difficulty in carrying out their jobs due to concern over threats of civil suits or criminal negligence charges. Because of the nature of their duties, social workers are vulnerable to charges of overzealous intrusion on one hand, and lack of aggressive intervention on the other.

Your Committee is in agreement with the Department of Social Services and Housing that statutory support for social workers, as proposed by this bill, is necessary to shield workers from civil suits so long as they act responsibly in the performance of their duties.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 2484-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 414-86 Human Services on S.B. No. 2130-86

The purpose of this bill is to designate the third Sunday of October as "Respect of Aged Day," to honor and remember our elders.

Your Committee finds that the month of October has been designated as Na Kupuna Aloha Month by the Policy Advisory Board for Elderly Affairs, during which intergenerational

activities involving school children and Kupuna are held. In 1985, thirty-nine schools statewide participated in these activities.

Your Committee heard testimony in support of this bill by the Policy Advisory Board for Elderly Affairs and the Executive Office on Aging.

Your Committee amended the bill, for purposes of clarity, by changing the designation to "Respect for Our Elders Day" and by making technical, nonsubstantive changes.

It is not the intent of your Committee to designate "Respect for Our Elders Day" as a state holiday, but a day for recognition of all our elders in Hawaii.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 2130-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2130-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Yamasaki and Henderson.

SCRep. 415-86 Ways and Means on S.B. No. 425

The purpose of this bill is to grant civil service employees regular salary increments or longevity step increases.

Under present law, increments or longevity increases are prohibited in any year in which a negotiated pay increase is effected, whether by statute or collective bargaining agreement.

Your Committee has amended the bill to provide that the regular salary ranges and increments or longevity step increases for public employees are proper subjects of negotiations between the public employer and the exclusive representative. Section 77-12, Hawaii Revised Statutes, has been repealed as no longer necessary.

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

Signed by all members of the Committee.

SCRep. 416-86 Ways and Means 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 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 Committee finds that the Aloha Tower project is an important redevelopment effort which can help revitalize the downtown area, create jobs, improve our maritime facilities, establish a trade center and provide greater accessibility of the Aloha Tower site for Hawaii residents. 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.

Your Committee has made technical, nonsubstantive amendments for style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1961-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1961-86, S.D. 1.

Signed by all members of the Committee.

SCRep. 417-86 Ways and Means 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 for the purpose of financing redevelopment of the Aloha Tower Complex.

Act 121, Session Laws of Hawaii 1985, authorized the Aloha Tower Development Corporation

(ATDC) to issue revenue bonds for the public participation portion of the redevelopment project. The bill amends Act 121 to provide that no bonds are to be issued, and no site demolition or site development will proceed, until development proposals have been incorporated into firm contractual commitments.

Your Committee finds that the measure is necessary to provide additional moneys for the purpose of meeting community needs as expressed to the Aloha Tower Development Corporation.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1960-86 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 418-86 Ways and Means on S.B. No. 2303-86

The purpose of this bill is to establish statutory authority and provide funds for a tourism impact management system, to continuously monitor the impact of tourism on the economic, social, and physical environment of the residents of Hawaii.

Your Committee heard testimony that this bill is in accordance with recommendations contained in the study on the establishment of a system to monitor the impact of tourism on the quality of life of Hawaii's residents requested by Act 300, Session Laws of Hawaii 1985; and that information gathered by the tourism impact management system will assist in the planning and development of tourism-related projects.

Your Committee is in agreement that a tourism impact management system as established by this bill is necessary to assist tourism activities in obtaining the support of Hawaii's residents, in order for tourism to continue to thrive in the State.

Your Committee has amended the bill to make nonsubstantive, technical amendments for style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2303-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2303-86, S.D. 2.

Signed by all members of the Committee.

SCRep. 419-86 Ways and Means on S.B. No. 1959-86

The purpose of this bill is to codify the establishment of a tourism training council within the department of labor and industrial relations that would be responsible for the development and monitoring of training programs designed to upgrade the skills of Hawaii's present and future visitor industry employees.

There currently exists within the department of labor and industrial relations an informal tourism training council which was appointed by the governor in January, 1985, pursuant to the state tourism functional plan. Your Committee finds, however, that there is need to provide statutory recognition of the council if the council is to accomplish the goals and objectives of the state tourism functional plan in addressing the problems regarding visitor industry career and employment training.

Your Committee has made several technical, nonsubstantive amendments for style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1959-86, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1959-86, S.D. 1.

Signed by all members of the Committee.

SCRep. 420-86 Ways and Means on S.B. No. 1884-86

The purpose of this bill is to enact legislation providing for a convention center commission to acquire, develop, construct, and operate a convention center in Hawaii. The commission is to 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 Committee agrees with the findings of your Committee on Tourism. Your Committee has reduced the appropriation for the planning, development, and operation of a Hawaii convention center from \$1,500,000 to \$1 in order to allow flexibility in the overall budget-making process.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1884-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1884-86, S.D. 2.

Signed by all members of the Committee.

SCRep. 421-86 Ways and Means on S.B. No. 1885-86

The purpose of this bill is to provide for the site of a convention center in Hawaii. The bill provides that the site of the convention center shall be Fort DeRussy, Oahu, if a contract to obtain Fort DeRussy is entered into by March 1, 1987. If such a contract is not entered, then the next sites for the convention center to be considered are the Honolulu Zoo, Shell/Kapiolani Park, the Ala Wai Golf Course, and Fort Armstrong.

Your Committee agrees with the findings of your Committee on Tourism, and your Committee wishes to emphasize that actual construction of the proposed convention center should not occur until the appropriate land use permit hearings and approval process have been completed.

Your Committee has amended the bill by removing the designation of Fort DeRussy, Oahu, as the site of the convention center and has broadened the scope of consideration to include Fort DeRussy and the Honolulu Zoo, Shell/Kapiolani Park, the Ala Wai Golf Course, and Fort Armstrong, Oahu, in order to allow flexibility in the decision-making process. Your Committee has appropriated \$1 to purchase a site for the convention center. The amount was chosen to allow flexibility in the budget-making process.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1885-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1885-86, S.D. 2.

Signed by all members of the Committee.

SCRep. 422-86 Ways and Means on S.B. No. 1886-86

The purpose of this bill is to impose a transient accommodations tax of two per cent on the gross proceeds of gross income of furnishing transient accommodations. Transient accommodations are defined as the furnishing of a room, apartment, suite, or the like customarily occupied by a transient for less than sixty consecutive days.

Your Committee agrees with the findings of your Committee on Tourism. The distribution of the moneys from the transient accommodations tax will benefit the industry through purchase, construction, and operation of a convention center, the State by funding the operations of the Hawaii Visitors Bureau thereby freeing state moneys for other purposes, and the counties by returning a portion of the moneys collected to the counties to pay for areas in the counties impacted by transient accommodations.

Your Committee has amended this bill by deleting the last sentence of the definition of gross income or gross proceeds. The language deleted concerns gross up. Your Committee has deleted similar language from section 237-20, Hawaii Revised Statutes, in Senate Bill No. 1965-86. Senate Bill No. 1965-86 as drafted by your Committee will take care of the gross up problem for certain industries and the findings of your Committee regarding gross up in that bill are equally valid regarding such language in this bill.

Your Committee has increased the tax levied under this bill from two to four per cent. This increase is necessary in order to bring additional revenues into the state treasury for state needs. The distribution of the tax revenues in section -18 of the new chapter has been amended so that the first two per cent of the tax rate will go to the general fund and the other two per cent of the tax rate will be divided so that ten per cent will be appropriated to the counties in equitable proportion and ninety per cent will go into the visitor industry assistance fund. The moneys in the visitor industry assistance fund will be appropriated so that seventy-five per cent will be used for the purchase, if necessary, and the design and construction of the convention center, and twenty-five per cent will be used to contract with the Hawaii Visitors Bureau. Such a distribution maintains the intent of your Committee on Tourism in assisting the industry and the counties, while at the same time providing needed state revenues.

Your Committee has also added a section amending section 237-34(a), Hawaii Revised Statutes, by deleting the provision requiring the filing of general excise tax returns in the first taxation district if a privilege is carried on in more than one taxation district. This amendment is necessary to the section distributing transient accommodations tax moneys to the county in proportion to the amount collected in such county. Your Committee has also inserted a \$1 appropriation for the department of taxation to carry out this bill.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1886-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1886-86, S.D. 2.

Signed by all members of the Committee.

SCRep. 423-86 Ways and Means on S.B. No. 1965-86

The purpose of this bill is to provide for a general excise tax rate of per cent on the business of tourism-related services and to amend section 237-20, Hawaii Revised Statutes, to provide that gross income shall include reimbursements made for advances and costs if other consideration is received. Your Committee has amended this bill to (1) exempt from the general excise tax the gross receipts, income, and proceeds of sales and the value of products between affiliated or controlled groups of corporations, common paymaster situations, and unincorporated merchant associations; (2) to split the transaction and the general excise tax on certain tourism-related services, (3) to delete the provision presuming certain gross proceeds or gross income not to have been received by a tour provider from the general excise tax law, (4) to require the department of taxation to submit certain rules to the legislature by the 1987 regular session, and (5) to delete the provision of a per cent tax rate on the business of tourism related services.

After hearing testimony on Senate Draft 1 and Senate Draft 2 in proposed form of this bill, your Committee agrees with the department of taxation that the present provisions of section 237-20 as amended by Act 303, Session Laws of Hawaii 1985, must be amended. The department pointed out that an unknown but substantial loss of revenues will result if the provisions regarding reimbursement are not replaced as they read before Act 303. The department has also made a telling statement regarding the possibility of fraud inherent in the provisions presuming that certain gross proceeds or gross income have not been received by a tour provider. Your Committee notes that Act 303 and this bill would not have become necessary if the department of taxation was correctly carrying out its administration of the general excise tax law and enacting necessary rules to aid the public in paying the appropriate taxes under that law. Proposed rules regarding reimbursement have been in existence since 1968 and yet they have never been adopted as required by chapters 91 and 237, Hawaii Revised Statutes. It is this failure to adopt appropriate rules which has led your Committee to add a section that requires the department to submit properly adopted rules to the legislature before the 1987 regular session. These rules regard the operation of the reimbursement provisions of the general excise tax law and the taxation of tourism related services as provided by this bill.

In reviewing the provisions regarding the presumption against a provider receiving certain income commonly known as the gross up provisions, your Committee agrees with the department regarding the possibility of abuse, tax evasion, or revenue loss resulting from that provision. Your Committee after reviewing the law in this area, with reservation, agrees that under the reasoning of the general excise tax law the need for a gross up provision or the ability to gross up is required. On the other hand, the use of gross up in the area of certain tourism related services does not serve the interests of the State in encouraging tourism. Therefore, your Committee has amended section 237-18, Hawaii Revised Statutes, to place these tourism related services in the position they are in under Act 303, but without its unhappy aspects. This amendment provides for a split of the gross proceeds from tourism related services between the travel agency or tour packager and the tour provider. For example, if the tour provider furnished tickets to the travel agency for \$80 which normally sell for \$100, the tour provider will only be taxed at on the \$80 received. The travel agency or tour packager will be taxed on the commission it receives. Your Committee notes that it appears that the financial operations of the industry in this area of taxation could use some improvement.

Having restored the concept of gross up in this area to the general excise tax law, your Committee notes again the lack of rules under the general excise tax law and directs the department of taxation to develop and submit rules on this practice to the next session of the legislature. While such rules are being written the department should not consider expanding the use of gross up past its present practice or apply it to new businesses.

While your Committee has restored the law of reimbursement to its pre-Act 303 language, it finds that the amendment would have helped certain businesses or business practices in this State and finds that such businesses should not lose the benefits of Act 303 altogether. These

businesses and business practices are particularly affected by the reimbursement provisions of the general excise tax law due to totally different provisions in the income tax law. In addition, in complying with the general excise tax law, businesses are operating inefficiently with resultant cost increases.

Therefore, your Committee has exempted common paymasters from the general excise tax on certain transactions again to provide that such transactions are not affected by the repeal of Act 303. In a common paymaster situation, a group of corporations may share employees among themselves and choose one of the member corporations to pay employees as the most efficient method of doing business. The other corporations reimburse the paying member corporation for their share of the salaries, social security, and other payments made regarding such common employees. Similarly, in the case of a related group of corporations, one corporation may have a very efficient payroll system and be chosen to perform payroll functions for all members of the group, for which it is reimbursed. The federal and state income tax laws do not tax such reimbursements.

Your Committee has also exempted unincorporated merchant associations from the general excise tax as they were under Act 303. The exemption exempts the advertising media, promotional, and advertising costs of such associations. In 1968, the Department of Taxation advised the Ala Moana Center Association that dues contributed for these costs were considered by the department as reimbursements and not subject to the general excise tax. Again, in 1973 the Department informed the Pearlridge Center Association of such exemption. In 1979, the Department of Taxation issued Tax Information Release 67-79 superseding these two prior opinions and made such dues contributions taxable.

Finally, your Committee has amended the effective date of this Act to provide that the repeal of the reimbursement and gross up amendments made by Act 303, Session Laws of Hawaii 1985, is retroactive to the effective date of Act 303.

In summary, your Committee finds that this bill as drafted will avoid the blunderbuss approach of Act 303, Session Laws of Hawaii 1985, and its concomitant large revenue loss. This bill instead will substitute a precise solution to some of the more onerous problems presented business by the general excise tax while minimizing possible revenue loss.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1965-86, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1965-86, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 424-86 (Majority) Ways and Means on S.B. No. 1893-86

The purpose of this bill is to permit the expansion of foreign bank operations in the State of Hawaii. The bill also establishes a temporary commission charged with the responsibility of developing and implementing a promotional program to encourage the establishment of offices in Hawaii by foreign banks.

Under current law, foreign banks are allowed to conduct very limited banking transactions in this State. This bill would permit foreign banks to establish offices in Hawaii which would offer the full range of financial services, including the taking of local deposits.

Your Committee heard testimony from representatives of the business community and the state and city governments supporting the passage of this bill as a means for improving Hawaii's business climate. Hawaii is regarded as a "capital poor" and if this State is to play a meaningful role in international finance, trade and business, the doors must be open to foreign banks in the manner provided by this bill.

Your Committee has amended the bill by inserting an appropriation amount of \$1 for the establishment and operation of a temporary commission for the promotion of international and foreign banking. Technical, nonsubstantive amendments have also been made.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1893-86, S.D.1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1893-86, S.D. 2.

Signed by all members of the Committee.

Senators Henderson and Soares did not concur.

SCRep. 425-86 Ways and Means on S.B. No. 2312-86

The purpose of this bill is to provide for an increase in the excise tax credit and adjust corporate income tax rates, and to provide the following amendments to the general excise tax law: (1) phase-in the exemption of purchases of capital goods, exempt prescription drugs, exempt exports and computer software and storage media, and exempt federal contract work, (2) exempt affiliated and sister corporate transactions and allow the filing of consolidated general excise tax returns, (3) exempt common paymasters and the dues of merchants associations, (4) expand the shipbuilding and ship repair exemption and the scientific work exemption, (5) phase-in the reduction of the tax rate on real property sublessors to the wholesale level, (6) phase-in the exemption of sales made to counties and exempt public transportation companies, (7) increase the tax on transient accommodations to six per cent.

Income Tax Amendments

The income tax amendments proposed by your Committee will reduce the income tax burden on individuals, add equity to and expand the present system of excise tax credits, and modernize and make more equitable the corporate income tax.

The income brackets and credits allowed under the excise tax credit are adjusted. The new brackets and credits address the effect of inflation and increase the number of people who are eligible to claim the credit by extending the brackets to those between \$20,000 and \$29,000. At the same time the use of modified adjusted gross income is being adopted to determine eligibility. Modified adjusted gross income was used in the income tax law for the predecessor of the excise tax credit. With the increase in credits, it is only proper that modified adjusted gross income be used to determine eligibility so that only the deserving may claim these credits based on disposable income and not on taxable income. By adding to adjusted gross income nonreported but disposable income such as pension and exempt interest income and deductions from gross income such as individual retirement account deductions, only those actually in need of these credits due to actual low income will be allowed to claim them.

The income brackets and tax rates for corporations suggested by the Tax Review Commission are being adopted. The present corporate rates have been in effect since 1965 and the \$25,000 cut off for small corporations has been in effect since 1958. The time for adjustment is long overdue. Although at the highest income level for corporations—\$100,000 and over—there is a slight income tax increase of .565 per cent, income tax deductions created since 1965 and other amendments provided by this bill more than offset this slight tax increase.

The credit allowed for the sale of dangerous items is being repealed. The credit for dangerous drugs apparently has never been claimed since its enactment in 1970 and should be repealed.

General Excise and Use Tax Amendments

The general excise tax amendments proposed by your Committee will act as a breath of fresh air to business and industry in Hawaii by creating exemptions to encourage the expansion of business, and by exempting certain transactions and purchases. These amendments will result in increased revenues to the State through business activity and in a lowering of the pyramiding tendencies of the general excise tax, thereby reducing costs to the final purchaser. The counties will also gain from the amendments contained in this bill through the exemption of public service companies.

The effective dates for all general excise tax amendments, except for the exemption of prescription drugs after June 30, 1986, have been made January 1, 1987. This effective date will allow the Department sufficient time to change its forms and to educate the affected taxpayers.

Exemption of Capital Goods. The imposition of the general excise tax on the sales of capital goods adds to the cost of doing business in this State and in turn adds to the cost of consumer and other products. The same may be said for the imposition of the use tax on the importation of such capital goods into the State. Both of these taxes, imposed largely at the four per cent rate, make it just that much harder to start a business in Hawaii and to continue such a business. This reduction and exemption is necessary to stimulate business in Hawaii. Although tax revenues will be reduced by adopting this bill, the economic activity generated by the exemption will provide additional income and payroll taxes and increased general excise taxes from the increased sales of goods due to lower prices.

In order to reduce the revenue impact of this exemption it is being phased in over a three-year period by reducing the general excise tax and use tax by one per cent a year.

Exemption of Exports. When goods are sold by a retailer for delivery outside the State there is no tax since the seller is placing the goods into interstate commerce. On the other hand, if

the retailer conveys the goods to an out-of-state buyer who takes delivery in the State, the retailer will pay the four per cent general excise tax even though the buyer will be immediately transporting the goods out-of-state. Another inconsistency occurs with respect to the export of manufactured goods. Section 237-13(1) and (2), Hawaii Revised Statutes, provides that the 0.5 per cent tax is imposed on the goods (whether sold or not) prior to entry into interstate or foreign commerce. As a result, all goods sold by the manufacturers and producers have a tax of 0.5 per cent imposed on such sales while retail goods shipped out-of-state are totally exempt.

This exemption corrects these inconsistencies by exempting all tangible personal property exported out of the State, regardless of the condition that the property is in, and whether or not the property is sold before or after it enters interstate or foreign commerce.

This exemption will have a small impact on state tax revenues if it is accepted that an increase in the volume of exported goods will represent an inflow of new economic wealth, i.e., money coming into the State to pay for new goods sold. The new economic wealth will mean an increase in revenues to the State via payroll and property taxes that are included in the cost of tangible personal property exported.

This exemption will allow Hawaii to be more price competitive in the world market. This is particularly true of property which is taxed in Hawaii and then taxed again in another state when sold at retail. Since in most instances the cost of goods sold reflects all prior costs and taxes, goods sold in another state from Hawaii will cost more than goods produced in that state assuming both types of goods have equal costs of manufacture, other than the general excise tax.

Such increased costs are highlighted in the case of customized computer software specifically exempted by this amendment. Since such software represent services according to the Department of Taxation, the tax on such software in Hawaii is at the four per cent rate. When such software is sold, for example, in California the price of such software includes the four per cent tax and incurs a six per cent sales tax in California. The accumulation of taxes makes it most difficult for Hawaii software to compete in the California market.

Exemption of Sales to the Federal Government. The exclusion from the general excise tax provided for federal cost-plus contractors is repealed and instead the amounts received by contractors with respect to sales to the federal government are exempted from the general excise tax.

This amendment will permit the local contractor who bids on federal government contracts to be more competitive with out-of-state contractors. Currently, local contractors are at a disadvantage in bidding for federal work because mainland contractors do not include the general excise tax in their bids, nor pay this tax to the state tax office. Because the local contractor must include the general excise tax in the contractor's bid, the local contractor in most cases is not able to receive federal work. In 1983, the federal government offered \$171,469,000 in work and local contractors received \$68,587,000 of that amount.

Exemption of Prescription Drugs. The retail sale of prescription drugs is exempted from the general excise tax if they are prescribed by a practitioner licensed by law to administer the drug and if they are dispensed by a licensed pharmacist. This exemption will assist our lower income and elderly populations which must purchase prescription drugs. It will be of particular assistance to those who are chronically ill and will alleviate the high cost of living in Hawaii. Unlike food and other consumer goods, prescription drugs are a controlled substance, and the necessary paper work is already in existence to allow for easy auditing.

Tax on Sublessors. The general excise tax on sublessors is reduced to one-half of one per cent, except for the final sublessor who pays the four per cent rate. This reduction will result in an overall reduction in the cost of doing business and will result in lower prices charged to the consumer in many cases. When there is a series of leases, presently each lessor pays four per cent. In a series of three leases, the tax passed on to the final lessee may be twelve per cent or more due to the pyramiding of taxes. This pyramiding has an onerous effect on all businesses in Hawaii, and the time is long overdue to address this problem by reducing the tax on intermediate lessors. This reduction is phased in over a three-year period.

Scientific Contracts. The definition of scientific facilities is reordered and updated to reflect present day activity. This updating will encourage research activities in this State and result in more clean industry developing in Hawaii.

Shipbuilding and Ship Repair. The exemption for shipbuilding and ship repair is expanded to all surface vessels operated for commercial purposes out of any harbor in this State. This expansion will encourage the present industry to expand and will allow it to compete with such areas as California which does not have a tax on this service similar to Hawaii. With its unique

position in the middle of the Pacific, Hawaii should be able to attract many of the fishing vessels operating in this area. Extending this exemption will also assist Hawaii's ailing fishing industry by reducing repair costs to that industry.

Manufacturer of Pulp and Paper. The exemption for the manufacturer of pulp and paper is repealed as obsolete.

Your Committee has amended this bill by deleting the exemption of common paymasters and the exemption of the dues of merchants associations. These provisions have been included in Senate Bill No. 1965-86. The taxation of transient accommodations has been deleted as those provisions are contained in Senate Bill No. 1886-86. Your Committee has also deleted the exemption of sales made to counties, the exemption of certain government service companies, and the exemption of affiliated and sister corporations and the filing of consolidated returns by such corporations. Your Committee has amended the amount of excise tax credits allowed to more accurately reflect inflation and has limited the amendment of the scientific work exemption to updating the definition.

In conclusion, your Committee finds that the revenue result of this bill will be a reduction of revenues equaling \$20 million, but if Senate Bill No. 495 which would implement a lottery is enacted there will be a revenue gain of \$2 million. Your Committee feels that because there is a state surplus once again for the eleventh year in a row, a reordering of the tax structure as provided in this bill is long overdue. In addition, your Committee feels that the people of this State are the ultimate beneficiaries since a reduction in taxes helps all of us. The enactment of this bill, however, over a period of time will not result in less revenues. Due to the economic enhancing measures included in this bill the revenues to the State will increase far above the revenues the State is able to project under the present tax system. The final results of this bill are increased revenues to the State, less taxes paid by our people, and a better business climate.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2312-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2312-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 426-86 Ways and Means on S.B. No. 1843-86

The purpose of this 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, to impose certain requirements on state child support enforcement programs. Prior to this session, the State of Hawaii enacted laws to comply with some of the requirements. This bill is intended to achieve full compliance with Title IV-D.

This bill establishes a Child Support Enforcement Agency in the Department of Social Services and Housing. In addition to duties relating to child support enforcement, paternity determination, and location of absent parents, this bill provides the agency with the function of collecting and disbursing child support payments and, when directed to be made together under a court order, child and spouse support payments. The collection and disbursement functions are transferred from the judiciary.

Your Committee has made the following amendments to the bill.

(1) The phrase "whose whereabouts are unknown" beginning on page 1, line 16, of the bill, as received, has been replaced with "who is absent from the parent's family." This amendment has been recommended by the Department of Social Services and Housing.

(2) The citation to section " -3(3)" on page 5, line 1, of the bill, as received, has been changed to " -3(b)(3)." This is a technical amendment.

(3) The word "offset" on page 7, line 17, of the bill, as received, has been changed to "setoff." This is a technical amendment.

(4) The phrase "in consultation with the child support enforcement agency" has been inserted after "court" on page 8, line 9, of the bill, as received. The word "may" has been deleted, and the phrase "in consultation with the child support enforcement agency shall" has been inserted, after "court" on page 9, line 13, of the bill as received. These amendments require the family court to establish and update the child support amount guidelines in consultation with the child support enforcement agency. The Department of Social Services and Housing has recommended

the amendments.

(5) The year "1986" has been replaced by "1987" on page 9, line 9, of the bill, as received. The Department of Social Services and Housing has recommended the amendment.

(6) The phrase "by the child support enforcement agency" on page 11, line 19, and page 25, lines 6 and 7, of the bill, as received, has been deleted. That phrase on page 35, lines 4 and 5, and page 40, lines 2 and 3, of the bill, as received, has been deleted and replaced with the phrase "under section -7." The Committee on Judiciary in its senate draft requires the family court, rather than the child support enforcement agency as provided in the original version, to establish the child support amount guidelines. These amendments conform the remainder of the bill to the Committee on Judiciary's change.

(7) The word "or" has been inserted between "subsection (b)" and "a court order under chapter " on page 16, line 12, of the bill, as received. Your Committee believes that this insertion properly reflects the intent of the amendment proposed by the bill.

(8) The phrase "the agency or department having secondary responsibility" has been bracketed on page 29, lines 16 and 17, of the bill, as received. This amendment has been recommended by the Department of Social Services and Housing.

In addition, your Committee has made other technical, nonsubstantive amendments.

Your Committee intends that the Child Support Enforcement Agency be a division of the Department of Social Services and Housing. The bill requires the Agency to be administratively placed at the division level, not in the division level. The Department has testified that the language authorizes placement of the Agency in the Public Welfare Division. Your Committee finds that the Department's interpretation is not consistent with legislative intent.

Your Committee intends that the appropriations and position counts of the Judiciary for the child support collection and disbursal function be transferred to the Department of Social Services and Housing. Your Committee intends to make the proper adjustments in the Supplemental Appropriations Act and Judiciary Supplemental Appropriations Act.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1843-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1843-86, S.D. 2.

Signed by all members of the Committee.

SCRep. 427-86 Ways and Means on S.B. No. 1849-86

The purpose of this bill is to establish statutory authority and appropriate funds out of the general revenues of the State for a child abuse and neglect prevention grant program to take advantage of the federal funds available to the State through the Child Abuse Prevention Federal Challenge Grant (Public Laws 98-473 and 99-98) which provides \$1 for every \$3 appropriated by states for child abuse prevention programs such as the one proposed by this bill.

Your Committee finds that, because of the existence of a program of federal appropriations to match state expenditures, this bill will enable the State to utilize federal funds that are otherwise unavailable. Further, because of the one year time limitation on funding proposed by this bill, there will be an opportunity for full review of the proposed programs during the regular 1987 legislative session.

Your Committee has amended this bill to reduce the appropriation to \$1 in order to maintain budget flexibility. Your Committee made nonsubstantive, technical changes to the bill for style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 1849-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1849-86, S.D. 2.

Signed by all members of the Committee except Senator Solomon.

SCRep. 428-86 Economic Development on S.B. No. 81

The purpose of this bill is to clarify the responsibilities of government agencies and private land owners relating to the maintenance of drainageways in the State.

Presently, the laws relating to stream maintenance are not consistent between the counties.

Due to the nature of stream maintenance problems, where upstream conditions usually cause downstream problems, the law should be clear as to which agency is responsible for determining the cause of the problem and to ensure that problems are alleviated before damages are incurred or lives endangered.

To address the problem noted above, this bill proposes that stream maintenance responsibilities be assigned as follows:

Private land owners would be responsible for maintaining privately owned streams and drainage facilities.

The counties would be responsible for maintaining county-owned streams and drainage facilities and enforce stream maintenance requirements on private lands where public safety is endangered. In addition, the counties may accomplish the maintenance work on private lands in the interest of public safety and charge cost of the work to the private land owner.

The State would be responsible for maintaining State-owned streams and drainage facilities.

Testimony received from the Board of Land and Natural Resources supports this measure to clarify responsibilities for drainageways maintenance.

Your Committee finds that this measure is necessary to create uniform and consistent policy relating to the maintenance of drainageways in the State.

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

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 81, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 81, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 429-86 Economic Development on S.B. No. 1573-86

The purpose of this bill is to provide that the "Consumer Advocate" shall be expressly renamed as the "Consumer and Small Business Advocate."

Sections 269-51 to 261-55, Hawaii Revised Statutes, provides the responsibilities and authority of the Director of Commerce and Consumer Affairs, acting as the Consumer Advocate in hearings before the Public Utilities Commission. The Consumer Advocate represents the interests of consumers of utility services.

Your Committee received testimony from the Hawaii Business League and National Federation of Independent Businesses urging the passage of language to clarify that small businesses be considered "consumers" under this law. The Consumer Advocate, however, interprets the present statutory meaning of consumer to include small businesses.

Your Committee finds, therefore, that major revisions to these sections are not necessary, but clarification in the law are warranted. The National Federation of Independent Business offered clarifying amendments to the bill, which your Committee has adopted.

Your Committee has amended the bill by deleting the renaming of consumer advocate to include small business. Your Committee has further amended the sections relating to federal provisions and powers of the consumer advocate to reflect the following:

"The consumer advocate shall represent, protect, and advance the interests of all consumers, including small businesses, of utility services."

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

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1573-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1573-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 430-86 (Majority) Economic Development on S.B. No. 970

The purpose of this short form bill is to amend the Hawaii Revised Statutes relating to the Department of Hawaii Homelands.

Your Committee has amended this bill to authorize the Department of Hawaiian Home Lands (DHHL) to establish up to thirty additional permanent positions, to be filled with temporary personnel currently employed within the Department.

The DHHL is the smallest among seventeen executive departments with 68 authorized permanent positions. This number of permanent positions has been authorized since July 1, 1983, although the Department's workload has risen dramatically. As of December 31, 1985, the Department was serving 4,325 homestead lessees and 10,535 applicants. Last fiscal year the DHHL awarded 1,035 homestead lots under the program to accelerate distribution of land. Another 1,500 lots are to be awarded this year and again next fiscal year. By June 30, 1987, it is expected that a minimum of 3,000 new lessees will be served and that 2,700 new names will be added to waiting lists for homestead lots.

To cope with past and present workload requirements, DHHL, because it does not have sufficient permanent positions, has been hiring temporary personnel exempt from civil service, as authorized by Section 202(b) of the Hawaii Homes Commission Act. Utilization of temporary help is necessary to meet the requirements of planning, developing, and awarding new lots under the acceleration program; in stepping up loan collection efforts; and in augmenting other areas of the Department that are understaffed. At the present time the DHHL employs 48 temporary exempt personnel.

Your Committee has also amended the bill to require the Director of Personnel Services (DPS) to assign the new positions to appropriate classes and pay ranges of the State's classification and compensation plans. After the new positions have been classified and assigned to pay ranges, the DHHL is authorized to place temporary exempt employees in the positions provided that they meet the minimum qualification requirements set by the DPS. Temporary exempt employees so placed in the permanent positions shall be given permanent civil service status without the need for examinations, and without any loss of pay and benefits.

Your Committee received testimony from DHHL indicating that there would be no impact on the State General Fund in the conversion of temporary exempt employees to civil service status because all salary and fringe benefit costs of DHHL staff are paid from the Department's special funds.

Your Committee therefore, finds that this bill will enable DHHL to avoid costs associated with turnover of temporary personnel, and to administer the Hawaiian Homes Commission Act in an effective manner.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 970, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 970, S.D. 1, and be placed on the calendar for Second and Third Reading.

Signed by all members of the Committee
Senator Kawasaki did not concur.

SCRep. 431-86 (Majority) Economic Development on S.B. No. 2140-86

The purpose of this bill is to eliminate golf driving ranges as a permitted use within agricultural districts.

Section 205-2, Hawaii Revised Statutes, provides general restrictions relating to the districting and classification of lands and permitted uses within the districts. Act 298, Session Laws of Hawaii 1985, amended the permitted uses within agricultural districts, to include golf courses and golf driving ranges.

Testimony received from the Hawaii Farm Bureau Association and the Land Use Commission, suggests that free-standing golf driving ranges should not be allowed within agricultural districts, but should be subject either to special use permits or district boundary amendment procedures.

Your Committee finds that the proposed elimination of golf driving ranges as a permitted use should be limited to free-standing ranges, and the bill has been appropriately amended to allow golf driving ranges in agricultural districts only if such ranges are part of a golf course complex.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2140-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2140-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 432-86 (Majority) Economic Development on S.B. No. 2145-86

The purpose of this bill is to preserve the habitat of native species of flora and fauna, and to preserve quality forest areas.

Chapter 205, Hawaii Revised Statutes, presently requires the Land Use Commission to designate all lands within the State into four major land use districts; urban, rural, agriculture and conservation. This bill amends Chapter 205, to mandate the Department of Planning and Economic Development (DPED) to petition the Land Use Commission to designate as conservation districts, those areas which contain high quality native forests and the habitats of rare native flora and fauna.

Your Committee finds that the intent of this bill is consistent with the purposes of protecting endemic species as reflected in Section 205-2, Hawaii Revised Statutes. Testimony in support of this measure submitted by various conservation groups and the Office of Hawaiian Affairs, suggested that the bill be amended to designate the Department of Land and Natural Resources (DLNR), rather than the DPED, as the agency to petition for the amendments.

Your Committee is in agreement that the responsibilities and functions of the DLNR and the resources available to that Department, make it the appropriate agency to implement this measure and the bill has been amended accordingly. The bill has been further amended to clarify that the DLNR shall proceed "pursuant to section 205-4" which is the statute that authorizes any department of the State to petition the Land Use Commission to change land use district boundaries.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2145-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2145-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 433-86 Economic Development on S.B. No. 2358-86

The purpose of this short form bill is to provide for the entitlement of Hawaiians under the Federal "Indian Economic Development Act of 1985."

Your Committee has amended this short form bill to authorize the Department of Hawaiian Home Lands to participate in any Federal or State established enterprise zone programs which will provide economic benefits to native Hawaiians.

Your Committee finds that the use of enterprise zones on available lands could benefit the Hawaiian Home Lands program and further accelerate economic benefits provided to native Hawaiians.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2358-86, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 2358-86, S.D. 1, and be placed on the calendar for Second and Third Reading.

Signed by all members of the Committee.

SCRep. 434-86 Economic Development on S.B. No. 2359-86

The purpose of this short form bill is to authorize the issuance of industrial development bonds.

Your Committee has amended this bill to provide legislative findings and intent to authorize the issuance of industrial development bonds not to exceed \$6,000,000, for the purpose of assisting Hawaiian Abalone Farms Limited Partnership. In 1984, Hawaiian Abalone Farms entered into a fifty-five year lease for twenty acres with the Natural Energy Laboratory of Hawaii. Phase one of the expansion and commencement of operations involving \$6,400,000 for a large scale abalone-growing facility is underway. A proposed second and third phase expansion will make Abalone Farms one of the largest employers in the State. The funding for these expansions is anticipated to come from the Farmer's Home Administration.

Your Committee finds that the issuance of these bonds is in the public interest, providing

expanded employment opportunities and further economic growth in the aquaculture industry.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2359-86, as amended herein, and recommends that it pass First Reading in the form attached hereto as S.B. No. 2359-86, S.D. 1, and be placed on the calendar for Second and Third Readings.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 435-86 (Joint) Education and Government Operations on S.B. No. 974

The purpose of this bill is to require Senate confirmation for the Director of the State Foundation on Culture and the Arts.

Presently the Director is selected by the Foundation to serve in office as directed by the Foundation. This bill would require the Director to be nominated by the Foundation and confirmed by the Senate, and specifies that the term of the Director shall be not more than four years. Renominations would also be subject to Senate confirmation.

Your Committees amended the bill to clarify the nomination and confirmation process by providing procedures for filling a vacancy and submitting nominations to the Senate.

Your Committees on Education and Government Operations are in accord with the intent and purpose of S.B. No. 974, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 974, S.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 436-86 Economic Development on S.B. No. 1583-86

The purpose of this bill is to clarify provisions of the Special Management Area permit system, transfer the shoreline setback provisions from Chapter 205 to Chapter 205A, and assign to the Board of Land and Natural Resources the responsibility to determine the shoreline setback lines.

Chapter 205, Part I, Hawaii Revised Statutes, outlines general provisions relating to the State Land Use Commission and its responsibilities for land use designation. Part II of this chapter provides general provisions relating to the determination of the shoreline setback lines. As provided in Section 205-31, Hawaii Revised Statutes, "shoreline setback line" means the line established by the State Land Use Commission or the county running inland from and parallel to the shoreline at a horizontal plane.

Your Committee received testimony from the Department of Planning and Economic Development, and the City and County of Honolulu which indicated that this bill is necessary to address statutory conflicts in the administration of the coastal zone management program. However, the Department and representatives of various state and local government agencies have met to discuss special management area permit simplification, and requested that a proposed draft of this bill be considered. The draft would leave intact the special management area permit system within the counties, but transfer the responsibilities for shoreline setback from the State Land Use Commission to the Board of Land and Natural Resources. Further, the Board would be responsible for establishing shoreline setbacks, and be required to adopt rules to enforce these provisions.

Your Committee has amended this bill to reflect the recommendations provided by the testimony, and finds that this bill provides for uniform administration of the coastal zone management program. Your Committee has further amended this bill by making clarifying language changes which have no substantive effect.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1583-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1583-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and Yamasaki.

SCRep. 437-86 Economic Development on S.B. No. 1675-86

The purpose of this bill is to recognize the vulnerability of aquaculture farmers and their crops to destructive birds and mammals, and that aquaculture farmers should be equally protected under the law, as are agriculture farmers.

According to testimony by the Department of Land and Natural Resources (DLNR), aquafarms in Hawaii have long been plagued by predatory birds, such as the black-crowned night heron (auku'u). The problem of aquacultural crop loss has reached catastrophic proportions, such as the loss experienced by Hawaii's largest prawn farm which has been conservatively estimated between \$70,000 and \$100,000 a year. This loss has significantly contributed to the recent closing of the pond production portion of that farm for economic reasons.

Your Committee is in agreement that this bill will assist aquaculturists in controlling the destruction of their crops by various species of wild birds, game birds, and game mammals. However, the purpose of this bill is not to be construed as permission to indiscriminately destroy species that are considered rare, threatened, or endangered, even though some aquaculturists consider them pests. Protection of these rare, threatened, or endangered species is statutorily mandated, and their presence in and around aquafarms should not be reason in itself for the Department of Land and Natural Resources to destroy these species.

Your Committee has amended the bill to add for clarification a definition of "aquaculture", consistent with the definition in Chapter 187A, Aquatic Resources, Hawaii Revised Statutes. Your Committee has further amended the bill by making clarifying language changes which have no substantive effect.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1675-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1675-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 438-86 Economic Development on S.B. No. 1748-86

The purpose of this bill is to repeal Chapter 187, Hawaii Revised Statutes.

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 Division of Forestry and Wildlife. Subsequently Acts 74, 94, and 174 of the 1985 Legislative Session 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 the chapter may now be repealed.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1748-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 439-86 Economic Development on S.B. No. 1751-86

The purpose of this bill is to amend the Hawaii State Planning Act to reflect the changes proposed by the State Plan Policy Council.

Sections 226-54 and 226-56, Hawaii Revised Statutes, require the 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. The amendments contained in this bill have been prepared in accordance with these requirements, and are based on the findings of the Policy Council as presented in its report on the Hawaii State Plan Revisions.

These proposed amendments to the State Plan are the result of an intensive two-year review program conducted by the Policy Council. The program involved the preparation of detailed base studies and issue papers to identify current trends, analyze significant changes that have occurred since the adoption of the State Plan, and determine the major problems and opportunities in areas of statewide concern. Statewide resident surveys were also conducted to garner essential information regarding public attitudes and preferences on a range of issues and concerns relevant to the State Plan. The Council's preliminary findings and recommendations derived from these studies were widely publicized and distributed. They were revised and refined through an extensive public participation process which included: statewide public informational meetings; a State Conference on revisions to the Hawaii State Plan; formal public hearings; and review and input from State Functional Plan Advisory Committees.

Your Committee received testimony from the Department of Planning and Economic Development indicating that the major revisions made by this bill to the Hawaii State Planning Act are as follows:

Amendments to Section 226-6, HRS (Objectives and Policies for the Economy-In-General) and Section 226-103, HRS (Economic Priority Guidelines), would result in greater policy emphasis being placed on efforts to diversify and broaden Hawaii's economic base to reduce the potential of economic instability and provide for expanded employment opportunities. Proposed new policies are aimed at fostering a business climate that is more conducive to the expansion of existing businesses and the creation and attraction of new industries.

A new subsection was added to deal exclusively with telecommunication, an area of emerging importance to Hawaii's future economic growth. New policies are aimed at stimulating the development of telecommunication systems and resources through planning, management, education and training.

Specific policies which no longer appear feasible or desirable were deleted; and new policies dealing with major problems not currently addressed by the State Plan were added. For example, proposed amendments in the health section address such contemporary concerns as the need to contain health care costs and the need to reduce risks of contamination from pesticides and other toxic substances.

Major reorganization of certain sections have been made to the Act. In certain instances the changes are intended to: 1) draw distinctions between separate policy areas or 2) consolidate highly-related policies into a single section. Additionally, the bill also provides for incorporating Priority Guidelines currently found in Section 226-105, Hawaii Revised Statutes (Hawaii's Land Resources) into Section 226-104, Hawaii Revised Statutes to form a single section on population distribution and land resource management. Both sections presently have statements which directly affect how and where growth should occur. Consolidation of the two sections would result in a more integrated guide for land use decisions. Resource protection and preservation needs are still highlighted, but the amended guidelines would also recognize the need to provide adequate land to accommodate projected population and economic growth requirements.

Finally, one of the most significant changes being made involves the addition of three new sections to the priority guidelines. They cover, 1) crime and criminal justice, 2) affordable housing, and 3) quality education. These areas have consistently ranked among the top concerns of Hawaii's residents in state plan surveys conducted to date. They merit priority attention. In meetings and hearings conducted by the Policy Council, public response to these amendments have been highly supportive.

Your Committee finds that these revisions to the Hawaii State Plan are necessary to reflect current social, economic, and physical conditions and to allow for the State to be responsive to the changing needs and desires of Hawaii's people.

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

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1751-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1751-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 440-86 Economic Development on S.B. No. 1771-86

The purpose of this bill is to allow state agencies to dispose of abandoned or seized property on lands managed or controlled by the State.

Presently, state agencies have no statutory authority to dispose of property abandoned or seized on state lands. This bill would allow a state agency to dispose of property under the following conditions:

- 1) Send notice to the owner by certified mail, thirty days prior to the disposition, indicating the location of property and intent of disposal;
- 2) Advertise the disposition in a newspaper of general circulation at least five days prior to the disposition;
- 3) Conduct the sale at public auction in the county where property was abandoned or seized; and
- 4) Proceeds from the sale shall be used to pay the State's costs and the balance, after thirty days shall go to the general fund or appropriate special fund.

Your Committee received testimony from the Department of Land and Natural Resources indicating that when a tenant on public lands is evicted and their personal property is abandoned, the Department has no method of disposal and so the property remains at the abandoned site. Similarly, property seized because of unauthorized use on state lands also must remain in storage.

Your Committee finds that this measure will allow state agencies to dispose of abandoned and seized property in an orderly fashion and promote efficient and prompt disposition of such property.

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

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1771-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1771-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 441-86 Economic Development on S.B. No. 1947-86

The purpose of this bill is to allow the Board of Land and Natural Resources to amend the specific uses contained in leases for commercial or industrial use of public lands.

Chapter 171, Part II, Hawaii Revised Statutes, provides general provisions and restrictions relating to leases of public lands. This bill adds a new section to Chapter 171, to allow the Board to amend the specific uses contained in leases for commercial or industrial use, subject to the following provisions:

- 1) application by the lessees;
- 2) consent of each person having a security interest in any improvements made by lessee;
- 3) finding by the Board that amended use is in the public interest;
- 4) agreement by lessee that revised rent, equal to fair market value based on amended uses, will be paid;
- 5) determination by the Board that amended uses comply with county zoning requirements or receive approval from county for appropriate zoning variance; and
- 6) the lease has been held for at least fifteen years by the lessee or the lessee's legal successor.

Your Committee received testimony from the Board of Land and Natural Resources supporting this measure as necessary to allow for changing economic conditions which can make the initial use specified in the lease no longer feasible or desirable.

Your Committee finds that this bill is necessary to provide flexibility to the Board to revise specific uses in leases for commercial or industrial use of public lands. However, your Committee believes that the proposed requirement that the lease be held for at least fifteen years is too restrictive and thus has amended the bill to reduce the period to five years.

Your Committee has further amended the bill by making language changes for the purposes of clarity and drafting style which have no substantive effect.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1947-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1947-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 442-86 Economic Development on S.B. No. 2394-86

The purpose of this bill is to allow extensions of leases of public lands at the discretion of the lessees.

Section 171-36, Hawaii Revised Statutes, presently prohibits options for renewal of the terms of leases on public lands. This bill would amend the section to permit such options for renewal for a term not to exceed thirty years. The rental would be a set rate mutually agreeable to the

Board of Land and Natural Resources and lessee, with arbitration provided for in the event agreement cannot be reached. The bill requires the lessee to notify the Board in writing of his desire to extend the term of the lease within 180 days before termination or extension of the lease.

Your Committee received testimony from farmers and residents of Waimanalo, supporting this measure to allow the lessees to negotiate a fixed term lease. Many of these residents have farmed these lands for two generations, and have been unable to finance the purchase of equipment and machinery because of the month to month tenancy.

Your Committee has considered this testimony and finds that the Waimanalo farm lot residents have lived and farmed there lawfully for many years. Your Committee further finds that the temporary lease situation presents an economic hardship because farm improvement financing cannot be found with only a 30-day tenure on the property.

Your Committee, therefore, has amended this bill to specifically address the problems of the Waimanalo residents. The proposed draft includes the following amendments:

- 1) Provides legislative findings that the awarding of long term leases for agricultural lands is consistent with Article XI, Section 3 of the Hawaii State Constitution.
- 2) Authorizes the Department of Land and Natural Resources to negotiate and enter into long term leases, not to exceed fifty-five years, to persons who reside on Waimanalo farm lots and are bona fide farmers as defined in Section 171-68(a), Hawaii Revised Statutes.
- 3) Added sections requiring that the subject lands shall be leased at fair market value and that such lands shall be exempt from the subdivision ordinances, regulations and requirements of the County.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2394-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2394-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 443-86 Judiciary on S.B. No. 1813-86

The purpose of this bill is to reorganize and clarify several statutes relating to possession of firearms and ammunition by persons charged with or convicted of felonies or persons who should otherwise be prohibited from such possession.

Presently, persons under indictment are prohibited from possession of firearms but persons who have been charged with a felony by complaint are not covered under the law. Also, persons who have been granted deferred acceptance of guilty pleas or nolo contendere pleas are not disqualified from owning firearms.

This bill would extend the prohibition and disqualification to such persons.

The bill also makes expunged records available to law enforcement agencies for the purpose of determining whether a person is qualified to own or acquire a firearm.

Your Committee finds that the bill provides equitable regulation of access to firearms since persons disqualified from owning or acquiring firearms under section 134-7(b), Hawaii Revised Statutes, are required to (1) obtain a pardon, and (2) comply with all federal laws governing acquisition or possession of firearms before being afforded an opportunity to restore their eligibility to own or acquire a firearm.

Testifying in favor of the bill were the Honolulu City and County police department and the department of the prosecuting attorney.

Your Committee has amended the section relating to chapter 334, Hawaii Revised Statutes, to conform to existing law and retained the section which prohibits persons who have been acquitted on grounds of mental disorder, disease, or defect from acquiring or owning a firearm.

Your Committee made nonsubstantive amendments to the bill to provide clarification and to conform to recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1813-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1813-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 444-86 Judiciary on S.B. No. 1832-86

The purpose of this bill is to make nonsubstantive changes to section 134-11, Hawaii Revised Statutes, to make clear that the exemptions from sections 134-6 to 134-9, Hawaii Revised Statutes, which restrict carrying, ownership, and licensing of firearms, for certain persons whose duties require them to be armed only apply to those persons while they are actually performing their duties.

The bill also deletes the section specifically exempting aliens employed by the State or the United States whose duties require them to be armed. The section is redundant since the section which exempts all persons whose employment by the State or the United States requires them to be armed includes persons who are aliens.

Your Committee amended the bill by deleting language which exempted members of the armed forces and mail carriers while going to and from their respective places of duty since such activity falls within the performance of their respective duties.

Your Committee also made nonsubstantive clarifying amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1832-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1832-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 445-86 Judiciary on S.B. No. 2035-86

The purpose of this bill is to correct a discrepancy in the statute providing for adoption without the consent of one parent. The statute allows the court to dispense with an "adjudicated or presumed" father if he had not previously petitioned to adopt the child in question. The phrase "adjudicated or presumed" is removed by this bill because there would be no occasion for an acknowledged father to petition to adopt his own child.

Your Committee made technical amendments that have not altered the purpose or effect of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2035-86 and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2035-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 446-86 Judiciary on S.B. No. 2155-86

The purpose of this bill is to add a new section to chapter 291, Hawaii Revised Statutes, which provides criminal penalties for persons who, while driving under the influence of intoxicating liquor, cause serious bodily injury or death to another.

While the penalties for the misdemeanor crime of driving under the influence under section 291-4, Hawaii Revised Statutes, have been increased, the current law does not provide enhanced penalties where driving under the influence results in death or serious injury.

The new section specifically addresses cases where the elements of drinking and driving are the cause of death or serious injury and makes the offense a class C felony.

Your Committee has made nonsubstantive, technical amendments for clarity and to conform to recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2155-86, S.D. 1, as amended in S.D. 2, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2155-86, S.D. 2.

Signed by all members of the Committee.

SCRep. 447-86 Judiciary on S.B. No. 1820-86

The purpose of this bill is to extend the statute of limitations from one year to three years after discovery for offenses which have fraud or breach of fiduciary duty as an element.

Cases involving fraud or breach of fiduciary duty are difficult to prosecute because evidence of the criminal activity is often hidden in misrepresentative bookkeeping and fraudulent records. Extending the statute of limitations allows more time to complete the extensive investigation required to gather and analyze records and documents in order to discover the exact nature and extent of criminal activity.

When offenses involving fraud or breach of fiduciary duty were originally excepted from the ordinary statute of limitations, the Legislature recognized the necessity of setting an upper time limit for the commencement of prosecution to ensure that prosecution was not brought on stale evidence or after unreasonable periods of time. Contrary to the original legislative intent in enacting section 701-108(3)(a), Hawaii Revised Statutes, the bill removes any limitation for the commencement of prosecution except for the three year period after discovery. Your Committee therefor amended the bill to reinstate a time limit but extended the maximum time for prosecution to commence by two years.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1820-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1820-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 448-86 Judiciary on S.B. No. 1792-86

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 penal code revision bill (S.B. No. 1793-86) 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. Session Laws 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. Session Laws 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., 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. Session Laws 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 made nonsubstantive typographical amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1792-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 1792-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 449-86 Judiciary on S.B. No. 2038-86

The purpose of this bill is to include licensed clinical psychologists among those entitled to examine minors and make recommendations to the court in cases involving alleged juvenile offenders.

Your Committee amended the bill to substitute the proper designation, "licensed clinical psychologist," in place of the title "certified clinical psychologist."

Your Committee finds that licensed psychologists would be capable of making the necessary diagnostic determinations. At the hearing on this bill, some reservations were expressed about whether licensed psychologists have sufficient training to take on this responsibility. Your Committee is willing to assume that there may be some cases that would call for the services of a child psychiatrist, even for the limited purposes of this section. In that event, it would be necessary for the Family Court to identify the need and make an appropriate referral, or to entertain requests by a licensed psychologist for re-referral. Such determinations may be difficult, but the Family Court routinely receives and assesses the opinions and recommendations of both. The court's judges are no doubt familiar with the skills of both groups and are well equipped to make selective referrals as needed.

Finally, your Committee finds that a professional already permitted to provide treatment under 571-44 should not be prevented from making recommendations under the same section.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2038-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2038-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 450-86 Judiciary on S.B. No. 2268-86

The purpose of this bill is to allow for the award of reasonable attorney's fees to any private party suing for injunctive relief against another private party who has been or is undertaking any development without obtaining the necessary permits and approvals for development. This bill provides the court with the discretion to award attorney's fees and costs to the prevailing party in the suit.

Your Committee find that the volume of development throughout the State is a limiting factor on State or County investigation of alleged abuses against public resources and the environment. Often, these disputes involve private parties; these cases are settled judicially within the courts. However, the high cost of civil procedure places substantial burdens upon the parties involved in such cases. The award of attorney's fees to the prevailing party in such a suit would discourage frivolous actions by a plaintiff and intentional abuses by a potential defendant.

The bill will give fuller effect to Article XI, Section 9 of the Constitution of the State of Hawaii, which gives Hawaii's people the right to bring lawsuits enforcing environmental laws.

Members of the public interested in using their constitutional standing may be deterred by the high cost of litigation. Awarding attorney's fees and costs will enable individuals and organizations to assist the state in enforcing laws and ordinances controlling development. They are to be awarded costs if they prevail after fruitlessly bringing the violation to the attention of those undertaking the development and the relevant state agency.

This bill will help assure that the state honors the commitment to its environment that is reflected in its laws concerning development.

Your Committee on Judiciary is in accord with the purpose and effect of S.B. No. 2268-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 451-86 Judiciary on S.B. No. 2453-86

The purpose of this bill is to define standards to guide the courts in determining when an action or defense is sufficiently unfounded to justify an award of attorney's fees to the opposing party.

Your Committee has amended the bill to make the standards that it prescribes more specific and descriptive of the types of cases in which awards of attorney's fees are appropriate.

The bill classifies as frivolous those suits that may have a shadow of merit but are clearly

lacking essential factual and legal support. Claims unsupported by law or evidence, and claims supported by evidence that is insignificant in relation to the opposing evidence, could justify awards of attorney's fees.

The bill, as revised by your Committee, protects those acting as advocates in unpopular cases and those whose goal is to obtain reconsideration of an established legal doctrine. Your Committee's version of the bill also acknowledges that the strengths and weaknesses of a claim or defense are not always apparent, or at least unavoidable, until after discovery.

Frivolous arguments concerning damages may influence the amount of attorneys' fees awarded. The bill also discourages inflated damage claims by limiting the award that can be entered against a party to a sum equal to 25 per cent of that party's claim.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2453-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2453-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 452-86 Judiciary on S.B. No. 1531-86

The purpose of this bill is to allow carriers to have liens upon nonperishable freight in their possession for the total amount owed by a shipper on a prior shipment. The bill requires carriers to notify shippers that liens may result from a failure to pay past charges, and gives priority to any perfected security interest in the freight. The bill also provides for the sale of the freight if an amount exceeding any perfected security interest is offered, and incorporates by reference statutory enforcement provisions.

Your Committee finds that common carriers require an expeditious method of obtaining payment from shippers, since they cannot select their customers to reduce the risk of nonpayment. The bill also protects shippers' interests by affording notice and an adequate opportunity to contest carriers' claims.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1531-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 453-86 Judiciary on S.B. No. 1575-86

The purpose of this bill is to protect pensions and other retirement payments and accounts from attachment for any debt or obligation except alimony and child support. The bill applies both to contributions to and payments from a range of retirement plans. Your Committee has amended the bill so that the provision pertaining to bankruptcy would not have the effect of cancelling out a State employee's service credit. However, contributions made within the calendar year prior to a declaration of bankruptcy would not be protected.

Your Committee acknowledges the importance of creditors interests, but recognizes that such interests should not be satisfied at the cost of disrupting retirement programs. The bill responds to the harsh reality that retirement income that seemed adequate when arranged will often not sustain a decent standard of living. Since the financial situation of a retired person on a fixed income is often no sadder than that of a spouse and child refused alimony and support, those claims are allowed.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1575-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1575-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 454-86 (Majority) Judiciary on S.B. No. 505

The purpose of this bill is to eliminate a redundant statute by repealing a state antitrust exemption for newspapers that echos an identical federal law. Both state and federal laws currently permit joint operating agreements between newspapers. When state and federal laws govern the same activity, federal law controls. Consequently, the state's law could not be given an effect any broader or narrower than that of the federal statute, and the federal statute provides complete protection to the joint operating arrangements that it authorizes.

Your Committee has amended the bill to clarify that its purpose is to remove a from Hawaii's

statutes a law that simply restates a federal statute.

Your Committee is persuaded that the state exemption has little, if any, practical value or effect. The bill met no opposition from Hawaii's newspapers.

Your Committee concludes that this bill will not significantly affect newspapers' operations or alter their situation under the antitrust laws.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 505, as amended, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 505, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Cobb did not concur.

SCRep. 455-86 Judiciary on S.B. No. 2266-86

The purpose of this bill is to (1) include consent to urinalysis and testing for drugs as part of the implied consent law, and (2) make driving under the influence of drugs a misdemeanor crime.

While much emphasis has been placed on deterring driving under the influence of intoxicating liquor, there is currently no penalty for driving while under the influence of drugs, even though drugs may affect driving performance as adversely as alcohol.

Your Committee has amended the bill by providing for testing under the implied consent law for drugs, rather than intoxicants, since the bill now makes driving under the influence of drugs a crime.

Your Committee intends that the definition of a drug under these sections not be limited to illegal or illegally obtained drugs. The section which limits the definition of drugs to illegal or illegally obtained drugs has been deleted. Highway safety is jeopardized, regardless of whether a person's faculties are impaired by an illegal or legal substance. Persons who ingest any drugs which influence their mental or physical ability to operate a motor vehicle should be prohibited from driving on the public highways.

The definition of a drug as used in section 291-4, Hawaii Revised Statutes, and the implied consent statutes is purposely left undefined beyond the general description found in section 328-1, Hawaii Revised Statutes. Instead of attempting to describe a specific class of prohibited drugs, your Committee intends to make culpable the act of driving accompanied by the state of being under the influence of any drug.

Your Committee intends to exclude from the scope of section 291-4, as amended, persons who have consumed drugs but whose driving ability is not impaired thereby. To remove any ambiguity, section 291-4(a)(1), which defines the offense of driving under the influence of drugs, has been amended to specifically proscribe driving while impaired by any drug. Whether the driver's ability to operate a motor vehicle was impaired is a question of fact the prosecution must establish before a person is found guilty of violating driving under the influence of drugs. Similarly before a person becomes subject to the implied consent laws, a police officer must have reasonable grounds to believe the person's driving was impaired by drugs.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2266-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2266-86, S.D. 2.

Signed by all members of the Committee.

SCRep. 456-86 Judiciary on S.B. No. 2515-86

The purpose of this bill is to delete two ineffective provisions from the statute pertaining to name changes. The bill protects certain applicants for name changes by providing that an affidavit executed by a prosecuting attorney of the state shall make unnecessary the reporting of the name change to the registrar of birth. The bill also eliminates a requirement that name changes be recorded with the Bureau of Conveyances and the State Registrar within sixty days.

Your Committee accepts that name changes needed to protect the applicant should not be publicized. The other, ordinary recording requirements are eliminated as unnecessary and unenforceable. Rescinding cumbersome reporting requirements that are not enforced will simplify the name change process for the state and applicant.

Your Committee has amended the bill to correct a technical error.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2515-86, as amended, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2515-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 457-86 Judiciary on S.B. No. 1833-86

The purpose of this bill is to restate, without substantive change, the Firearms, Ammunition, and Dangerous Weapons Act, Chapter 134, Part I, Hawaii Revised Statutes, General Regulations.

Your Committee made grammatical and technical changes without modifying any substantive content as follows:

- (1) Adds in section 134-1 a definition of the word "acquire."
- (2) Corrects a typographical error on page 3 to properly cite the section on permits as section 134-3.
- (3) Clarifies in section 134-4(b) that a person who borrows a rifle or shotgun from another, who has lawfully acquired the rifle or shotgun, need not first obtain a permit.
- (4) Adds the specification of barrel length of sixteen inches or over to rifles described in section 134-4 to make section 134-4 consistent with section 134-8.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1833-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1833-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 458-86 Judiciary on S.B. No. 1988-86

The purpose of this bill is to give recorded mortgage liens securing future advances priority over subsequently recorded liens.

Currently, unless a lender obligates itself in the mortgage to make certain future advances, any liens on future advances would not have priority over subsequently recorded liens. Consequently, mortgage financing is not available in many situations requiring large infusions of funds in which a prior default has extinguished the priority of the mortgage lien.

This bill extends the usefulness of financing by future advances on mortgages to such situations by providing that all advances under the original credit line will have the same priority as the mortgage. The bill will be applicable and useful especially in allowing the continuation of ongoing projects that draw on the initial mortgage for financing, but suffer some financial disability before completion, such as college educations or construction projects.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1988-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 459-86 Judiciary on S.B. No. 1793-86

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 Committee has 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), H.R.S., 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, H.R.S., 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, H.R.S., 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 249-8 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 reference 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, H.R.S., 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 Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1793-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1793-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 460-86 Consumer Protection and Commerce on S.B. No. 1572-86

The purpose of this bill is to extend the Motor Vehicle Repair Industry Board from December 31, 1986 to December 31, 1992 under the sunset law.

Your Committee has reviewed the Legislative Auditor's sunset evaluation report, "Regulation of Motor Vehicle Repairs, Chapter 437B, HRS," and has considered all of the recommendations by the Auditor.

One of the Auditor's recommendations was to sunset the Motor Vehicle Repair Industry Board because the Board's primary duty of developing a certification program has been completed, and its remaining duties may be assumed by the Department of Commerce and Consumer Affairs. There was however, considerable testimony opposing this recommendation from the Automotive Body and Painting Association of Hawaii, the International Longshoremen's and Warehousemen's Union, the Hawaii Business League, the Hawaii Automotive and Retail Gasoline Dealers Association, and the Motor Vehicle Repair Industry Board. After due consideration your Committee decided to extend the Board's existence to effectively regulate the motor vehicle repair industry.

Your Committee concurs with the Auditor's recommendation to amend section 286-48, Hawaii Revised Statutes, 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. The present law allows a registered dealer to certify a rebuilt vehicle even though that dealer may not have performed the actual work. Although the present law provides some regulation of rebuilt motor vehicles, your Committee finds that the public would be better served if accountability was placed with the person actually performing the work. Therefore, your Committee has amended the bill by allowing registered or licensed repair dealers and mechanics to certify only those vehicles which they personally rebuilt.

Your Committee has taken into consideration the Auditor's finding that the practical test of the certification program is not given on neighbor islands and has adopted the recommendation of the Auditor to delete the requirement that the Board contract with the state Office of Vocational Education for the certification program. The Hawaii Automotive and Retail Gasoline Dealers Association testified in support of the program being contracted with the University of Hawaii. Your Committee has amended the bill to specify that the University be contracted.

Your Committee on Consumer Protection and Commerce is in accord with the intent

and purpose of S.B. No. 1572-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1572-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and Henderson.

SCRep. 461-86 Consumer Protection and Commerce on S.B. No. 2056-86

The purpose of this bill was to provide more explicit statutory directions for the removal of directors of condominium associations than the law presently contains and to expand upon the procedure for amendment of the bylaws of condominium associations.

In its consideration of this bill, your Committee heard opposing testimony reflecting, on the one hand, the interest of condominium residents and owners, and on the other, the view that increasingly detailed statutory requirements tend toward overregulation and intrusion into the role and responsibilities of boards of directors of condominium associations.

Your Committee, appreciating the competing rationales, drew upon the good faith efforts of representatives of the opposing viewpoints to develop compromise language. Your Committee, upon their recommendation has amended the bill by recasting, moderating, and expanding the proposals for removal of directors from office.

Similarly, your Committee has amended that portion of the bill pertaining to the amendment of bylaws of condominium associations by authorizing the boards of directors as well as volunteer committees of apartment owners to propose such amendments.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2056-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2056-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Kawasaki, Kuroda, Young and Henderson.

SCRep. 462-86 Consumer Protection and Commerce on S.B. No. 2063-86

The purpose of this bill is to enable the Board of Psychology to license psychologists who are graduates of foreign universities.

Currently, the law prevents the Board from considering any applicant who has graduated from a school located outside of the United States.

This Bill will allow applicants for licensing whose applications are based on graduation from a foreign university to provide the board with documents and evidence to establish that their formal education is equivalent to a doctoral degree in psychology granted by a United States university that is regionally accredited. After reviewing the required documentation the graduate division of the University of Hawaii would certify that, the degree is equivalent to a doctoral degree granted from a regionally accredited institution.

Your Committee received favorable testimony in support of this bill from various individuals and the Board of Psychology. The Board noted that the present law prevents them from even considering foreign applicants.

Your Committee has amended the bill by requiring that the evidence submitted must be "satisfactory" to the Board; and further providing that the Board shall "consider" the certification by the graduate division of the University of Hawaii to give the Board greater flexibility in the types of evidence that it will consider

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2063-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2063-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Kuroda, Young and Henderson.

SCRep. 463-86 Economic Development on S.B. No. 1506-86

The purpose of this bill is to extend the instream use protection program to all streams

in the State.

Section 176D-4, Hawaii Revised Statutes, requires the Board of Land and Natural Resources to establish an instream use protection program and to implement a stream channel alteration permit system for windward Oahu districts.

Your Committee heard testimony submitted by the Board of Land and Natural Resources, which indicates that the methodology for establishing and monitoring instream flow standards could easily be applied to streams statewide. The Department of Transportation submitted testimony requesting an exemption from the permitting requirements, in order to allow DOT to conduct maintenance and construction projects in waterways and streams, as DOT projects are reviewed for environmental impact prior to their approval.

Your Committee finds that extending the instream protection program statewide, would protect beneficial instream areas for such uses as conservation of wildlife habitats and ecosystems, recreation in scenic waterways, and maintenance of water quality.

Your Committee also heard testimony on S.B. No. 2267 which proposes the same types of changes in a different format. Accordingly, your Committee has amended the bill by combining the two bills and exempting transportation-related projects from the permit requirements of this section.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1506-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1506-86, S.D 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Kawasaki.

SCRep. 464-86 Economic Development on S.B. No. 1655-86

The purpose of this bill is to amend the Hawaiian Homes Commission Act, 1920, as amended, to provide an alternative means by which native Hawaiians may lease Hawaiian home lands for residential, agricultural, pastoral, or aquacultural purposes by authorizing the Department of Hawaiian Home Lands (DHHL) to issue homestead general leases. The alternative leasing program would be in addition to the homestead leasing program provided by Section 207 of the Hawaiian Homes Commission Act, and would not supplant that program.

Under the existing homestead leasing program, the DHHL is authorized to lease Hawaiian home lands to native Hawaiians for residential, agricultural, pastoral, and aquacultural purposes. Such leases are for a term of ninety-nine years at a rental of \$1 per year, but do not allow the lessee, among other restrictions, to sublet or to pledge the leasehold interest to secure private financing. Also, the lessee's spouse or children who are not native Hawaiians are now prohibited from succeeding to the lessee's leasehold interest.

Your Committee received testimony from the DHHL that the alternative leasing program would provide greater flexibility in financing improvements on the land, in obtaining financing for construction of off-site and on-site infrastructure improvements, and in allowing lessees to pass their leasehold interest to a surviving spouse or children, or others. Moreover, the alternative leasing program will provide the lessee the opportunity to obtain financing on the lessee's equity in the leasehold as well as greater flexibility in disposing of the leasehold.

The DHHL further testified that there is a shortage of financing for homestead lessees because of the inability of lessees to give lenders a mortgage lien on their homestead properties. Even with loan guarantees, the only lender now making loans to lessees is the U.S. Farmers Home Administration. The DHHL is endeavoring to implement the U.S. Department of Housing and Urban Development's FHA insured mortgage program which is expected to provide a loan source for lessees before the end of this fiscal year.

The DHHL has proposed amendments to develop a program which would allow lessees to obtain mortgage financing from private sector sources without impacting on the State's debt ceiling and limited availability of funds. The proposal also provides DHHL with the flexibility to engage developers and contractors in developing more tracts of Hawaiian home lands for homestead general lease awards to native Hawaiians.

Your Committee finds that an alternative leasing program is necessary to effect the

acceleration of the distribution of Hawaiian home lands and allow for additional loan sources for homestead development.

The bill as introduced generally described the program but did not contain the substantive provisions needed to effectuate the program. Your Committee therefore has amended this bill to incorporate substantive provisions as suggested by DHHL. The amendment would add a new title to the Hawaiian Homes Commission Act, to be designated as the "Homestead General Leasing Program." The program is outlined through the creation of new sections as follows:

Section 501 of the new title provides definitions for the terms "homestead general lease" and "homestead general lessee."

Section 502 authorizes the DHHL to subdivide and improve lands for various types of residential use, as well as for agricultural, pastoral, or aquacultural uses, or a combination of uses. This section also authorizes the department to enter into agreements with developers to construct off-site and on-site improvements without recourse to public auction if no State funds are utilized in the development of land, and authorizes the DHHL to adopt rules relating to qualification requirements to be met by the developers and the minimum standards for improvements to be built.

Section 503 provides terms, rent, and other conditions of the homestead general lease.

Section 504 requires that the original lessee of a homestead general lease be one or more native Hawaiians who must be at least eighteen years of age.

Section 505 sets forth individuals who are not eligible to receive an original homestead general lease.

Section 506 specifies the priority order by which homestead general leases are to be offered to native Hawaiians, and the notification procedure to be followed. If lots or units are available after all interested and qualified native Hawaiians have been awarded leases, this section allows the DHHL to temporarily dispose of the remaining lots or units by renting them to the general public with preference to be given to native Hawaiians. The department may also develop rental units on remaining lots and rent them to the general public, with preference given to native Hawaiians. It is intended that native Hawaiians be accommodated first before rentals are offered to the general public.

Section 507 authorizes the conversion of homestead leases to homestead general leases under procedures and conditions provided for by rules.

Section 508 provides for transfer of title by succession and upon foreclosure.

Section 509 specifies the procedures and requirements to be followed by the DHHL in the event of breach or default. Section 510 defines the rights of holders of security interests whenever notice of breach of default is given by the DHHL.

Section 511 provides DHHL with the right to terminate and cancel the lease and to take possession of the land and improvements if the breach of default is not cured or remedied on a timely basis.

Section 512 provides DHHL with the right of first refusal for a period of ten years after the date of the original homestead general lease in buying back the lease in case of transfer, assignment or sale. This section also specifies how appraisals are to be made of the value of the leasehold interest, and allows the department to waive the buy-back provision if the transfer of title is by succession.

Section 513 requires the lessee to obtain DHHL's approval to subdivide the land or to buy or sell any improvements on the land.

Section 514 provides that all receipts from the program, including fees and charges, rentals, appropriations, and other sources of funds, are to be deposited in a special fund, to be made available for expenditures required by the program.

Section 515 authorizes the department to adopt rules to carry out and implement provisions of the new title.

Section 516 is a sunset provision; the program is to be repealed five years after consent is obtained from the United States, or on December 31, 1995, whichever occurs first. It

is the intent that all outstanding leases and agreements made under the program as of the date of repeal remain in full force and effect until their expiration, termination or cancellation.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1655-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1655-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Kawasaki.

SCRep. 465-86 Economic Development on S.B. No. 1679-86

The purpose of this bill is to require that fair market rental be the basis for lease determination on public lands, upon rental reopening dates effective before and after May 28, 1985.

Act 116, Session Laws of Hawaii 1985, amended subsection 171-17(d), Hawaii Revised Statutes, to provide that the rental shall be the fair market rental at the time of lease reopening and eliminated the requirement of taking the higher of the preceding rental or fair market value as the new lease rent. The provisions of Act 116 would apply to leases with original lease reopening dates effective after the enactment of Act 116, which was May 28, 1985. The purpose of Act 116 was to eliminate the problem that arose when fair market rentals fell below the preceding rental amount.

The specific intent of this bill is to clarify that the provisions of Act 116, should apply to all leases which are reopened, not just those reopened after May 25, 1985. Your Committee finds that there have been lease reopenings prior to May 28, 1985 which have not been resolved and that these rentals should be determined in the same manner as for leases with reopening dates after May 28, 1985.

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

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1679-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1679-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt and Kawasaki.

SCRep. 466-86 Economic Development on S.B. No. 2404-86

The purpose of this bill is to prohibit the landing of motorized boats engaged in commercial activities from Kee Beach to Kepuhi Point on the north shore of Kauai.

Your Committee has received testimony indicating that there are well-defined user-group conflicts which are particularly acute at these certain beaches in the Haena area. These commercial operations constitute a danger to swimmers and snorkelers in the area, and have consistently violated the private property of resident landowners.

Your Committee further concurs with the AD HOC COMMITTEE's MANAGEMENT PLAN FOR NORTH SHORE, KAUAI recommendation to centralize all commercial boat loading and unloading operations into the Hanalei River, since this is the safest area for these activities.

Your Committee has amended the bill to reflect the concerns of the committee members that another site outside of the area from Kee Beach to Kepuhi Point be available for commercial boat operations. An effective date for discontinuance of the commercial activities from Kee Beach to Kepuhi Point has also been added.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2404-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2404-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Holt, Kawasaki and Mizuguchi.

SCRep. 467-86 Agriculture on S.B. No. 2069-86

The purpose of this bill is to permit the Board of Land and Natural Resources at any time during the term of any intensive agricultural, aquacultural, or mariculture lease to allow an alternative agricultural, aquacultural or maricultural use which would have to be justified by sound agricultural practices and economic or other circumstances; and to permit the Board to make rental adjustments or other changes in the lease to effect or accommodate the alternative use.

Your Committee heard testimony from the Department of Land and Natural Resources and the Hawaii Farm Bureau Federation and finds that changing conditions can make the specific use or uses specified in a lease no longer economically feasible or desirable. Your Committee finds that this bill would allow farmers growing crops on leased public lands greater flexibility on the kind of crops they would be permitted to grow due to changing market and economic conditions.

Your Committee has amended Section 4 of the bill to provide that the bill shall apply to aquacultural and maricultural leases as well as agricultural leases in effect on the effective date of enactment; and that the Act will be repealed on September 1, 1989.

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

Signed by all members of the Committee except Senators Hagino and Mizuguchi.

SCRep. 468-86 (Majority) Consumer Protection and Commerce on S.B. No. 1695-86

The purpose of this bill was 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 licenses, to provide grounds to refuse to renew, or to deny, licenses, to clarify the process of appeal from a decision of the Board of Examiners in Naturopathy, and to reorder various sections of the statute for purposes of clarity.

In its consideration of this bill, your Committee heard the testimony of the Board of Examiners in Naturopathy supporting its passage and explaining the several purposes to be served by the bill. Your Committee also received testimony from numerous patients and private citizens, and from doctors of naturopathy supporting the bill.

Witnesses favoring the measure asserted the right to choose the kind of health maintenance care they preferred, and urged its passage to preserve that right.

The Hawaii Medical Association expressed "strong reservations" about the bill, noting agreement with the Legislative Auditor's Sunset Evaluation Report of 1985 and subsequent legislative action which suspended licensure by the Board of Examiners in Naturopathy pending the adoption of new rules concerning examinations and licensure in general (Act 66, Section 4, Session Laws of Hawaii 1985). The Association listed various medically-related concerns in conjunction with its reservations.

The Department of Health, citing similar "strong reservations," referred to the prescribing of drugs, minor surgical procedures, and licensure.

Upon review of the testimony, your Committee amended the bill as follows:

- (a) Included a definition of "official surgery";
- (b) Amended the definition of minor surgery to provide that no minor surgery is to be performed unless the person has been trained in an accredited school or satisfied requirements of the national board examination or found to be qualified by the Board of Medical Examiners to the satisfaction of the Department of Commerce and Consumer Affairs.
- (c) Added a purpose clause to make clear your Committee's intention that the bill not be interpreted as expanding the existing scope of the practice of naturopathy;
- (d) Transferred the Board's rule making powers from section 455-5, "Organization of the Board," to section 455-6 "Powers and Authority of the Board," which is a more appropriate section; and
- (e) Made technical changes which have no substantive effect.

Your Committee believes that this bill as amended, provides essential guidelines and clarity of definition with respect to the practice of naturopathy.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1695-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1695-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi and Kawasaki.

Senator Matsuura did not concur.

SCRep. 469-86 Ways and Means on S.B. No. 2166-86

The purpose of this bill is to establish in the State a public policy to achieve an equitable relationship between the comparability of the value of work performed by certain employees of the State and its political subdivisions.

The bill requires the Legislative Auditor to contract with a qualified individual or company of national prominence to conduct a job evaluation study of selected occupational classifications in the state civil service. The auditor is required to monitor the work of and to assist the consultant. The bill requires the consultant to submit an interim report to the Legislature before the 1987 regular session and a final report prior to the convening of the 1988 regular session.

Your Committee has amended the bill by changing the amount appropriated to \$1 and by making technical, nonsubstantive amendments for style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2166-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2166-86, S.D. 2.

Signed by all members of the Committee except Senators Hagino, Holt and B. Kobayashi.

SCRep. 470-86 Government Operations on S.B. No. 2485-86

The purpose of this bill is to encourage handicapped persons to become owners or sole proprietors of businesses by increasing the entrepreneurial and employment opportunities available to said persons.

Under current law, there exist provisions for preferred treatment of businesses that employ handicapped persons. Your Committee finds that there is a need to similarly encourage and support the development of handicapped persons who are owners or sole proprietors of businesses.

Your Committee has amended the bill to clarify the definition of "handicapped owner or sole proprietor" to mean a person who is totally and permanently disabled due to a severe physical or mental disability which limits the selection of employment for which the person would otherwise be qualified, but which does not totally preclude gainful employment.

Your Committee has also amended the bill to clarify the definition of a handicapped business to mean a business which is not less than fifty-one per cent owned or controlled by a handicapped owner or sole proprietor, whose management and daily business operations are controlled by one or more such individuals, and which qualifies as a small business pursuant to Title 15, United States Code, section 632(a).

Your Committee on Government Operations is in accord with the intent and purpose of S.B. No. 2485-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2485-86, S.D. 2.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 471-86 Economic Development on S.B. No. 1676-86

The purpose of this bill is to eliminate required public hearings on proposed commercial uses within conservation districts, and to make nonsubstantive changes to conform the language within the statutes.

Section 183-41, Hawaii Revised Statutes, presently establishes forest and water reserve zones in the counties, and provides restrictions on uses within these zones by the county or the Department of Land and Natural Resources. Any changes in the permitted uses within these districts must be proposed by rule and heard at public hearing. Also, Section 205-2, Hawaii Revised Statutes, requires that the term "forest and water reserve zone" be changed to "conservation district" for consistency within the statutes.

Your Committee received testimony from the Department of Land and Natural Resources that this bill proposes to eliminate the required public hearing, because many of the hearings were held for uses accessory to commercial uses, and often attendance at these hearings included only the applicant. Your Committee also considered concerns expressed by various conservation groups about the elimination of the required hearings relating to commercial uses. Your Committee finds that the proposal to totally eliminate the required public hearing for commercial uses is not considerate of the public interest in voicing concerns about such uses in conservation districts.

Your Committee, therefore, has amended the bill to require that public hearings be held when, upon determination by the Board, the proposed commercial uses would substantially effect the current permitted uses. Your Committee has further amended the bill to require that public notice be given for any other proposed commercial purposes, not deemed by the Board to substantially affect current uses. This bill has also been amended by making clarifying language changes which have no substantive effect.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1676-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1676-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Hagino, Holt and Kawasaki.

SCRep. 472-86 Economic Development on S.B. No. 1747-86

The purpose of this bill is to remove the State as guarantor when its interests in lands are subject to a security interest or mortgage, and allow proceeds for the redistribution, after the State's costs, to accrue to the mortgagee.

Section 171-21, Hawaii Revised Statutes, provides that lessees may mortgage their leasehold interest in public lands, but if the lessee is found in breach or default, the State must pay the holder the mortgage plus interest, in the event the State seeks to terminate the lease.

Your Committee received testimony from the Department of Land and Natural Resources requesting support for this measure, as the Department believes that the State should not act as insurer or guarantor to any lender.

Your Committee finds that this measure would allow the State to redispense of property without responsibility for a lessee's mortgage. Your Committee further finds that if the State should redispense of property in excess of the fair market value, the balance, after settlement of the State's costs for redistribution, should accrue to the mortgagee.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 1747-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Hagino, Holt and Kawasaki.

SCRep. 473-86 Economic Development on S.B. No. 2073-86

The purpose of this bill is to transfer twenty percent of the ceded lands held by the State to the Office of Hawaiian Affairs (OHA) for senior citizen housing.

Under current law, twenty percent of the proceeds and income from the sale, lease, or other disposition of ceded lands is turned over by the Department of Land and Natural Resources to the Office of Hawaiian Affairs. This bill proposes that twenty percent of the lands be transferred to OHA for the development of housing for native Hawaiian and Hawaiian senior citizens. Further, OHA is required to make a recommendation to the Legislature of which lands should be transferred, however, the Legislature is not required to comply with the recommendations. OHA will also develop the properties and manage the properties as a public trust.

Your Committee received testimony from the Department of Transportation, indicating that presently a sizable portion of ceded lands are used for harbor and airport operations. These

lands generate revenues used to sustain air and sea transportation activities within the state.

Your Committee finds that the use of ceded lands for senior citizen housing is a public use and necessary to support the needs of native Hawaiians and Hawaiians.

Your Committee further finds that the transfer of twenty percent of the lands would negatively impact transportation services in Hawaii, and thus has amended the bill to provide for a transfer of one hundred acres, which would be sufficient to develop and construct a senior citizen housing project. Your Committee has also amended the bill to make technical changes which have no substantive effect.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2073-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2073-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Hagino, Holt and Kawasaki.

SCRep. 474-86 Economic Development on S.B. No. 2189-86

The purpose of this bill is to extend the authority of the Board of Land and Natural Resources to renegotiate the provisions of and extend the lease terms for commercial uses on public lands.

Section 171-36, Hawaii Revised Statutes presently provides the Board with the authority to renegotiate leases only for agricultural uses on public lands. The Board may modify or eliminate the restrictions of the lease, in order to qualify the lease for mortgage lending or guaranty purposes. Specifically, this bill would:

1. Allow the Board to also modify or eliminate the restrictions contained in leases for commercial uses, including without limitation, industrial, hotel, resort or other business uses.
2. Exempt commercial leases from the qualification requirement that the land under lease must have been used for substantially the same purposes for which the lease was originally issued.
3. Permit commercial leases to be extended for a total of not more than fifty-five years based on the aggregate of the remaining term of the lease at the time of extension and the extension itself.
4. Allow the rental of a commercial lease to be adjusted to include a provision for the payment of rent calculated as a percentage of income.

Testimony received from the Board of Land and Natural Resources, indicates that this bill is necessary to provide relief to certain lessees who have experienced financial difficulties for the past few years, and need to obtain long term financing to make improvements to revitalize the property.

Your Committee finds that the present provisions of this section should be extended to commercial leases, to provide greater financing opportunities so that these properties may be appropriately maintained and supported.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2189-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Hagino, Holt and Kawasaki.

SCRep. 475-86 Economic Development on S.B. No. 2262-86

The purpose of this bill is to amend the State Planning Act to include the preparation of state functional plans in the areas of employment, social services, and public safety in order to identify statewide needs and implement actions to resolve problems in these areas.

Section 226-52, Hawaii Revised Statutes, outlines the statewide planning system and the areas for which functional plans are to be prepared. These plans provide direction for governmental agencies and serve to link various agency programs and activities.

Your Committee received testimony from the Department of Planning and Economic Development indicating that these additions are necessary to address changing economic and social conditions which have been evidenced in these three areas. The present economic

development functional plan indicates strong public support for increased job opportunities and that a separate employment plan is warranted. Similarly, public concerns with crime and greater coordination of private and public social services also indicate a need for separate planning in these areas.

Your Committee finds that the inclusion of these three areas into the State Planning Act is necessary to identify public needs and provide solutions that can be addressed by the State.

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 2262-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Hagino, Holt and Kawasaki.

SCRep. 476-86 Economic Development on S.B. No. 718

The purpose of this bill is to authorize and establish guidelines and procedures for the granting of leases for research and noncommercial ocean activities within state marine waters and submerged lands.

Research, development, and demonstration of viable energy, aquaculture, mariculture, and ocean technologies are progressing rapidly in the State. Prospects for private commercial investment for ocean thermal energy conversion, floating and submerged seafarming operations and related ocean resources are a reality.

Your Committee finds that Article XI of the Hawaii State Constitution clearly mandates the conservation, protection, and development of marine resources in the State. This bill proposes to establish a means of leasing ocean and marine resources and is viewed as a viable and effective means to enhance fulfillment of the constitutional mandate.

Your Committee recognizes that the oceanic jurisdiction is a matter in dispute between the State and federal government. Until the dispute is resolved, the entrepreneurs can meet the ocean leasing requirements of both state and federal government. Issuance of a lease is of great importance to the entrepreneurs, who will need a lease in order to raise private capital to conduct these activities. Even though these ocean and marine resource activities may be several years away, the issuance of ocean and marine resources lease is a critical step in establishing mariculture, OTEC, marine mining, and other ocean activities.

Testimony before your Committee by Mr. Susumu Ono, Chairman of the Board of Land and Natural Resources; Mr. Adam Vincent, Deputy Director of the Department of Transportation; Mr. Murray E. Towill, Deputy Director of the Department of Planning and Economic Development; support or express general accord with the intent and purposes of this bill. Your Committee recognizes the concerns expressed by Susan Miller representing the Sierra Club who testified against this bill.

Your Committee has duly noted and considered the various recommendations and concerns expressed at the public hearing and has amended the bill as follows:

- 1) omitted the definition of "Administrative lease";
- 2) amended the definition of "Mariculture" to mean the cultivation and production for research, development and demonstration purposes of plants and animals within the State's marine environment;
- 3) amended the definition of "Marine activities" to mean ocean thermal energy conversion (OTEC), mariculture, and other energy or water, research, scientific, and educational activities in, on, or under state marine waters or submerged lands;
- 4) amended the definition of "Noncommercial lease" to mean a lease of state marine waters or submerged lands for marine activities not designed for profit. The maximum size of the lease for mariculture shall not exceed 4 acres;
- 5) amended section -11, to provide that the Board, in consultation with other governmental agencies, shall propose the designation of State marine activities.
- 6) amended section -31, to provide that lease provisions must be in compliance with section 171-53, HRS.
- 7) amended section -34, to provide appropriate designation to chapter 187A, HRS.

- 8) amended section -43, to provide that a portion of the revenues received as a result of these leases will be deposited in the public land trust pursuant to chapter 10, HRS.

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

Your Committee on Economic Development is in accord with the intent and purpose of S.B. No. 718, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 718, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Hagino, Holt and Kawasaki.

SCRep. 477-86 Consumer Protection and Commerce on S.B. No. 1574-86

The purpose of this bill was to establish the maximum time for banking financial institutions to hold checks and other items pending clearance before granting credit to the account of the depositor. Commonly called "float time," this bill would have set a one-day period for the processing of checks drawn on institutions within the State of Hawaii, 5 days for checks drawn on institutions in other states, and 10 days for checks drawn on banks in foreign nations.

Your Committee heard testimony from various members of the banking and business community, substantially in opposition to this bill. Witnesses outlined the check clearing process and were in agreement that this bill would unduly compromise existing procedures which strike a balance between "the risk of loss from paying on a check which may be uncollectible against the risk of losing a valued customer's business." Witnesses asserted that their check hold rules are not inflexible, and that in some instances, for example when the depositor's identity and status are well known, credit can be given prior to expiration of the usual float time.

Informed that federal legislation on the subject of float time is in process, your Committee concluded that since its development and implementation bears upon the subject addressed by this bill, action locally on float times should be set aside pending disposition of the federal legislation.

Nonetheless, your Committee, in its concern for the consumer, has elected to modify this bill to provide that upon request, financial institutions shall provide written statements of their check hold policy.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1574-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1574-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Chang and Kuroda.

SCRep. 478-86 (Majority) Consumer Protection and Commerce on S.B. No. 1534-86

The purpose of this bill is to "grandfather" persons applying for licensure as a psychologist who were affected by the change in licensure requirements in 1985.

Act 115, Session Laws of Hawaii, 1985 changed the educational requirements of persons applying for licensure as a psychologist in the State. Act 115 required applicants to hold a doctoral degree from a training program approved by the American Psychological Association (APA) or a doctoral degree from a regionally accredited institution of higher education and also satisfy the experiential requirements for inclusion in the National Register of Health Service Providers in Psychology.

Previous to Act 115, the Board of Psychology had discretion to license doctoral recipients whose training and education in the field of psychology were "adequate to the satisfaction of the Board." Act 115 removed the discretionary power of the Board.

This bill would remedy the severe hardship only for that small group of licensing applicants who received their doctoral degrees in reliance upon previous licensing provisions, under which they would have been qualified to obtain licensing in Hawaii.

Your Committee is concerned that the passage of this bill may lead to litigation by individuals whose psychology licensure applications are denied by the Board. It is your Committee's intent that the Board, rather than the courts, is the proper authority for determining whether applicants meet licensure requirements.

Your Committee has amended the bill by providing that persons who applied for psychology licensure before August 1, 1985 rather than January 1, 1985, would be subject to the discretionary powers of the Board. This amendment clarifies that this bill is intended to remedy the hardship of those few individuals who obtained their degrees just before or shortly after Act 115 was enacted.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1534-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1534-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Kawasaki and Young.

Senator Matsuura did not concur.

SCRep. 479-86 Consumer Protection and Commerce on S.B. No. 1687-86

The purpose of this bill is to allow the Department of Commerce and Consumer Affairs (DCCA), any of its boards, or commissions to contract with professional testing services to prepare, administer, and grade examinations and tests for license applicants; and to allow the DCCA, its boards or commissions to provide for alternative forms of security when a bond or insurance is required to be maintained by any licensee.

Your Committee heard testimony from the Hawaii Association of Realtors, the Hawaii Business League, and the DCCA and finds that this bill responds to the current problem of insurance availability without sacrificing the protection of the consumer. Your Committee also finds that allowing the DCCA the general authority to contract with national testing agencies provides the DCCA with needed flexibility in the examination process and assures professional expertise of its licensees.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1687-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator B. Kobayashi, Kawasaki and Young.

SCRep. 480-86 Consumer Protection and Commerce on S.B. No. 1694-86

The purpose of this Administration bill is to clarify the registration exemptions provided in Section 454D-2, Hawaii Revised Statutes (HRS), to provide for an automatic termination of the registration of a servicing agent when a bond is not kept active; to provide for powers and duties of the Director of Commerce and Consumer Affairs to regulate mortgage and collection servicing agents; and to clarify the provision on remedies or penalties which are cumulative and consistent with other licensing statutes in this State.

Currently, there is some confusion with Section 454D-2(1), HRS, in that it appears to exempt from registration requirements all real estate brokers and salesmen who provide collection services. Your Committee finds that there is justification to exempt a broker or salesman from Chapter 454D, HRS, when they provide collection services during the course of a real estate transaction because of the provision in Chapter 467, HRS, which provides consumers with adequate protection. Your Committee finds that the bill clarifies that brokers and salesmen are on notice that they are exempt only when the provisions as set forth are met.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs and finds that the bill would provide protection for consumers with respect to conventional loans which are serviced by a Housing and Urban Development (HUD) approved lender. Your Committee heard testimony that even though a financial institution may receive HUD approval, this does not necessarily mean consumers are adequately protected by HUD regulations.

Current law also provides that Section 454D-3, HRS, requires that mortgage and collection servicing agents covered by the Chapter shall keep a surety bond current and in effect. The bill provides for the automatic suspension of the registration should the registrant's bond be cancelled or terminated, with the possibility of termination of the registration should the registrant fail to activate the bond to a current and valid status. Your Committee finds that this provision provides adequate protection of the consumer.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1694-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Chang, Kawasaki, Kuroda and Henderson.

SCRep. 481-86 Consumer Protection and Commerce on S.B. No. 1693-86

The purpose of this bill is to set forth new provisions relating to disciplinary sanctions that may be imposed by the Board of Electricians and Plumbers, and to give the Board authority to examine applicants, with the option of contracting with a testing agency for examination services.

Your Committee finds that presently Chapter 448E, Hawaii Revised Statutes (HRS), does not contain provisions for disciplinary sanctions, or grounds for sanctions, which may be imposed by the Board. This bill amends Chapter 448E, HRS, to provide for sanctions, grounds for sanctions, right to hearings, and fines, that are consistent with provisions for all boards and commissions.

Your Committee also finds that the Board's authority regarding licensing examinations is unclear. This bill adds a new section to Chapter 448E, HRS, specifying that the Board may contract with a testing association for examination services, in the interest of standardizing and improving the examination program.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1693-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Chang and Kuroda.

SCRep. 482-86 Consumer Protection and Commerce on S.B. No. 1696-86

The purpose of this bill is to set forth the passing scores required for licensure and to make numerous housekeeping amendments to Chapter 461, Hawaii Revised Statutes.

Presently, Section 461-6, Hawaii Revised Statutes, provides that applicants for licensure shall pass an examination covering subjects relating to the practice of pharmacy, with a general average score of not less than seventy percent. The Board of Pharmacy ("Board") administers three separate examination, the National Association of Boards of Pharmacy Licensure Examination (NABPLEX), the Federal Drug Law Examination (FDLE), and the State Jurisprudence Examination with the scores for all three examinations combined together and averaged to determine the applicant's performance.

Your Committee heard testimony that the board has long been concerned with the statutory requirement that a general average be used as a passing score since it has observed applicants passing the licensure examination by using a high score on one of the examinations to offset lower scores received on the other examinations. Further, the National Association of Boards of Pharmacy (NABP) has recently advised the Board that starting in June 1986 the applicant's performance for the NABPLEX will be one that cannot be added to the scores of the other two examinations to arrive at a general average score.

This bill specifies that a minimum passing score of seventy-five percent is required on all three examinations. Further, to accommodate applicants unable to pass all three examinations at one sitting, provisions have been set forth in Section 461-6, Hawaii Revised Statutes, to require the applicant to retake only the examination or examinations for which they failed to receive a passing score.

Presently, Section 461-4, Hawaii Revised Statutes, is a long and involved section containing three substantive matters relating to board meetings, powers and duties of the board, and grounds for disciplinary action by the board. Provisions relating to board meetings have been left intact in Section 461-4, Hawaii Revised Statutes. Provisions relating to the other two subject matters have been set forth in new sections.

The new section on "Disciplinary Action" incorporates language formerly contained in Section 461-4, Hawaii Revised Statutes, and also provides the following: (1) empowers the board to fine a licensee, as well as to revoke or suspend a license; (2) sets forth additional causes for which disciplinary sanctions may be imposed; and (3) provides that disciplinary proceedings shall be in accordance with Chapter 91, Hawaii Revised Statutes.

Your Committee finds that expanding the causes for disciplinary action is for the purpose of further protecting the public from what is considered to be unsafe or improper actions by a pharmacist or pharmacy.

A new section relating to "Cumulative remedies" has been added to clearly set forth to the licensee that they can be pursued under any one or all of the penalty provisions for violation of Chapter 461.

Several sections in Chapter 461, Hawaii Revised Statutes, have been restated without substantive change to set forth sections in proper format; to divide long and involved sections into subsections; to provide clarity; and to remove gender references, indefinite modifiers and obsolete provisions.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1696-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Chang, Kawasaki, Kuroda and Henderson.

SCRep. 483-86 Consumer Protection and Commerce on S.B. No. 1697-86

The purpose of this bill is to delete the good moral character requirement for licensing of massage therapist; to delete the option of waiver of examinations; to authorize the Board of Massage to contract for examination services with an independent testing agency; to establish provisions regarding disciplinary actions; to establish a provision for cumulative remedies; and to provide the Department of Commerce and Consumer Affairs the right to apply for an injunction.

Your Committee received testimony from the Board of Massage and finds that the 1982 Legislative Auditor's Report recommended that the good moral character requirement be eliminated. Your Committee further finds that there is a need to provide for disciplinary action to protect the public and that contracting with private examination services will improve the quality of licensees.

This bill encompasses the necessary amendments to Chapter 452, Hawaii Revised Statutes, that will strengthen the laws relating to massage.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1697-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1697-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Chang and Kuroda.

SCRep. 484-86 Consumer Protection and Commerce on S.B. No. 1702-86

The purpose of this bill is to amend Chapter 463E, Hawaii Revised Statutes, relating to Podiatrists.

Chapter 463E, Hawaii Revised Statutes, provides general regulatory provisions, licensing and examination requirements for registration, and cause for revocation and suspension of licenses, relating to the podiatry profession. This bill specifically amends these provisions in the following manner:

- 1) adds a requirement for a written test of clinical competency;
- 2) deletes references to the amounts of fees and clarifies the authority of the Director of the Department of Commerce and Consumer Affairs to establish fees through rules;
- 3) makes explicit the grounds for denial of licenses by the Board of Medical Examiners;
- 4) requires written reporting of disciplinary actions received;
- 5) establishes the limits for fines to be no less than \$500 and no more than \$5,000;
- 6) specifies that Chapter 91, Hawaii Revised Statutes, relates to hearings for license denial;
- 7) clarifies that remedies and penalties are cumulative; and

8) eliminates references to gender, updates language and makes other housekeeping changes.

Your Committee received testimony that indicated these revisions were based on recommendations by the Board of Medical Examiners, in order to bring the podiatry profession in consonance with other regulated professions. Additionally, in Report No. 85-5, the Legislative Auditor recommended that a written test of clerical competency be substituted for oral-practical examinations being administered to license applicants.

Your Committee finds that these changes are necessary to ensure the effective regulation of the podiatry profession.

Your Committee on Consumer Protection and Commerce is in accord with S.B. No. 1702-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Kawasaki and Young

SCRep. 485-86 Consumer Protection and Commerce on S.B. No. 1752-86

The purpose of this bill is to clarify and strengthen the requirements for being licensed to practice chiropractic in the State.

Specifically, this bill would:

- (1) Clarify the requirement that an applicant must pass all parts of the National Board of Chiropractic Examiners' examination in order to qualify for the state examination;
- (2) Change the examination grading system from a percentage basis to a point system;
- (3) Change the credit received for work experience from percent to points;
- (4) Authorize the Board of Chiropractic Examiners to contract for examination services with a testing agency; and
- (5) Provide that the examination fee may be paid directly to a contracted testing agency.

Your Committee received testimony in favor of this bill from the Board of Chiropractic Examiners and finds that these provisions will add a significant measure of protection to consumers of chiropractic services and is therefore in the public interest.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1752-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Chang and Kuroda.

SCRep. 486-86 Consumer Protection and Commerce on S.B. No. 1847-86

The purpose of this bill is to add the waters of Barbers Point Deep Draft Harbor and adjoining shoal waters to the pilotage waters of the State.

Under existing law, the waters of six ports in the State are described as pilotage waters. Barbers Point would become the seventh.

Your Committee received testimony from the Department of Commerce and Consumer Affairs and finds that the description of the Barbers Point pilotage water was prepared by the Harbors Division of the Department of Transportation in conjunction with their Department and has the concurrence of the U.S. Coast Guard, Captain of the Port, and the President of Hawaii Pilots. It is expected that vessels required to take a pilot will be traversing these waters prior to the close of the next legislature. Therefore, in light of the objectives of maritime pilotage and the enhancement of safety, your Committee finds that this bill is in the public interest.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1847-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Kawasaki and Young

SCRep. 487-86 Consumer Protection and Commerce on S.B. No. 1891-86

The purpose of this bill was to provide for the formation of pure captive insurance companies, association captive insurance companies and industrial captive insurance companies.

Your Committee received testimony from the Hawaii Independent Insurance Agent Association and the Island Insurance Companies in support of a pure captive insurance company. However, they expressed concern regarding the formation of association and industrial captive companies. The two major concerns relate to the protection of the policy holder, especially in the event of insolvency, and the creation of unfair competition against established and new insurance companies organized under the provisions of Chapter 431, Hawaii Revised Statutes (HRS).

Your Committee has considered the concerns raised by the Hawaii Independent Insurance Agent Association and the Island Insurance Companies, and has amended the bill to delete all references to association and industrial captive insurance companies, and limits the bill to only allow the formation of pure captive insurance companies.

Your Committee has further amended this bill to delete Section -14 which provides for preferential premium tax treatment during the first five years of a captive insurance company's operation. Testimony submitted indicated that this treatment is not available to any new insurance company applying for a charter under Chapter 431, HRS, and that if preferential premium tax treatment is provided for captive insurance companies, the same should be provided in Chapter 431.

Your Committee has also amended the effective date to July 1, 1987, to allow for the completion of the ongoing insurance study and ensure that there will be adequate time for review of the study.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1891-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1891-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Kawasaki and Young

SCRep. 488-86 Consumer Protection and Commerce on S.B. No. 2257-86

The purpose of this bill was to provide a contingency plan to be instituted by the Insurance Commissioner upon the unavailability of liability insurance in connection with certain businesses or professions in this State, except automobile insurance, as determined by the Insurance Commissioner.

Your Committee heard testimony that the State is in the midst of an insurance capacity crisis. Insurers are selectively writing and in certain cases, abandoning certain lines of insurance. The Insurance Commissioner informed your Committee that for the most part, specialty lines carriers have abandoned Hawaii, leaving businesses such as rent-a-car and pest control operators in a panic.

However, your Committee also heard testimony from the Hawaii Independent Insurance Agents that insurance carriers generally do not consider Hawaii to be a good place to do business, and that if this bill were to be passed in its present form, it could result in insurance carriers leaving this market place because of reinsurance agreements and financial conditions.

Your Committee believes that there is a need to establish a better environment for attracting property and casualty insurers in all lines. Your Committee also believes that there is a need to change the scale of automobile insurance affordability so that good drivers do not subsidize bad drivers and prevent drivers from securing affordable insurance premiums due to the "take-all-comers" provision in the existing law.

Your Committee has accordingly amended the bill by:

(a) providing that a market assistance plan may be established for any business or profession which, in the judgment of the Insurance Commissioner, may have difficulty in securing liability insurance. The plan shall be voluntary for all insurers authorized to write casualty insurance in this State on a direct basis. The purpose of the plan shall be to provide liability insurance on a self-supporting basis.

(b) Amending subsection 294-9(b), Hawaii Revised Statutes, to provide that except as

provided in subsection (d), an application for a no-fault policy, including required optional additional insurance meeting provisions of Section 294-11, covering a motor vehicle shall not be rejected by an insurer authorized to issue a no-fault policy unless the insurer has offered joint underwriting coverage through a servicing carrier to the applicant.

(c) Amending subsection 294-9(c), Hawaii Revised Statutes, to provide that a no-fault policy, including required optional insurance meeting provisions of Section 294-11, once issued shall not be canceled or refused renewal by an insurer unless the insurer has offered joint underwriting coverage through a servicing carrier to the applicant.

(d) Deleting the requirement in Section 294-9(d), Hawaii Revised Statutes, that an insurer may reject or refuse to accept additional applications for, or refuse to renew no-fault policies if the insurer cease to write any new policies of insurance of any kind in this State.

(e) Deleting the requirement of subsection 294-22(a), Hawaii Revised Statutes, that the Insurance Commissioner shall establish classifications of eligible persons and uses for which the joint underwriting plan shall provide both the required no-fault policies and may optional insurance an eligible person or user applies for.

(f) Deleting the requirements of subsection 294-22(b), Hawaii Revised Statutes, that the Hawaii Joint Underwriting Plan shall provide all no-fault benefits and policies for all motor vehicles owned by licensed assigned risk drivers as the Commissioner shall, by regulation, define, all motor vehicles owned by licensed drivers convicted within the thirty-six months immediately preceding the date of application or various offenses, all commercial uses, first class, defined as any commercial use engaged in the transport of passengers for hire or gratuitously, all commercial uses, second class, defined as any commercial business, or institutional use and all motorcycles, motor scooters, and vehicles with less than four wheels required to be registered under Chapter 294.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2257-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2257-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Kawasaki and Kuroda.

SCRep. 489-86 Judiciary on S.B. No. 8

The purpose of this bill is to broaden the statutory provisions authorizing name changes. The bill allows the family court to order name changes for minors with the consent of only one parent, if the change is in the best interests of the child and efforts have been made to locate and notify the absent parent. A second provision permits Hawaii's courts to enter valid name changes ordered by other specified courts, for persons born in the state.

Your Committee has amended the bill to make technical changes that do not change the purpose or effect of the bill.

Your Committee is well aware that divorced parents are not uncommonly in serious disagreement over the upbringing of their children. Ordinarily a name change with the consent of only one parent would not be in the child's best interests. However, when a parent has essentially disappeared from the life of a child, that parents unavailability should not thwart a change otherwise in the child's best interest.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 8, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 8, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 490-86 Judiciary on S.B. No. 303

The purpose of this bill is to prescribe a method by which political parties shall qualify to appear on ballots in state elections. The bill replaced the current system of qualifying by election results with a method of qualifying by petition.

Your Committee has amended the bill so that it offers both methods of qualifying as a political party. Qualifying by election results is a continuous process; a party's performance in previous elections qualifies it to appear on the ballot in future contests. New parties and disqualified parties may qualify by petition. A party that qualifies for three general elections

by petition shall be recognized as a qualified political party for the following ten years. After ten years, the party may remain qualified by election results, or requalify by petition.

The bill makes other technical changes in the statute that do not affect its purpose or meaning.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 303, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 303, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 491-86 Judiciary on S.B. No. 899

The purpose of this bill is to require persons charged with illegal possession of firearms or other deadly weapons to prove that they are entitled to possess to carry such weapons.

The bill amends section 134-11, Hawaii Revised Statutes, by eliminating the various absolute exemptions to the firearms possession restrictions found in sections 134-6 to 134-9, Hawaii Revised Statutes, and requiring those formerly exempted to establish as an affirmative defense that the restrictions do not apply to them.

At present, once a defendant claims an exemption, the prosecuting attorney must prove the negative—including that the defendant is not employed by any state or federal agency which authorizes the person to be armed. The bill requires that the defendant prove employment or membership with one of the formerly exempted categories as an affirmative defense and relieves the prosecution of the burden of proof.

It is noteworthy that oral testimony favorable to the bill was received from the Police Department of the City and County of Honolulu, as well as from the Honolulu prosecuting attorney office.

Your Committee has made a nonsubstantive amendment to the bill by deleting the provision specifically exempting aliens employed by the State or the United States whose duties require them to be armed. The provision is redundant since another provision which exempts all persons whose employment by the State or the United States requires them to be armed includes persons who are aliens.

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

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 899, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 899, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 492-86 Consumer Protection and Commerce on S.B. No. 2057-86

The purpose of this bill was to prohibit members of boards of directors of horizontal property regimes, who use association funds to solicit proxy votes, from casting proxy votes for their own reelection.

In its consideration of this bill, your Committee heard opposing testimony reflecting, on one hand, the interest of condominium residents and owners in reducing proxy abuse, and on the other, the view that increasingly detailed statutory requirements tend toward overregulation and intrusion into the operations of condominium associations.

Your Committee, appreciating the competing rationales, drew upon the good faith efforts of representatives of opposing viewpoints to develop compromise language. Your Committee, upon their recommendation, has amended the bill by moderating and expanding the proposals for the use of proxy votes in elections of boards of directors.

More specifically, your Committee has amended the bill by adding a provision that no member of a board of directors who uses association funds to solicit proxies shall cast any proxy votes for the election or reelection of board directors unless the board first posts notice of its intent to solicit proxies at least fourteen days prior to its solicitation and fails to receive within seven days a request by any owner for use of association funds to solicit proxies accompanied by an explanatory statement. If notice is received within seven days the board shall mail to all owners a proxy form or statement containing the list of names of all owners who have requested

the use of association funds for soliciting proxies.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2057-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2057-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Chang, Kawasaki and Henderson.

SCRep. 493-86 Judiciary on S.B. No. 1023

The purpose of this bill is to prevent harassment that cannot be effectively controlled by criminal processes and penalties. There is presently no civil statute that can be used to interrupt a course or pattern of intimidation that stops short of assault or threats.

This bill allows victims of harassment to obtain temporary restraining orders and injunctions against harassment, but does not curtail or deter conduct that has a legitimate purpose. Your Committee finds that civil harassment is an all too common occurrence with seriously damaging effects on the victim's life and well-being. The courts will have no difficulty distinguishing permissible activities from the focused, disruptive behavior that this bill addresses.

Your Committee has amended the bill so that actions to obtain injunctions against civil harassment will be heard in district rather than circuit court. The word "wilful" is also replaced by the term "intentional", a standard more commonly used in connection with civil injunctions.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1023, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1023, S.D. 2 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 494-86 Judiciary on S.B. No. 2031-86

The purpose of this bill is to assess a fee of \$50.00 to remand to a district court cases that have been transferred to a circuit court on demand for jury trial. Remand occurs if a party that initially demanded a jury trial subsequently waives it. The fee of \$50.00 will assist the orderly administration of the courts.

Your Committee amended the bill by correcting a typographical error, and by conforming it to recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2031-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 2031-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Abercrombie, Kawasaki and Kuroda.

SCRep. 495-86 Judiciary on S.B. No. 1538-86

The purpose of this bill is to allow certified instead of registered mail to be used to make a demand for payment of dishonored checks.

Your Committee has amended the bill to require restricted delivery.

Your Committee finds that certified mail will serve the statutory purpose equally as well as, and at a lower cost than, registered mail, as long as it is sent by restricted delivery to comply with the statutory provision requiring notice to be marked "deliver to addressee only."

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1538-86, as amended to herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1538-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 496-86 Judiciary on S.B. No. 2033-86

The purpose of this bill is to provide for personal service of process outside the State by registered or certified mail, when the State exercises jurisdiction over individuals who have

conceived a child within the State. This bill also allows personal service by certified or registered mail.

The bill reflects the seriousness and importance of establishing paternity and providing for child support in cases involving an absent parent. Personal service of process by mail provides adequate notice to a respondent without undue expense and inconvenience.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2033-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 497-86 (Majority) Judiciary on S.B. No. 2045-86

The purpose of this bill is to allow the county councils to prescribe their own rules pertaining to open meetings.

The proposal had arisen because certain county legislative bodies had experienced some difficulty in meeting statutory requirements relating to public notice of, and participation in, meetings of the county bodies.

Upon further inquiry, your Committee determined that the only problem requiring legislative action was that the county bodies needed additional time to prepare meeting agendas from one weekly meeting to the next meeting.

Accordingly, your Committee has amended the bill by deleting the original proposal and providing that the public shall receive five days notice of any county council meeting. This period of time will assure members of the public that a weekend will always be available for preparation of reference materials and testimony on matters before the council. It will also permit council members to realistically assess their agendas and plan for effective meetings.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2045-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2045-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and Kuroda.
Senator George did not concur.

SCRep. 498-86 Judiciary on S.B. No. 1831-86

The purpose of this bill is to permit obviously ill individuals to be admitted in an emergency to psychiatric care facilities, and to allow for involuntary hospitalization.

Your Committee has amended the bill to narrow it so that it covers only emergency care, and applies only to individuals whose condition is deteriorating, and not those whose condition seems likely to deteriorate. The deterioration could be substantiated by witnesses or direct observation. As amended, the bill also removes from the existing statute language that includes individuals who are merely dangerous to property. Another amendment assures that a Crisis Response Team or the Emergency Medical Team, rather than a police officer, makes determinations relevant to the emergency admission.

The bill focuses primarily on individuals whose condition is visibly deteriorating as a result of drug dependence or a lack of necessary medications. Your Committee is aware that it may not always be possible to identify or distinguish the individuals that this bill addresses from others who are mentally ill. Consequently the bill provides only for a limited admission, for the purpose of restoring to such people their ability to understand the advantages and disadvantages of treatment.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1831-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1831-86, S.D. 2.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 499-86 Judiciary on S.B. No. 2277-86

The purpose of this bill is to establish a reproductive rights committee to review all petitions for sterilization of adult wards, and to assure that such petitions are decided in the best interests of the ward by defining the relevant considerations.

Your Committee has amended the bill to assure that it accomplishes its stated purpose. One amendment directs that the Governor and not the Chief Justice shall appoint the members of the reproductive rights committee from a list of qualified people recommended by the judicial council. The amendment avoids a possible conflict of interest that could occur if the Chief Justice were to review a decision by the committee.

Another amendment deleted one of the factors initially enumerated as relevant to the sterilization decision. 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 and of the public generally.

Your Committee finds that the bill provides necessary protections to prevent the sterilization of adult wards unless their best interests clearly demand it and they are involved as fully as possible in the decision. In addition, all less drastic alternatives must be considered, and care must be taken not to allow sterilization merely for the convenience of others. The reproductive rights committee will also provide necessary support for those facing the difficult question of whether sterilization is necessary. Respect for the rights, interests, and feelings of adult wards demands no less than the procedure established by the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2277-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2277-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 500-86 Judiciary on S.B. No. 2290-86

The purpose of this bill is to assure that the office of public guardian receives and responds appropriately to petitions for public guardianship. Your Committee has amended the bill to clarify eligibility for public guardianship, and to instruct the public guardian to give permanent guardianship and the needs of the elderly a priority equal to that given other functions and needs.

This bill permits the people, agencies, or facilities responsible for the care of incapacitated persons to file petitions on their behalf for public guardianship. Your Committee has concluded that care-givers are in an excellent position to recognize needs for public guardianship and to seek assistance in making decisions affecting the incapacitated individuals in their care. The bill also directs the public guardian to give equal priority to the needs of the elderly and to petitions for permanent guardianship. This language was adopted to create a more balanced program by offsetting the current tendency to respond first to acute needs that are more easily met. Your Committee points out that the needs of the elderly and the needs of those who require permanent guardianship are difficult to meet outside the office of the public guardian and were important in the decision to establish the office.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2290-86, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as S.B. No. 2290-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 501-86 Judiciary on S.B. No. 1550-86

The purpose of this bill is to protect officers and board members of nonprofit corporations from civil liability for administrative actions undertaken in good faith on behalf of nonprofit corporations. The immunity covers all officers and board members serving without payment. It does not extend to liabilities resulting from wanton acts, or from gross negligence in the performance of officers' and directors' duties.

Your Committee is aware that nonprofit organizations are finding it increasingly difficult to obtain sufficient insurance coverage for their boards and officers, which strongly discourages service and is disabling to the organizations.

Your Committee finds that directors of non-profit corporations are engaged in the formulation rather than the administration of policy. Such activities would expose the directors to liability because the present measure does not extend protection to duties other than administrative action.

Your Committee has therefore amended the bill by deleting the proposed provisions and substituting provisions found in similar statutes that establish exemptions for directors of public boards and commissions.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1550-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1550-86, S.D. 2.

Signed by all members of the Committee except Senators Abercrombie and Kuroda.

SCRep. 502-86 (Majority) Judiciary on S.B. No. 2258-86

The purpose of this bill is to assure that the principle of joint and several liability does not produce inequitable results when part of a judgment is uncollectible.

Your Committee has amended the bill to better achieve its purpose. The bill requires that a plaintiff's share of negligence, if any, shall be subtracted in reallocating any unpaid share of general damages. Unpaid punitive damages are not reallocated, and uncollectible special damages are allocated among negligent defendants. The amended bill also specifies the court's role in determining whether an award is collectible and reallocating it. Other technical amendments were made that do not alter the purpose or effect of the bill.

The bill precludes joint liability for punitive and general damages and provides for the reallocation of any uncollectible portion of a judgment among all solvent parties in proportion to their negligence.

Your Committee has carefully considered testimony that tortfeasors should pay shares of a judgment no greater than their share of negligence, and that defendants less negligent than the plaintiff should not have to contribute to pay the uncollectible portions of judgments.

When a portion of a special damages judgment is uncollectible, some unfairness will inevitably result. Either a plaintiff's losses will be uncompensated, or a defendant will be required to pay a share of the total judgment disproportionate to its liability. This bill chooses more complete compensation of plaintiff's losses, which is, in a sense, obtained at defendants' expense. However, defendant's liability for any allocated or reallocated amount is limited by defendants' ability to pay. In contrast, plaintiffs can be driven deeply into insolvency by the financial burdens of the injury. This fact dictates our difficult choice. Limiting joint liability to special damages offsets this choice to some extent.

Even if defendants are required to pay portions of the judgment disproportionate to their liability, their shares should not be disproportionate compared to the shares of other solvent negligent parties. For this reason, the bill reallocates the uncollectible portion of an award among negligent plaintiffs as well as defendants. Your Committee concludes that this bill accomplishes an even-handed allocation of uncollectible awards.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2258-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2258-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and Kuroda.
Senator George did not concur.

SCRep. 503-86 Judiciary on S.B. No. 2238-86

The purpose of this bill is establish an offense of displaying pornographic material to minors.

Your Committee received extensive testimony expressing the concerns of citizens about this subject.

Upon deliberation, your Committee has simplified the proposal. Evidentiary issues that have traditionally been decided by the courts, proposed for codification in this bill, have been deleted. Similarly, changes in definitions and expansion of culpability have been deferred for further consideration as case law is developed in this area.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 2238-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2238-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 504-86 Judiciary on S.B. No. 2331-86

The purpose of this bill is to ensure that persons who sell or rent material involving sexual conduct between consenting adults to private citizens for use in the privacy of their homes are

accorded proper notice and due process of law.

Extensive hearings were held at which a variety of views were expressed. General agreement was reached that nothing should be changed with respect to the pornography statutes that would have the effect of diluting the present standards. The Honolulu Police Department and the Prosecutor's office of the City and County of Honolulu testified that they did not believe an adversarial hearing proposed in the bill would facilitate the purposes as originally stated. However, testimony from these sources as well as that of the attorney for The Citizens for Decency, Mr. Steven Bull indicated that the key to the decision on whether to sell or rent video material involving sexual conduct depended on specific procedures being established with respect to knowledge by the seller or renter of the content of the material disseminated.

Therefore, your Committee has amended the bill by deleting most of the proposed provisions and inserting the word "nature" to the definition of the offense for promoting pornography to insure that all persons connected with the sale or rental of adult video material are fully cognizant of the requirements of the law in conformance with the decision of the Supreme Court of Hawaii in State v. Bumanglag, 63 Hawaii 596 (1981).

Your Committees on Judiciary is in accord with the intent and purpose of S.B. No. 2331-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2331-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kuroda.

SCRep. 505-86 Human Services on S.R. No. 49

The purpose of this resolution is to request the Department of Land and Natural Resources to exchange land with the Hawaiian Memorial Park Cemetery Association for a state veterans cemetery.

Your Committee finds that the National Cemetery of the Pacific, Punchbowl, being the only national cemetery for the Pacific Region, is approaching full capacity with a projected closing in late 1988. The next closest regional national cemetery for Hawaii veterans is in Riverside, California.

The Hawaiian Memorial Park Cemetery Association presently owns 203 acres of land in Kaneohe. The State owns an adjacent 89.5 acres. An exchange of these sites will make it possible to build a state veterans cemetery to accommodate 100,000 burial plots on 91.6 acres.

The federal government, under Public Law 95-476, will provide at least fifty percent of the construction costs for a veterans cemetery built by the State.

Your Committee on Human Services concurs with the intent and purpose of S.R. No. 49 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 506-86 Human Services on S.C.R. No. 26

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources to exchange land with the Hawaiian Memorial Park Cemetery Association for a state veterans cemetery.

Your Committee finds that the National Cemetery of the Pacific, Punchbowl, being the only national cemetery for the Pacific Region, is approaching full capacity with a projected closing in late 1988. The next closest regional national cemetery for Hawaii veterans is in Riverside, California.

The Hawaiian Memorial Park Cemetery Association presently owns 203 acres of land in Kaneohe. The State owns an adjacent 89.5 acres. An exchange of these sites will make it possible to build a state veterans cemetery to accommodate 100,000 burial plots on 91.6 acres.

The federal government, under Public Law 95-476, will provide at least fifty percent of the construction costs for a veterans cemetery built by the State.

Your Committee on Human Services concurs with the intent and purpose of S.C.R. No. 26 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 507-86 Labor and Employment on Gov. Msg. No. 112

Recommending that the Senate advise and consent to the nomination of ROBERT C. GILKEY as Director of Labor and Industrial Relations, for a term ending December 1, 1986.

Signed by all members of the Committee.

SCRep. 508-86 Labor and Employment on Gov. Msg. No. 213

Recommending that the Senate advise and consent to the nomination of RONALD Y. KONDO to the Labor and Industrial Relations Appeals Board, for a term ending June 30, 1995.

Signed by all members of the Committee.

SCRep. 509-86 Agriculture on S.C.R. No. 21

The purpose of this concurrent resolution is to request the State of Hawaii to strongly support Hawaiian Abalone Farms in its abalone growing and expansion activities at the Natural Energy Laboratory of Hawaii (NELH) and, in the future, at the Hawaii Ocean Science and Technology (HOST) Park. The concurrent resolution further provides a declaration of intent to acquire the proposed seawater pumping facility to be constructed by Hawaiian Abalone Farms valued at \$2 million and a kelp pond valued at \$600,000, in the unlikely event of default by Hawaiian Abalone Farms on its proposed commercial loan and federal loan guarantees from the Farmers Home Administration.

Your Committee has received testimony from the Department of Planning and Economic Development, the University of Hawaii's College of Tropical Agriculture and Human Resources, the Natural Energy Laboratory of Hawaii, and the High Technology Development Corporation in strong support of this concurrent resolution. The Department of Planning and Economic Development emphasized the fact that the operations of Hawaiian Abalone Farms is in harmony with the Hawaii State Plan in that it is an activity that serves to increase and diversify Hawaii's economic base. The Department further pointed out that it is a policy of the State to encourage investment and employment in economic activities that have the potential for growth, one of those activities being aquaculture.

Your Committee also received testimony from George Lockwood, the General Partner of Hawaiian Abalone Farms. Mr. Lockwood stated to this Committee that the Farmers Home Administration has rejected Hawaii Abalone Farm's request for a loan guarantee because, in their opinion, Hawaiian Abalone Farm's leasehold interest in State-owned land provides insufficient collateral to secure the loan, and, that in the event of default on the loan and guarantee obligation, the leasehold interest and associated improvements at the NELH would be valueless to others.

In further testimony, Mr. Lockwood stated that in order to assure the Farmers Home Administration of the value of this State-owned leasehold and the improvements thereon, Governor George Ariyoshi has corresponded with the Farmers Home Administration expressing the intent to purchase the pumping plant and aquaculture pond should such a request be made in the unlikely event of default. Mr. Lockwood further stated that upon passage of S.R. 43 and S.C.R. 21, it is his intent to resubmit his request, along with the Governor's letter and the resolutions, for a loan guarantee, and that the Farmers Home Administration has indicated that they will then undertake a constructive re-evaluation of the revised request.

Your Committee finds that Hawaiian Abalone Farms has a high potential for success and could become a major source of employment in the North Kona area in the future. Your Committee further finds that Hawaiian Abalone Farms, with the support and encouragement of the State, will serve as a model which could well attract other aquaculture and mariculture operations to the NELH and the HOST Park, thus enhancing the State's reputation as a site for such operations and further increasing and diversifying the economic base of the State.

Your Committee further finds that the adoption of this concurrent resolution will give Hawaiian Abalone Farms the support they need in order to secure the Farmers Home Administration loan guarantee they are applying for so that they can proceed with the expansion of their facilities at the NELH.

Your Committee on Agriculture concurs with the intent and purpose of S.C.R. 21 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 510-86 Agriculture on S.R. No. 43

The purpose of this resolution is to request the State of Hawaii to strongly support Hawaiian Abalone Farms in its abalone growing and expansion activities at the Natural Energy Laboratory of Hawaii (NEHL) and, in the future, at the Hawaii Ocean Science and Technology (HOST) Park. The resolution further provides a declaration of intent to acquire the proposed seawater pumping facility to be constructed by Hawaiian Abalone Farms valued at \$2 million and a kelp pond valued at \$600,000, in the unlikely event of default by Hawaiian Abalone Farms on its proposed commercial loan and federal loan guarantees from the Farmers Home Administration.

Your Committee has received testimony from the Department of Planning and Economic Development, the University of Hawaii's College of Tropical Agriculture and Human Resources, the Natural Energy Laboratory of Hawaii, and the High Technology Development Corporation in strong support of this resolution. The Department of Planning and Economic Development emphasized the fact that the operations of Hawaiian Abalone Farms is in harmony with the Hawaii State Plan in that it is an activity that serves to increase and diversify Hawaii's economic base. The Department further pointed out that it is a policy of the State to encourage investment and employment in economic activities that have the potential for growth, one of those activities being aquaculture.

Your Committee also received testimony from George Lockwood, the General Partner of Hawaiian Abalone Farms. Mr. Lockwood stated to this Committee that the Farmers Home Administration has rejected Hawaii Abalone Farm's request for a loan guarantee because, in their opinion, Hawaiian Abalone Farm's leasehold interest in State-owned land provides insufficient collateral to secure the loan, and, that in the event of default on the loan and guarantee obligation, the leasehold interest and associated improvements at the NELH would be valueless to others.

In further testimony, Mr. Lockwood stated that in order to assure the Farmers Home Administration of the value of this State-owned leasehold and the improvements thereon, Governor George Ariyoshi has corresponded with the Farmers Home Administration expressing the intent to purchase the pumping plant and aquaculture pond should such a request be made in the unlikely event of default. Mr. Lockwood further states that upon passage of S.R. 43 and S.C.R. 21, it is his intent to resubmit his request, along with the Governor's letter and the resolutions, for a loan guarantee, and that the Farmers Home Administration has indicated that they will then undertake a constructive re-evaluation of the revised request.

Your Committee finds that Hawaiian Abalone Farms has a high potential for success and could become a major source of employment in the North Kona area in the future. Your Committee further finds that Hawaiian Abalone Farms, with the support and encouragement of the State, will serve as a model which could well attract other aquaculture and mariculture operations to the NELH and the HOST Park, thus enhancing the State's reputation as a site for such operations and further increasing and diversifying the economic base of the State.

Your Committee further finds that the adoption of this resolution will give Hawaiian Abalone Farms the support they need in order to secure the Farmers Home Administration loan guarantee they are applying for so that they can proceed with the expansion of their facilities at the NELH.

Your Committee on Agriculture concurs with the intent and purpose of S.R. 43 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 511-86 Ways and Means on S.B. No. 2048-86

The purpose of this bill is to appropriate funds to finance various capital improvement projects throughout the State.

Your Committee has amended the bill to specify in sections 2 and 4 of the bill that the appropriations are for fiscal year 1986-1987.

Your Committee on Ways and Means is in accord with the intent and purpose of S.B. No. 2048-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2048-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 512-86 Judiciary on H.B. No. 1493

The purpose of this bill is to provide notice of the final disposition of a case to the victim of the crime.

Your Committee has expanded the purpose of this bill to provide statutory codification of the rights afforded to victims and witnesses of crime.

Your Committee recognizes the critical role victims play in the prosecution of criminal cases. The victims' bill of rights requires victims be kept informed of the progress of the offenders' cases. Furthermore, victims' right to be notified of available financial assistance and social services is recognized, as well as the right to expeditious return of stolen or personal property.

In order to encourage victims to report crimes, only victims who report crimes to the police within three months of its occurrence or discovery, unless there is reasonable justification to do otherwise, are eligible for services provided under the new chapter.

The bill, as amended, creates a special indemnity fund, which is funded by assessments levied by the court on criminal offenders. The proceeds of the fund will be paid to the criminal injuries compensation commission.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1493, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1493, S.D. 1 and be recommitted to the Committee on Judiciary.

Signed by all members of the Committee except Senators Aki, Cobb, George and Young.

SCRep. 513-86 Housing and Community Development on H.B. No. 2123-86

The purpose of this bill is to amend Section 516-63, Hawaii Revised Statutes, to provide that the free assignability of leases under the Land Reform Act does not apply to residential leasehold units or lots developed and sold by the Hawaii Housing Authority (HHA) or other State and county agencies.

Current language of Section 516-63, Hawaii Revised Statutes, appears to invalidate the use and transfer restrictions placed on publicly funded units and lots developed pursuant to Chapter 359G, Hawaii Revised Statutes.

Testimony submitted by HHA supports the measure as necessary to prevent the circumvention of use and transfer restrictions applicable to dwelling units involving government funds. These restrictions are intended to discourage speculation and to ensure the dwelling units benefit that segment of the public for whom the program was intended.

Your Committee finds that the proposed amendment clarifies the right of free assignability, which should not apply during the ten-year owner occupancy and transfer restriction period of residential leasehold lots under jurisdiction of the HHA.

Your Committee has amended the bill by substituting "governmental" with "state or county" in line 5 of page 1 to clarify that only the restrictions imposed by state or county agencies are exempted from Section 516-63, Hawaii Revised Statutes. Your Committee has further amended the bill by making a technical change which has no substantive effect.

Your Committee on Housing and Community Development is in accord with the intent and purpose of H.B. No. 2123-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2123-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 514-86 Housing and Community Development on S.B. No. 2024-86

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 state and county taxation, except transfer and estate taxes.

Presently, 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 specially benefit from the 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 up to twenty years. To provide financing for these property owners, HCDA is authorized under Section 206E-6, Hawaii Revised Statutes, to issue improvement district assessment bonds.

The HCDA testified that bond counsel has determined the Authority's assessment bonds are

not revenue bonds as defined in Chapter 39, Hawaii Revised Statutes, and, therefore, are not entitled to an exemption from state and county taxes. Furthermore, Chapter 206E, the Authority's enabling legislation, does not include specific language exempting these bonds from state and county taxation.

Your Committee finds that the proposed amendment would permit the assessment bonds to be exempt from state and county taxation and would place the Authority's bonds at parity with other revenue bonds of the State. Without this exemption, HCDA's assessment bonds would be at a competitive disadvantage to other comparable revenue bonds.

Your Committee on Housing and Community Development is in accord with the intent and purpose of H.B. No. 2024-86, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 515-86 Housing and Community Development on Gov. Msg. No. 107

Recommending that the Senate advise and consent to the nomination of DON J. DALEY to the Board of Directors of the Aloha Tower Development Corporation, for a term ending June 30, 1987.

Signed by all members of the Committee.

SCRep. 516-86 (Majority) Transportation on H.B. No. 26

The purpose of this bill is to raise the minimum drinking age to twenty-one.

Drunk driving, once given scant attention, is now a prominent issue. Records of deaths and injuries resulting from drunk driving have spurred consideration or various proposals addressing this problem. A nationwide drinking age of twenty-one has been suggested as one solution to drunk driving. Proponents assert that those aged eighteen to twenty have a disproportionately high per capita rate of alcohol-related accidents than those in other age categories; thus, it is argued, raising the drinking age should result in a significant decrease in alcohol-related traffic fatalities and injuries.

The federal government is supporting a national drinking age through Public Law 98-363, which penalizes states without a drinking age requirement of twenty-one. Thus, if a state does not have such a requirement by October 1, 1986, five percent of its federal highway funds will be withheld for fiscal year 1987. If a state does not have the requirement by October 1, 1987, ten percent of its highway funds will be withheld in fiscal year 1988. For the State of Hawaii, this would amount to \$5,875,000 in fiscal year 1987 and \$11,750,000 in fiscal year 1988—a total of \$17,625,000.

H.B. No. 26 was introduced in the Legislature last year and was heard by this Committee on March 30, 1985. The State Department of Transportation testified in support of the bill, estimating that a twenty-one drinking age law would cause traffic fatalities to decline by ten per cent annually.

Favorable testimony was also given by Mothers Against Drunk Drivers (MADD). Using figures from the State Department of Transportation, MADD stated that during the ten years from 1974 to 1985, those under twenty-one compromised ten percent of the licensed driver population, but were involved in nineteen per cent of alcohol-related traffic fatalities. MADD also noted that when Hawaii lowered its drinking age in March 1972, alcohol-related accidents among those aged eighteen and nineteen increased by fifty-two per cent in 1972 and by twenty-two per cent in 1973.

Additional support for this measure came from the Hawaii Independent Insurance Agents Association, which stated that in Michigan, there was a twenty per cent increase in driving deaths when the drinking age was lowered to eighteen. A thirty-one per cent reduction in fatalities followed when the drinking age was later raised to twenty-one.

Circuit Court Judge Leland Spencer also testified in favor of the bill, stating that permitting those eighteen to twenty years old to drink encouraged crime. Therefore, according to Judge Spencer, raising the drinking age would lower crime rates.

Others offering testimony in support included the Honolulu Police Department; the Board of Education; the Chamber of Commerce; the Junior League of Honolulu; the Hawaii Medical Association and the Hawaii Medical Association Auxiliary; the Hawaii Chapter of the American College of Emergency Physicians; the Salvation Army; the Hawaii Council of Churches; the

Hawaii PTSA; the Hawaii Association of Independent Schools; the Hawaii Independent Schools Parents' Association; the Hawaii Hotel Association; Christine Alicata, a University of Hawaii student; and three private citizens, Mike Chun, Francine Coffey, and Kathy Prenger.

Your Committee also received testimony opposing passage of the bill. Questions were raised as to the accuracy and interpretation of the data used to support the measure. Attention was given especially to the involvement index, which proponents of the measure used to compare alcohol-related traffic incidents among age groups.

According to Dr. James Marsh, Professor of Business Economics and Quantitative Methods at the University of Hawaii, the index does not account for vehicle miles driven per age group. Dr. Marsh stated that since those eighteen to twenty drive more than those in other age groups, excluding this factor in the index biases the interpretation against those aged eighteen to twenty. He also noted that the figures used in support of the bill did not compare age brackets equally; that is, those in the three year age bracket of eighteen to twenty were being compared to the larger age bracket of those twenty-one and older. Dr. Marsh concluded that when these factors were accounted for, there was no strong evidence that eighteen to twenty year olds were a significant part of the drinking and driving problem.

Dr. Marsh further testified that raising the drinking age would create severe economic impacts. According to his survey of liquor dispensing establishments, raising the drinking age would cause income losses of \$90 to \$150 million and tax revenue losses of \$10 million per year. Fifteen to thirty-five per cent of the businesses would be forced to close, leaving two thousand to three thousand people without work. Dr. Marsh also found that even if the bill explicitly allowed those aged eighteen to twenty to sell and serve alcohol, liquor dealers would still be reluctant to employ them. He estimated that approximately 1,150 jobs would be lost by those in the target age group as a result.

Testimony in opposition was also given by Dr. Meda Chesney-Lind, Researcher with the Youth Development and Research Center of the University of Hawaii. Dr. Chesney-Lind cited a 1983 study of 22 states where states with a twenty-one drinking age actually had higher traffic fatalities than in those with an drinking age of eighteen. She also noted that in Florida, Illinois, Iowa, Maine, Massachusetts, Minnesota, and Montana, an increase in the drinking age was not followed by a permanent decline in traffic fatalities and injuries.

Dr. Chesney-Lind also questioned the use of the involvement index. According to her, the index tends to exaggerate even slight differences between age groups, as the data on which the index is based are small. Therefore, her research examined the actual percentages on which the involvement index was based. Although this approach differed from that of Dr. Marsh's, Dr. Chesney-Lind also concluded that those eighteen to twenty were not a significant part of the problem of drunk driving.

Dr. Chesney-Lind further testified that raising the drinking age would be discriminatory. First, it would remove an adult privilege from those normally considered adults. Second, it would also discriminate against women. To support this point, Dr. Chesney-Lind produced figures indicating that in 1983, women comprised forty-four per cent of all licensed drivers, yet were only 7.1 per cent of those arrested for driving under the influence.

Opposition to the bill also was received from Dr. Thomas Eric Johnson, a sociologist and economist; the Senate of the Associated Students of the University of Hawaii; Jesus Basuel, Lisa Nakasone, Arnold Kanai, and Sharon Marzo, students at Honolulu Community College; Liza Denis, a Punahou School student; the Liquor Dispensers of Hawaii; the Retail Liquor Dealers Association of Hawaii; AP Inc.; the Jazz Cellar Nightclub; Cilly's Nightclub and Lounge; the Hawaii Committee for the Minimum Drinking Age; and Marie Stires, a private citizen.

Apart from these considerations, your Committee also was concerned with the constitutionality of Public Law 98-363. On September 18, 1985, the State of South Dakota filed suit against the Secretary of Transportation to challenge the federal government's authority to withhold federal subsidization to encourage a national drinking age. Anticipating this suit, the State of Hawaii, along with the States of Colorado, Idaho, Montana, and Vermont, filed an amicus curiae brief on September 17, 1985, to join the efforts of South Dakota. In addition to the constitutionality question, the State of Hawaii noted that since the problem of crossing state lines to drink did not apply to Hawaii, the State had reason to be exempted from Public Law 98-363.

Your Committee's decision to postpone decision making on H.B. No. 26 was to await the outcome of the legal challenge of South Dakota and other states to Public Law 98-363. At that time, your Committee believed the potential penalties which could be imposed on states for noncompliance posed a threat which was incompatible with objective decision making and the principle of states' rights. However, as the resolution of the compliance is imminent, your

Committee believes that it cannot postpone this matter further and is compelled to act to avoid the loss of federal highway funds. These funds are sorely needed for the construction of important state highway projects; moreover, it is not lost on your Committee that last year, the Legislature was forced to increase the fuel and weight taxes and the vehicle registration fee significantly to keep the highway fund solvent. Your Committee believes further delay will only jeopardize receipt of federal funds. Accordingly, your Committee made a number of amendments to the bill.

Your Committee views this legislation as a test of the proposition that a drinking age of twenty-one will significantly reduce traffic fatalities and injuries. Therefore, the effective date of this bill has been changed to match the federal deadline of October 1, 1986, and has been amended further to expire on September 30, 1991. During this period, the State Department of Transportation shall study the effectiveness of the higher drinking age and shall report its findings before the 1988 and 1991 Legislatures. Your Committee believes that this will give the time and information needed to make a balanced judgment on this issue.

As noted earlier, your Committee received testimony from the Hawaii Independent Insurance Agents Association attesting that raising the drinking age would reduce traffic fatalities and injuries. This was corroborated by testimony from the State Department of Transportation, the Hawaii Medical Association, and other groups.

An obvious and logical consequence of the anticipated decrease in fatalities and injuries will be a reduced payout of insurance benefits. This will result in a savings to the insurance industry. Your Committee concluded that these expected savings should be passed on to the consumer. In this connection, your Committee is cognizant that the usual practice followed in insurance rate setting is to develop a three to five year history as a basis for determining rates, but decided that unless an estimated savings was passed on to the consumer forthwith, a windfall would result to the benefit of the insurance industry. Your Committee noted that much of the data cited by proponents of raising the drinking age was provided by the insurance industry itself. Hence, your Committee relied on the accuracy of such data in deciding to mandate a ten per cent reduction of insurance premiums.

Your Committee has also amended the bill to clarify the section allowing minors to sell and serve alcohol. Other technical amendments were made that have no substantive effect.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 26, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 26, H.D. 1, S.D. 1.

Signed by all members of the Committee.
Senators George and Soares did not concur.

SCRep. 517-86 (Joint) Economic Development and Tourism and Recreation on S.C.R. No. 16

The purpose of this concurrent resolution is to provide authority for the disposition of certain government submerged land offshore of Kailua-Kona, Hawaii, to establish a mooring anchor for a fishing platform.

Currently, under Section 171-53, Hawaii Revised Statutes, the Board of Land and Natural Resources may lease or grant easements over submerged land with the prior approval of the Governor with prior authorization of the Legislature by concurrent resolution.

Your Committees find from testimony by the Department that the Governor has granted his approval of this proposed disposition of land.

The mooring anchor to be established will be used to secure a fishing platform. The platform, a converted ocean-going barge, is intended to serve as a fish aggregating device for fishing from on board. The platform will also house amenities for fishermen, a marine research laboratory, and a base for rearing mahimahi.

The proposed easement will cover approximately 100 square feet of land offshore and seaward of Kailua-Kona, Hawaii, for a period of forty years.

Your Committees are in agreement that the proposed disposition would encourage research and economic development in the area of marine resources. Your Committees made a technical nonsubstantive amendment to correct the misspelled word "forty".

Your Committees on Economic Development and Tourism and Recreation concur with the intent and purpose of S.C.R. No. 16, as amended herein, and recommend its adoption in the

form attached hereto as S.C.R. 16, S.D. 1.

Signed by all members of the Committees.

SCRep. 518-86 (Majority) Judiciary on H.B. No. 122

The purpose of this bill is to give investigators from the attorney general's office access to the records of any state department, to facilitate prosecution of medicare fraud.

Your Committee has amended the bill so that its purpose is now to assist investigations of medicare fraud and to assure that investigatory subpoenas issued by the attorney general's office are used only in general investigations and not in conjunction with existing or imminent litigation.

The bill overcomes the reluctance of state agencies to make otherwise confidential records that are pertinent to medicaid fraud available to the attorney general's office. All agencies of the state and its political subdivisions are included within the scope of the bill.

The bill also clarifies the proper use of investigatory subpoenas by the attorney general's office. The office has been given broad unsupervised subpoena power for use only in connection with general information gathering. Once a general survey has developed into an investigation of specific wrongdoing, the attorney general's office is subject to the same limits that are imposed on other litigants.

The difficult problems of conducting medicaid fraud investigations and of integrating the attorney general's investigatory and prosecutorial functions require further consideration by your Committee.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 122, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 122, H.D. 1, S.D. 1, and be recommitted to the Committee on Judiciary.

Signed by all members of the Committee except Senator Toguchi.
Senator Abercrombie did not concur.

SCRep. 519-86 Labor and Employment on H.B. No. 2223-86

The purpose of this bill is to provide supplemental funding for the Office of Community Services.

Your Committee received supporting testimony from the Executive Director of the Office of Community Services, the Hawaii Community Action Program Director's Association, and the American Association of Retired Persons, and finds that in addition to probable Gramm-Rudman cuts, the Community Services Block Grant is scheduled to expire on September 30, 1986 with Reagan Administration recommendations against reauthorization. This bill would allow the Office of Community Services to contract with the Community Action Agencies to maintain current services despite these obstacles and is therefore in the public interest.

Your Committee has amended the bill by increasing the amount of the appropriation from \$1 to \$2, and by making technical changes which have no substantive effect.

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 2223-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2223-86, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 520-86 Labor and Employment on H.B. No. 2144-86

The purpose of this bill is to supplement federal funds received under the Job Training Partnership Act (JTPA).

The purpose of JTPA is to provide job training and placement to economically disadvantaged individuals who are dislocated workers and/or senior citizens age fifty-five or older.

Your Committee received testimony in support of this measure from the Department of Labor and Industrial Relations, the Director of the Executive Office on Aging, the University of Hawaii, and Joined Organizations for a Better State, and finds that with the anticipated effects of the Balanced Budget and Emergency Deficit Control Act of 1985, state funds will be needed

to supplement the Job Training Program in order to maintain the present level of services to elderly and dislocated workers who need them.

Your Committee has amended the bill by changing the appropriation from \$1 to \$2.

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 2144-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2144-86, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 521-86 Labor and Employment on H.B. No. 1991-86

The purpose of this bill is to grant permanent civil service status to the Director of the Hawaii Criminal Justice Data Center.

The Hawaii Criminal Justice Data Center was transferred administratively from the Judiciary to the Department of the Attorney General in 1981, and other positions except that of the Director have since been granted permanent civil service status.

Your Committee received supporting testimony from the Office of the Attorney General, the Department of the Prosecuting Attorney of the City and County of Honolulu, the Department of Personnel Services, and the State Intake Service Centers, and finds that there is a need for continuity and direction in the programs affecting criminal justice agencies in the State, and that this bill would play a significant role in effecting such continuity.

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 1991-86, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 522-86 Labor and Employment on H.B. No. 1898-86

The purpose of this bill is to provide for a study to recommend the proper direction for the State in developing a plan which ties together and coordinates statewide employment, human resource, and economic development policies and activities.

The bill would provide an appropriation to the Advisory Commission on employment and Human Resources to study how best to (1) relate human resource development programs to economic development policies; (2) bring coordination and unified direction to various federal, state, county, and private job training and vocational education resources; and (4) carry out innovative forms of human resource development programming that are not currently being done by existing programs.

Your Committee received testimony in support of this bill from the Department of Labor and Industrial Relations, the Director of Planning and Economic Development, the commission on Employment and Human Services, and the Chief Economist of First Hawaiian Bank. Your Committee received additional testimony from the Chancellor for Community Colleges, indicating that the proposed study is too far-reaching in its scope and may be intruding on or conflicting with present state and federal policy in these areas.

Your Committee finds that this bill will contribute to the furtherance of declared public goals in terms of human resource and economic development in the State, and is therefore in the public interest. Your Committee, however, finds that the concerns of the Chancellor of the Community Colleges are valid, and amended bill to provide for a study which recommends action to implement current policy and ongoing programs.

Specifically, your Committee amended the bill as follows:

- (1) SECTION 1: deleted reference to tourism on page 1, lines 9 and 10, as "a primary job market which employs people on a year-round basis."

Modified the expressed needs to be addressed by a development plan; beginning on page 2, line 17 through page 3, line 8 to read: (1) relate human resource development programs to economic development policies; (2) bring greater coordination and unified direction to human resource programming; (3) develop a more focused program of resource generation; and (4) support the development of innovative forms of human-resource-development programming in the state. Modifies the purpose of

the study on page 3, lines 9 complement the employment functional plan, and to indicate the human resources necessary for economic development of the State.

(2) SECTION 2: deleted the language beginning on page 3, line 13 through page 6, line 5, directing the commission to develop policy relating human resources and economic development.

(3) SECTION 3: changed the effective date from upon approval to July 1, 1986.

Your Committee has also amended the bill by making non-substantive language changes for the purposes of clarity and in conformance with recommended drafting style.

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 1898-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1898-86, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 523-86 Labor and Employment on H.B. No. 1322

The purpose of this bill is to require all employers whose principal place of business is outside the state to register with the Director of Labor and Industrial Relations prior to commencing employment within the State.

Your Committee received testimony from the Department of Labor and Industrial Relations (DLIR) stating that some out-of-state employers are contractors engaged in federal public works projects on United States military bases in Hawaii. Federal contracts have special provisions which require that prior to commencement of work, the contractor furnish to the contracting officer a certificate or statement of workers' compensation coverage for the entire period of the contract. At times the DLIR is unable to seek compliance as some insurance carriers are not based in Hawaii.

Furthermore, your Committee finds that out-of-state contractors may have an unfair advantage over local contractors, if they do not comply with regulations requiring workers' compensation coverage, which allows them to underbid local contractors.

This bill would resolve any inequity in this area so that equal opportunity would be available to all parties concerned.

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

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 1322, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1322, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee.

SCRep. 524-86 Labor and Employment on H.B. No. 2210-86

The purpose of this bill is to appropriate \$58,516 for the conversion of three air quality electronic technicians in the Department of Health from federal to state funding. Such conversion would enable the Department to use federal moneys to purchase the equipment needed to reopen several key air monitoring sites which have been closed due to lack of funds.

Your Committee heard supporting testimony by the Department of Health and others and finds that air quality monitoring stations play an important role in managing the problem of air pollution in the State. Your Committee further finds that proper enforcement of air quality rules to protect the public's health requires that the Department have access to the baseline data which these stations provide.

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 2210-86, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 525-86 Government Operations on H.B. No. 1878-86

The purpose of this bill is to provide an administrator and staff support to the state fire council.

Your Committee has heard S.B. 1800 which is the companion to this bill and finds that effective administration and operation of the legislated responsibilities of the council requires appointment of an Administrator who is experienced in fire prevention, fire codes, and building codes, as well as appropriate clerical staff.

The bill provides that the administrator shall be a member of the Honolulu fire department and that the city and county of Honolulu shall be reimbursed annually by the State for all operating costs of the council.

Your Committee has amended this bill by providing an appropriation of \$52,000 from state general revenues for operating expenses of the administrator's office. This amount reflects salary for an SR-29 level administrator, salary for an SR-11 level clerk, and associated equipment costs. Your Committee has also made nonsubstantive amendments for the purposes of clarity and conformance with recommended drafting style.

Your Committee on Government Operations is in accord with the intent and purpose of H.B. No. 1878-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1878-86, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 526-86 Judiciary on H.B. No. 2752-86

The purpose of this bill is to appropriate funds to aid the Hawaii Bar Association in initiating a "Dial Law" information service.

Your Committee has amended the bill to reduce the maximum amount appropriated from \$45,000 to \$22,500, and to make the appropriation contingent on the Hawaii Bar Association supplying matching funds.

Your Committee finds that the public's understanding of the areas of law that affect their daily lives can be enhanced by a "Dial Law" program. The program may also help individuals conform their conduct to relevant legal requirements, and improve public access to the legal system.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2752-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2752-86, H.D. 1, S.D. 1 and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Aki, Cobb and Kawasaki.

SCRep. 527-86 Judiciary on H.B. No. 2574-86

The purpose of this bill is to appropriate the sum of \$1,829,781.30 to pay a judgment entered against the State Department of Education and in favor of the federal Department of Education. The federal government's suit against the State alleged that the State spent federal funds for expenses that should have been met by state revenues, and that the State did not provide the required level of services in some schools.

The State of Hawaii appealed the adverse decision and succeeded in obtaining a reduction in the amount of the judgment. Any further legal action would not be likely to diminish the amount owed.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2574-86, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Aki, Cobb and Kawasaki.

SCRep. 528-86 Judiciary on H.B. No. 2446-86

The purpose of this bill is to provide the funds necessary to plan and design a statewide computerized system for sharing information pertaining to juveniles. Adequate planning and design are essential if the system is to operate effectively.

Information sharing among the police, prosecutor, family court, and the youth correctional facility would facilitate the handling of cases involving juveniles. Testimony on the bill

indicated that often juveniles who have come into contact with the police or the family court move from one island to another, causing lapses in their supervision or treatment. A statewide computerized information system would simultaneously provide prompt, accurate and comprehensive information about these juveniles to appropriate officials on all islands. Such information would be used to maintain contact with and control over such juveniles, assuring continuity in their supervision and treatment.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2446-86, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Aki, Cobb and Kawasaki.

SCRep. 529-86 Judiciary on H.B. No. 2540-86

The purpose of this bill is to provide funds to the Hawaii Criminal Justice Commission for the production and airing of videotaped programs designed to educate the public about crime prevention and the criminal justice system in Hawaii. The bill also provides for the production and airing of a series of 30-second public service announcements that emphasize crime prevention, personal safety, and protection of property.

Television is the most efficient means of providing the public with a better understanding of crime and crime prevention. To reach the greatest number of members of the public, your Committee intends that, in addition to being broadcast over public airwaves, the videotapes will be available to the Department of Education and any other interested organization for showing privately or via closed circuit television.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2540-86, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Aki, Cobb and Kawasaki.

SCRep. 530-86 Judiciary on H.B. No. 2204-86

The purpose of this bill is to improve the availability and reliability of the civil identification issued by the office of the attorney general.

The bill amends Section 846-29, Hawaii Revised Statutes, to allow the office to demand documentation of the information provided by applicants for identification. The bill also appropriates funds to enable the attorney general's office to send staff to the neighbor islands to assist applicants for civil identification.

Currently, necessary information is obtained from applicants in personal interviews, and applicants who reside on the neighbor islands must travel to Oahu to obtain this form of identification.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2204-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Aki, Cobb and Kawasaki.

SCRep. 531-86 Health on H.B. No. 2705-86

The purpose of this bill is to appropriate \$50,000 to maintain the current statewide system of substance abuse services.

Your Committee finds that continued reductions in federal funding, together with the increasing costs of liability and malpractice insurance, have reduced the capability of the substance abuse service network to provide essential services to the people of Hawaii. Your Committee further finds that substance abuse prevention, crisis intervention, and outpatient and residential substance abuse services are essential to the efforts of the legislature and the State to provide for the public health, and should be supported financially to the maximum extent feasible under current budget conditions. Therefore, your Committee has amended this bill by increasing the appropriation from \$50,000 to \$278,000.

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

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2705-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2705-86, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 532-86 (Joint) Health and Human Services on H.B. No. 2506-86

The purpose of this bill is to provide a means by which developmentally disabled children would be allowed to remain with their foster families upon reaching age eighteen.

Present law allows foster care of developmentally disabled children only until their eighteenth birthdays, after which other accommodations must be found. In most cases the only other facility equipped to care for such disabled adults is Waimano Home. This bill would provide continuity of care by allowing the children to stay with their foster parents after their eighteenth birthdays while the Department of Health, in consultation with the Department of Social Services and Housing and the State Planning Council on Developmental Disabilities, develops alternate strategies for accomplishing continuity on a permanent basis.

Specifically, the bill does the following:

- (1) Authorizes the Department of Health to license "adult foster care homes" from July 1, 1986 to June 30, 1987, using the current rules of the Department of Social Services and Housing relating to child foster boarding homes;
- (2) Authorizes the Department of Social Services and Housing to allow developmentally disabled children to remain in their foster homes if their eighteenth birthdays occur between July 1, 1986 and June 30, 1987;
- (3) Provides that child foster boarding homes may operate as adult foster care homes until June 30, 1987; and
- (4) Provides that the Department of Health shall conduct a study on the scope of the problem, alternative solutions, the adequacy of payments for developmentally disabled adults in adult foster home settings, and the legislation and rules necessary to effectuate the regulation of adult foster care homes.

Your Committees heard supporting testimony by the Department of Health, the Department of Social Services and Housing, Easter Seals, the Commission on the Handicapped, the State Planning Council on Developmental Disabilities, and others, and find that the continuity of care provided in this measure is essential to the well-being of Hawaii's developmentally disabled children and young adults. In addition, your Committees believe that the enthusiasm and cooperation evinced by the agencies involved will result in solutions which will be of lasting value to the community and in keeping with the declared public policies of the legislature and the State to provide for the health and welfare of the people of Hawaii.

Your Committees on Health and Human Services are in accord with the intent and purpose of H.B. No. 2506-86, H.D. 2, and recommend that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senators Yamasaki and Kawasaki.

SCRep. 533-86 Judiciary on H.B. No. 692

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

That purpose has been fulfilled by the enactment of Act 153, Session Laws of Hawaii 1985, Relating to Terms of Boards and Commissions.

Your Committee has amended the bill to now provide for the extension of that act to several bodies that have been governed by separate statutory provisions.

The bill, as amended, would align the terms of board members of the State Foundation on Culture and the Arts, the Research Corporation of the University of Hawaii, the Board of Private Detectives and Guards, the Real Estate Commission, and the Board of Speech Pathology and Audiology with the terms of members in other boards and commissions.

As this bill extensively amends the version that was received from the House of Representatives and previously heard by your Committee, further consideration by your

Committee is indicated.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 692, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 692, H.D. 1, S.D. 1, and be recommitted to the Committee on Judiciary.

Signed by all members of the Committee except Senator Aki.

SCRep. 534-86 Judiciary on H.B. No. 1990-86

The purpose of this bill is to appropriate funds to satisfy claims for legislative relief, judgments against the State, settlements, and miscellaneous claims.

The bill requires payment by warrants issued by the comptroller upon vouchers approved by the Director of Taxation for tax claims and by the Attorney General for all other claims.

Your Committee has amended the bill to include a claim for \$100.00. The Department of the Attorney General recommended that the claim be paid, although it did not result from circumstances which usually give rise to a legal claim against the state. Your Committee decided that the claim should be paid in the interest of equity and fairness.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1990-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1990-86, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Aki.

SCRep. 535-86 Judiciary on H.B. No. 1954-86

The purpose of this bill is to amend the constitutional provision that requires the legislature to recess for a five day interval after the twentieth but before the fortieth day of each session. The bill would allow recesses totalling five days in duration to occur at any time after the deadline for bill introduction. The days to be spent in recess each session would be determined by a majority of the members of each house.

Your Committee has amended the bill to clarify the prescribed method of recessing a session. All recesses shall be accomplished by concurrent resolutions adopted by a majority of the members to which each house is entitled.

Your Committee finds that the current constitutional provision does not always serve the purpose for which it was adopted. Holding recesses later in a session may allow the public to focus on the legislation more likely to be adopted. Dividing the days of recess into shorter intervals may assist members of the public in monitoring legislation as it moves through the legislative process, and in affecting the status of bills as they pass through one or more committees in each house.

The members of the public who participate in the legislative process generally follow a limited number of measures for the whole session. A five-day recess may be more time than most persons require as a respite from legislative business, and it is obtained at the cost of having no recess time later in the session.

The constitutional amendment proposed by the bill would allow the legislature to determine the days for recess most likely to be convenient and useful to the general public. Further, recesses could be scheduled at appropriate times in relation to the numerous other legislative deadlines that are determined on a year-by-year basis.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1954-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1954-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Aki.

SCRep. 536-86 Judiciary on H.B. No. 381

The purpose of this bill is to increase the daily stipend paid to jurors from twenty to thirty dollars a day. The bill reduces the sacrifice asked of those who serve on juries, and may encourage such service.

Jurors are asked to regard jury service as a civic duty, and to accept accordingly the

inconvenience and financial disadvantage that it entails. Many citizens do so, but others avoid serving if at all possible; some may simply be unable to spend days on jury duty earning less than the minimum wage.

Your Committee finds that, since no public function is more important than that provided by juries, juror compensation should be increased in the hope of enlarging the pool of those able to serve.

Your Committee has amended the bill to correct a typographical error.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 381, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 381, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Aki.

SCRep. 537-86 Judiciary on H.B. No. 2221-86

The purpose of this bill is to consolidate all of the statutory provisions designed to assure children a safe home environment, either with their natural families or in adoptive homes. The bill also adds specificity to existing statutory standards by providing clear guidelines for making the factual determinations that dictate placement decisions.

It is currently necessary to initiate separate legal proceedings to undertake supervision of a child's welfare and attempt to reunify the child's family, then to terminate parental rights, and finally to arrange adoption or guardianship. By integrating the several processes the bill eliminates undue delay and avoids an unsettling series of temporary placements for the child.

Your Committee has amended the bill to delete a provision allowing children's statements to be recorded and used as evidence in child protective proceedings, and to eliminate two other references to such recordings. The availability of recordings could reduce the need for repeatedly interviewing children in need of protection. However, your Committee concludes that any recording that is done in connection with child protective proceedings should be conducted in conformity with existing statutory requirements governing the use of audio and video recordings in criminal proceedings.

Your Committee has also made technical amendments to clarify the bill and conform it to recommend drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2221-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2221-86, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Aki, Cobb and Kawasaki.

SCRep. 538-86 Judiciary on H.B. No. 317

The purpose of this bill is to establish a new statute of limitations applicable to claims brought in state courts under federal statutes that do not specify a limitations period. The existing statute allows only one year. The bill increases the limitations period to two years.

The bill, as amended, will assure that rights protected by federal law are as well received in Hawaii's courts as are claims made under state law. The bill also brings Hawaii's statute into conformity with a recent United States Supreme Court decision, (Wilson v. Garcia, 53 Law Week 4481, (1985)) on the limitations period to be applied under a federal civil rights statute, 42 U.S.C. 1983. The Court held that in enforcing the federal statute, a state must apply the same limitations period used in state tort actions. The relevant period in Hawaii is two years.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 317, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Aki and Kawasaki.

SCRep. 539-86 Health on H.B. No. 1684-86

The purpose of this bill is to appropriate \$50,000 out of the general revenues of the State to educate the public about acquired immune deficiency syndrome (A.I.D.S.) and A.I.D.S. Related Complex (A.R.C.).

Your Committee believes that the public should be properly educated about A.I.D.S. and ARC. This bill provides for public education including the dissemination of literature and information to the public.

Your Committee received testimony from the Department of Health indicating that as the number of A.I.D.S. cases increase, the attitudes and fears of an uninformed public may lead to punitive actions against A.I.D.S. patients.

Your Committee finds that it is important for the public to receive accurate and scientifically supported information to reduce unwarranted fear and promote a better understanding of the disease.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1684-86, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 540-86 Health on H.B. No. 2589-86

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

For the past eleven years the bilingual health education aide program has been funded on a temporary basis to meet the needs of immigrants and other limited and non-English speaking persons. This program has provided assistance to this special target group to seek preventive health care services, to participate in screening clinics for early identification of disease, to adopt positive health habits, to reduce health risks and health care costs, and to be self-reliant.

Your Committee received testimony from the Department of Health in support of this bill. The Department desires permanency of this program because this program supports the Department's affirmative action efforts to assure equal opportunity and access to health care services.

Your Committee concurs with the intent of this bill to provide non-English and limited English speaking persons assistance to obtain access to health care services.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2589-86, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 541-86 Health on H.B. No. 1995-86

The purpose of this bill is to speed up the process by which the Drug Product Selection Board may revise and update the Hawaii Drug Formulary.

Under the present statute, the Drug Product Selection Board develops the Hawaii Drug Formulary, using federal guidelines as a base, in accordance with procedures set forth in Chapter 91, Hawaii Revised Statutes. This process has been found to be inefficient. While the federal guidelines are updated monthly, the Hawaii Formulary is customarily published only once a year because technical review, the administrative and legal requirements of Chapter 91, and the need to respond to medical and public concerns have taken more time than was originally envisioned. Thus, the program has been criticized by both pharmacists and consumers for its lack of timeliness.

Your Committee received testimony in support of this bill from the Director of Health and finds that this proposal would streamline and improve the updating and revision process by making three changes in the law. First, it would eliminate the requirement that public hearings be held when the Board is merely adopting the recommendations of the Federal Food and Drug Administration; however, hearings would still be held for cases in which the Board chooses to delete or add drugs contrary to FDA recommendations. Second, the bill would clarify the responsibility for establishing the burden of proof in cases where recommendations for change, addition, inclusion, or deletion are made to the Board. This would ensure that high quality information is available to support such requests. Finally, the bill would authorize the publication of supplements in order to allow more than one update or revision during the course of a calendar year.

Your Committee has amended the bill by making nonsubstantive changes for the purposes of

clarity and conformance with recommended drafting style.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1995-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1995-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee Senator Kawasaki.

SCRep. 542-86 Health on H.B. No. 2201-86

The purpose of this bill is to provide \$270,000 to begin the development and implementation of a groundwater protection program.

Pesticides and other chemicals in Hawaii's drinking water have been of considerable concern to health officials and the public in recent years. This concern is expected to grow as monitoring programs expand, new chemicals are introduced, methods of detection improve, and urban centers expand into areas previously used exclusively for agriculture.

Your Committee heard testimony in support of this bill by the Department of Health, the Office of Environmental Quality Control, and others, and finds that the Department of Health is the appropriate public agency to assume leadership in establishing a groundwater protection program, including groundwater monitoring and enforcement and development and implementation of a risk assessment program, as a continuation and actualization of the recommendations and strategy currently being developed by the Office of Environmental Quality Control.

Your Committee has amended the bill by changing the appropriation to \$190,000, an amount which the Department of Health has indicated is sufficient to accomplish the purposes set forth in the bill, and by making nonsubstantive changes for the purposes of clarity and conformance with recommended drafting style.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2201-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2201-86, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 543-86 Health on H.B. No. 2157-86

The purpose of this bill is to reorganize the current Commission on the Handicapped into an Office on Handicapped Persons, remaining as currently situated within the Department of Health for administrative purposes.

The bill provides that all present members and officers of the Commission shall constitute the new Advisory Council, with retention of their current terms of office, and appropriates \$10,000 to carry out its purposes, including the hiring of necessary staff.

Your Committee received testimony in support of this measure from the Commission on the Handicapped, the Office of Human Services of the City and County of Honolulu, the Mayor's Committee on the Handicapped, and the Board of Education, and finds that the "commission" model of responding to the needs of Hawaii's handicapped population is obsolete. An "office" model would function more effectively and efficiently in the coordination and delivery of services and would allow timely response to requests from private nonprofit agencies to endorse grant proposals, co-sponsor activities, and provide other immediate position statements. It would also facilitate communication with the state administration, the Advisory Council, the Legislature, and the general public.

Your Committee has amended the bill, upon the recommendation of the Commission on the Handicapped, to specify that the functions of the Advisory Council shall be to:

- (1) Advise the Executive Director in coordinating, planning, and monitoring functions of the Office on Handicapped Persons, including the development of long- and short-term goals;
- (2) Advise the State and counties on matters relating to programs and services for handicapped persons;
- (3) Seek improvements in existing systems to meet the specific needs of handicapped persons;

- (4) Serve as public advocate on behalf of handicapped persons;
- (5) Assist the Executive Director in the evaluation of state and county policies relating to the needs of handicapped persons; and
- (6) Assist the Executive Director in encouraging both public and private agencies and programs to work toward the development and maintenance of a comprehensive and coordinated system of services on behalf of handicapped persons.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2157-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2157-86, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 544-86 Health on H.B. No. 2681-86

The purpose of this bill is to appropriate \$10,000 for 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 has amended the bill by making technical amendments which have no substantive effect.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2681-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2681-86, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 545-86 Health on H.B. No. 1764-86

The purpose of this bill is to exempt from the general excise tax amounts received by hospitals, medical clinics, and health care professionals from the sale of prescription drugs and prosthetic devices.

Containment of health care costs ranks high on any legislative or state agenda, and after considering testimony by many groups and individuals, your Committee is of the opinion that this measure will provide some relief, especially to low-income and elderly individuals, and is therefore in the public interest.

Your Committee has amended the bill by clarifying that a "prosthetic device" means any artificial device or appliance, including any auditory, dental, ophthalmic, or ocular device or appliance, prescribed by a licensed practitioner of medicine, osteopathy, podiatry, optometry, or dentistry, which is used to replace or enhance a missing or malfunctioning part of the body.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1764-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1764-86, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 546-86 Health on H.B. No. 2004-86

The purpose of this bill is to eliminate the statutory requirements that obligate the Department of Health to conduct epidemiological studies of Hawaii residents who were exposed to Agent Orange and provide them with genetic screening and counseling services.

Your Committee heard supporting testimony from the Director of Health and finds that consensus has been reached among members of the genetic research community and representatives of the Vietnam veteran and refugee groups that there are no adequate genetic-damage diagnostic tests currently available which would be useful for genetic screening and counseling purposes. Your Committee further finds that a major national epidemiological study is currently being conducted by the National Center for Disease Control which will do the work required by Section 321-264, Hawaii Revised Statutes, which would be repealed by this

bill. Therefore, your Committee finds it appropriate to repeal statutory requirements that such services and studies be provided.

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

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2004-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2004-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 547-86 Health 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 reactivation of the licenses.
- (3) Provides a way for physicians to formally retire their licenses.
- (4) Provides stronger authority for the Board to communicate with other agencies regarding licensees and applicants for licenses.
- (5) Provides a stronger 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 and Dentists, and Hospital Association of Hawaii.

Your Committee amended the bill by:

- (1) Removing "liberally," before "construed" in page 1, line 9, for purposes of clarity;
- (2) Changing the power of the Board to obtain records, from "any and all" records to only those records the Board deems relevant to judging the ability of the licensee to practice medicine, for purposes of clarity;
- (3) Extending the period in which a previous license is considered inactive, from two to five years, for the purpose of conforming to accepted standards;
- (4) Adding a requirement that licensees file an affidavit with the Board, affirming that the licensee has not had or is not facing adverse disciplinary actions, for the purpose of strengthening the Board's disciplinary reporting process;
- (5) Adding "on reasonable ground" on page 5, line 12, for purposes of clarity; and
- (6) Adding the records of hospital quality assurance committees to those records that are not subject to discovery, for purposes of clarity.

Your Committee also made technical amendments that have no substantive effect.

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

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 548-86 Education on H.B. No. 393

The purpose of this bill is to allow the Department of Education to use a weighted methodology for allocating school priority funds and to allow the use of instructional resource augmentation (IRA) positions in grades kindergarten to eight.

Presently, school priority funds are equitably distributed among all public school students. This bill would establish a weighted method of distributing priority funds such that all students would be divided into three classifications: 1) students in grades nine through twelve; 2) students in grades seven and eight; and 3) students in grades kindergarten through six.

Generally, the weighted method would provide more priority funds to older students.

Your Committee finds that the priority fund should remain available to all students on an equitable basis and has therefore amended the bill to delete the proposed language which provides for a weighted methodology of distributing priority fund appropriations. The bill has been further amended to insure that IRA positions are provided to grades seven and eight at only those schools with grades kindergarten through eight, instead of all schools containing grades seven and eight.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 393, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 393, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 549-86 (Joint) Education and Higher Education on H.B. No. 1666-86

The purpose of this bill is to establish a Teacher Incentive Program at the University of Hawaii.

Your Committees find that the State of Hawaii, as well as the rest of the nation, is beginning to feel the affects of a teacher shortage. This bill is an attempt to address that concern and to encourage qualified students to become teachers in Hawaii's public schools.

This bill provides a tuition loan program in the University of Hawaii to be administered by the Board of Regents. The bill also specifies qualifications of applicants; terms and conditions for loan repayment; and a waiver provision applicable in certain cases.

Your Committees after due consideration, have amended the bill in its entirety to provide only tuition waivers. The bill as amended would also require the program to be administered by the Board of Regents; provide administrative guidelines for the Board; separate the Program from any other tuition waiver program at the University; not allow applicants to receive or accumulate more than one waiver at a time; and provide that the program would be repealed after five years.

Your Committees on Education and Higher Education are in accord with the intent and purpose of H.B. No. 1666-86, H.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1666-86, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committees except Senator Yamasaki.

SCRep. 550-86 Tourism and Recreation on H.B. No. 2698-86

The purpose of this bill is to amend Chapter 6E, Hawaii Revised Statutes (HRS), relating to preservation and disposal of native Hawaiian burial sites and battle areas, to incorporate new developments in this field, and to provide for a permit system for examination of these sites.

Your Committee finds that Chapter 6E, HRS, established the Historic Preservation Program in 1966. Since that time, new situations affecting historic preservation have developed, which

the current statutes do not properly address.

This bill proposes to add new sections to the Chapter, to require notification of the Department of Land and Natural Resources (DLNR) of any newly discovered native Hawaiian burial sites, to specify that the DLNR shall determine the disposition of newly discovered sites, to specify requirements for removal or redesignation of cemeteries, to provide for a permit system for examination of prehistoric and historic sites with violation of the permit requirement designated as a class C felony, and to provide that the DLNR shall adopt rules establishing minimum standards for archaeological performance.

This bill also amends Chapter 6E, HRS, to amend the definition of "historic property" to include significant prehistoric or sacred sites; to include the disposition of artifacts relating to Hawaiian burial or battle sites and cemeteries in the Program responsibilities of DLNR; to establish a historic preservation division within DLNR under the historic preservation officer; and to upgrade the professional requirements of the historic preservation officer.

Your Committee reiterates the concern expressed by DLNR in its testimony that additional staff positions, possibly two new archaeologicals, two new professionals and one new clerical, would be needed to respond to the requirements proposed by this bill.

Your Committee has amended the bill by making nonsubstantive changes as follows:

- 1) Page 1, line 2 - replaced the word "five" with the correct number "four."
- 2) Page 1, line 5 - added the subsection designation "(a)."
- 3) Page 2, lines 12 and 13 - recast the language for the purposes of clarity and style.
- 4) Page 3, line 22 - added underscoring under the word "a."
- 5) Page 4, line 1 - added the word "or" after the deleted "and."
- 6) Page 4, line 19 - deleted the incorrectly spelled word "transference" and added "transference."
- 7) Page 6, line 14 - substituted the word "Adoption" for the word "Promulgation."

Your Committee on Tourism and Recreation is in accord with the intent and purpose of H.B. No. 2698-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2698-86, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 551-86 Tourism and Recreation 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 a demonstration of the spirit of aloha and also benefit the State's tourist industry.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of H.B. No. 2619-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 552-86 Tourism and Recreation 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 in support of this measure. DPED's testimony supports the sports center as an optimum situation 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 the economic benefits in other states where reputable sporting events have been held, generating significant cash flow into their economies.

Your Committee feels that a component of major importance to the sports center should be a sports coordinating group or information center, to collect, coordinate, and focus information on sports related projects and improvements.

Your Committee finds that the promotion of Hawaii as a sports center will complement and enhance its service based economy and believes that a master plan is necessary prior to the implementation of any programs related to this activity.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of H.B. No. 1927-86, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 553-86 Tourism and Recreation on H.B. No. 2412-86

The purpose of this bill is to provide funds to allow the State of Hawaii to be represented by a Hawaiian voyaging canoe in the Tall Ship Celebration procession in New York Harbor in July, 1986, as part of the ceremonies commemorating the centennial restoration of the Statue of Liberty.

Your Committee finds that the E'Ala Resource Center, a non-profit organization from Waianae involved in building and sailing Hawaiian voyaging canoes, was invited by Captain Harry Allendorfer, Tall Ships Chairman, and Mr. Lee Iacocca, Chairman of the Statue of Liberty Restoration Committee, to participate in the centennial celebrations with a Hawaiian voyaging canoe. Mr. Solomon Naone, president of the E'Ala Resource Center, confirmed that a written invitation had been sent by the Restoration Committee. The canoe will be the sole Hawaiian vessel present.

This appropriation may be used to offset the expenses for the canoe materials and supplies, shipping, insurance, and advertising costs, production of a video-documentary of Hawaii's participation in this nationally important event, and the associated expenses of sending the crew members to New York.

In view of the limited availability of State funds due to current economic conditions, the amount of this appropriation is substantially below the amount requested by the E'Ala Center. Your Committee would like to encourage the E'Ala Center to raise funds from other sources to supplement this appropriation.

Your Committee is in agreement that the participation of a canoe from Hawaii in the Tall Ship Celebration will be a valuable learning experience for the youth of Waianae who are involved in the E'Ala canoe project, as well as an opportunity to stimulate interest in Hawaii among the many visitors from all over the world who will be attending the Statue of Liberty celebration.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of H.B. No. 2412-86, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 554-86 Health on H.B. No. 1706-86

The purpose of this bill is to appropriate \$100,000 for the continued development and implementation of the State's hazardous waste program.

The hazardous waste program, currently managed by the Department of Health, is continually called upon to address questions regarding the handling, shipping, and disposal of materials which may or may not be hazardous. This bill would provide the matching funds necessary to continue the State's Cooperative Agreement with Region IX of the U.S. Environmental Protection Agency and additional funds which are needed to implement the Resource Conservation and Recovery Act Program.

Your Committee heard supporting testimony by the Department of Health, the Office of Environmental Quality Control, and others, and finds that this appropriation will enable the

Department of Health to improve hazardous waste enforcement and inspection procedures in Hawaii and, in addition, improve the community's awareness and understanding of hazardous waste problems.

Your Committee has amended the bill by increasing the appropriation to \$180,000.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1706-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1706-86, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 555-86 Tourism and Recreation on H.B. No. 1815-86

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

Your Committee finds that the increase in mooring fees proposed by the Department of Transportation in amendments to the Hawaii administrative rules, has a detrimental compounding effect upon the live-aboard fee, which by statute is linked to the mooring fee. As a result of proposed mooring fee increases, the live-aboard fee is increased beyond a reasonable and justifiable limit and bears no substantive relation to the benefits received by live-aboards.

This bill would fix live-aboard fees at \$5.20 and \$7.80 per foot of vessel length a month for resident and non-resident permittees respectively. The bill also sets future increases according to the annual cost of living index, provided that the increases do not exceed five percent per year.

Your Committee has amended the bill by making language and format changes for the purposes of clarity and conformance with recommended drafting style which have no substantive effect.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of H.B. No. 1815-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1815-86, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 556-86 Health on H.B. No. 1773-86

The purpose of this bill is to allow either party in a medical tort action to request that damages of \$750,000 or more be paid periodically rather than in a lump sum.

Your Committee heard extensive testimony on this bill by health professionals, attorneys, and others and finds that the concept entertained in this bill would benefit both plaintiffs and defendants by protecting a victim's right to a full and just recovery while at the same time easing the financial problems experienced by liability insurance carriers operating in the State.

However, after full consideration of the issue and this bill, your Committee finds that most awards are less than the threshold provided in the bill as received. Therefore, your Committee has amended the bill by providing for periodic payments of awards of \$100,000 or more. Your Committee has also amended the bill by providing that the judgment for periodic payment may provide for part payment in a lump sum in certain cases, utilization of trusts or posting of security, reversion if the creditor dies, admissibility of expert actuarial or other evidence related to the efficacy of periodic payments, and penalties for failure to make payments. Definitions of "future damages" and "periodic payments" are also provided.

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

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 557-86 Health on H.B. No. 1769-86

The purpose of this bill is to place a limit on the amount a plaintiff may recover for pain and suffering in medical tort actions.

Under present law, there is no limitation on recovery for pain and suffering. This bill would

set a limit of \$500,000, except for cases involving serious injuries such as brain damage, paraplegia, quadriplegia, or injuries requiring permanent hospitalization, or death.

Your Committee heard testimony in support of this bill by various medical and health care groups and insurers and finds that the characteristically high awards made by Hawaii's juries for pain and suffering have impacted unfavorably on the cost and availability of medical malpractice insurance in the State. This bill would ameliorate the situation by making such losses more predictable, without jeopardizing the plaintiff's right to a full recovery for economic losses brought about by the malpractice.

Your Committee has amended the bill by increasing the scope of the limitation to include all noneconomic losses, without exclusions. The title of the new section to be added to Chapter 671, Hawaii Revised Statutes, has been appropriately retitled "Limit on noneconomic damages." Your Committee has further amended the bill by making a technical change which has no substantive effect.

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

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 558-86 Health on H.B. No. 1768-86

The purpose of this bill is to shorten the statute of limitations for medical tort actions brought by or on behalf of a minor.

Current law provides that actions for medical injury to a minor must be brought within six years after the minor reaches the age of eighteen. This bill would require that the action must be brought within six years from the date of the wrongful act, or if the minor is less than ten years old, within six years from the date of the wrongful act or by the minor's tenth birthday, whichever period is longer.

Your Committee heard testimony in support of this bill from several medical, health care, and insurance organizations, and finds that the exceptionally long period 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 affects the cost of medical malpractice insurance. Your Committee believes that this bill satisfactorily addresses the issues of uncertain liability and that reducing the statute of limitations would not jeopardize the right or the ability of a minor to receive full and equitable recovery under the law. Your Committee further finds that the bill provides safeguards for the minor by tolling the time period in the event the parent or guardian, insurer, or health care provider has committed fraud or collusion by failing to bring an action.

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

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

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 559-86 Health on H.B. No. 1688-86

The purpose of this bill is to provide a means by which persons may express their decisions relating to their own medical treatment.

Your Committee has amended the bill by deleting the substance in order to provide a vehicle to further the living will concept and to allow for the legislative process to continue in pursuit of a final piece of legislation which is acceptable to the majority of this body.

Your Committee has on two previous occasions, this year and last year, approved living will legislation. Your Committee continues to support the concept of a living will which finds acceptability to different degrees in a large variety of formats.

Your Committee believes that its support for living will legislation is already a matter of public record and the specific format of a living will proposal approved by your Committee is also a matter of public record.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1688-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1688-86, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 560-86 Health on H.B. No. 1770-86

The purpose of this bill is to make evidence admissible, in any medical tort action, which would show that past or future expenses incurred by the plaintiff are replaceable or indemnifiable through such collateral sources as insurance, social security, workers' compensation, or employee benefits. Evidence would also be allowed as to whether the plaintiff is required to repay collateral sources from the award and the extent of the defendant's liability insurance coverage.

Under present law, evidence of collateral sources are inadmissible for consideration by either the court or the jury.

Your Committee heard testimony from the medical profession, insurers, and others, and finds that under the present law, Hawaii's courts and juries may be duplicating payments that the plaintiff would otherwise receive from other sources. Your Committee further finds that the admission of collateral sources may have a significant effect in reducing the loss experience of malpractice insurance carriers and in reducing premiums charged to health care providers.

Your Committee has amended the bill by deleting the provision which would have allowed courts and juries to know the amount of liability insurance carried by the defendant. The deletion was made because the amount of liability insurance is irrelevant to questions of liability and amount of damages to be awarded. Further, knowledge of the amount of insurance coverage may unduly influence an award, either in favor of the plaintiff or defendant. A jury may decide to award the maximum amount of coverage on the basis that the insurer, rather than the individual defendant, would be responsible for payment. Conversely, an award may be reduced because of a feeling that awarding damages over the insurance coverage would impose financial hardship on a defendant.

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

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

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 561-86 Health on H.B. No. 1771-86

The purpose of this bill is to limit fees for plaintiff's attorneys and defense attorneys in medical malpractice tort actions.

The law currently limits a plaintiff's attorney's contingency fees to a reasonable amount as approved by a court of competent jurisdiction, while defense attorneys are not subject to any restrictions as to the hourly fees they may charge their clients. This bill would limit defense fees to \$90 per hour and provide a sliding scale and caps on plaintiff's attorneys contingency fees as follows:

- (1) Forty per cent of the first \$50,000 the plaintiff recovers;
- (2) Thirty-three and one-third per cent of the next \$50,000;
- (3) Twenty-five per cent of the next \$100,000; and
- (4) Twenty per cent of any recovery which exceeds \$200,000.

Your Committee heard supporting testimony from several health groups and insurers' and finds that the prospect of large contingency fees bears a relationship to the frequency of medical tort actions, which in turn tend to deplete the resources available for compensation to victims and increase the cost of malpractice insurance premiums in the State. This bill would result, in many instances, in a larger share of the recovery going to the injured party and improve the predictability of awards without prohibiting a successful plaintiff's attorney or a defense attorney from realizing a reasonable fee for services.

Your Committee has amended the bill by increasing the hourly limit on defense fees to \$91 and by making clarifying language and other technical changes which have no substantive effect.

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

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 562-86 Health on H.B. No. 2104-86

The purpose of this bill is to move the statutory provisions which authorize metabolic screening of newborn infants from Part IV of Chapter 321, Hawaii Revised Statutes, into its own Part within the Chapter.

Your Committee heard supporting testimony by the Director of Health and finds that because Part IV related to crippled children's services, the codification of the metabolic screening law therein has resulted in confusion and conflicting language within the Part. This bill, recommended by the Office of the Attorney General, would rectify those problems.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2104-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 563-86 Health on H.B. No. 2003-86

The purpose of this bill is to clarify the definition of "poison" and to properly place the prescription requirements for drugs in Chapter 328, Hawaii Revised Statutes.

Your Committee received testimony in support of this bill from the Department of Health and finds that prior to the passage of the Uniform Controlled Substances Act, prescription drugs were classified as poisons along with toxic household and garden poisons. This bill would remove all prescription drug provisions from Chapter 330 (Sale of Poisons) and place them in Chapter 328 (Uniform Controlled Substances Act) where they belong.

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

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2003-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2003-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 564-86 Health on H.B. No. 2199-86

The purpose of this bill is to appropriate \$350,000 so that Saint Francis Hospital may relocate and improve its renal dialysis facility at Maui Memorial Hospital.

Saint Francis Hospital is the only provider of dialysis treatment on Maui. The facility was opened in 1975 in a small, unused structure on the grounds of Maui Memorial Hospital. However, the facility is now overcrowded and has deficiencies which are not correctable at the present location. This bill would permit Saint Francis Hospital to move and upgrade its facility elsewhere on the grounds of Maui Memorial Hospital, at a location to be determined by the State.

Your Committee finds that renal dialysis services are indispensable to a community the size of Maui, and that this appropriation is consistent with declared legislative and state policies to provide for the public health.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2199-86, H.D. 2 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 565-86 Judiciary on H.B. No. 1961-86

The purpose of this bill is to appropriate funds for the state Judiciary for fiscal year 1986-87.

Your Committee has not obtained sufficient information for a detailed analysis of the budget request. Your committee therefore declined to recommend additions or deletions to the budget

as transmitted by the House of Representatives and defers these decisions to the Committee on Ways and Means, except for those areas where your committee has determined that there is a clear and demonstrated need.

Your Committee recommends that the Committee on Ways and Means continue to elicit budget information and supplement current services where additional appropriations are justified.

Your Committee is cognizant of the demands for accountability from all branches of government, including the Judiciary. As this branch perfects its capability of collecting recording and reporting budget information, legislative scrutiny will be enhanced. Your committee intends to propose improvements for budgetary reporting in other legislative measures.

Your Committee has amended the bill and deleted the supplemental request for telephone costs. It is your Committee's understanding that sufficient funds were appropriated in the last fiscal year to authorize the Judiciary to assume responsibility for telephone costs, which were previously assumed by the Department of Accounting and General Services. (See Standing Committee Report No. 795 on House Bill 99). It is your Committee's further understanding that the cost of telephones was included in the final lump sum appropriation of \$43.0 million for fiscal year 1986-87.

Finally, your Committee has added funds for the continued support of the following programs: 1) 8% inflationary increase for the Neighborhood Justice Center; 2) \$178,120 for statewide counseling of abusers and victims of family violence; and 3) \$352,227 for the Office of the Public Guardian.

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

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1961-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1961-86, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cayetano, Aki, Abercrombie and Kawasaki.

SCRep. 566-86 Judiciary on H.B. No. 1691-86

The purpose of this bill is to establish the victim-witness assistance program in the department of the attorney general.

Currently, the victim-witness assistance program operates in association with the prosecuting attorney's office in each of the four counties. Your Committee intends to ensure the continued availability of the program's services to the victims of and witnesses to crime in this State by permanently establishing the program under the department of the attorney general. Bringing the victim-witness assistance program within the purview of the department of the attorney general facilitates coordination of statewide funding efforts and allows for uniformity of policies and procedures.

The department of the attorney general shall be responsible for developing program policy and allocating appropriated funds to the counties for the program. The county prosecutors shall continue to implement the program.

The victim-witness assistance program is not authorized to make rules or adjudicate cases and thus is not an agency subject to the provisions of Chapter 91.

In order to more clearly focus attention on the importance of securing statutory recognition for those victim/witness assistance program, your Committee has deleted the appropriation section of the bill. Funding for the program has been provided for in the Appropriations Act of 1985.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1691-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1691-86, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cayetano, Aki, Toguchi and Kawasaki.

SCRep. 567-86 Judiciary on H.B. No. 1692-86

The purpose of this bill is to address several aspects of tort law that are viewed as causes of the high cost and difficulty of obtaining liability insurance, while fully respecting victim's rights.

Your Committee is not yet convinced that modifying the tort system will affect the price or availability of liability insurance. Testimony on the relationship between tort recoveries and insurance rates was voluminous and strikingly defective in showing a cause and effect relationship.

However, testimony before your Committee did indicate several areas of the tort system where the potential for excess may exist. This bill addresses some of these areas that, on the basis of the somewhat limited analysis presented to the committee, may be of priority concern to the community.

Your Committee has amended the bill to strengthen the provision pertaining to frivolous law suits. Claims that are overwhelmingly, but not necessarily completely, frivolous will be sufficient cause for awards of attorneys fees under the bill as amended.

Your Committee has also amended the bill to propose limited immunity for the counties from claims that originate in wilderness areas, as long as they have met specific risk management requirements.

Your Committee also made technical amendments that affected only the form of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1692-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1692-86, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Cayetano, Aki, Toguchi, Abercrombie and Kawasaki.

SCRep. 568-86 Judiciary on H.B. No. 1493

The purpose of this bill is to codify a basic bill of rights for crime victims and witnesses. The bill recognizes the rights and interests of those who suffer or witness criminal conduct, and acknowledges their essential contributions to the prosecution of criminal cases.

Crime victims and witnesses have special needs and frustrations as participants in the criminal justice system. While they supply authorities with vital information, they are often not informed about the status and disposition of the cases in which they are involved. Existing statutes require courts to notify victims at certain stages of the legal process, but many criminal matters are disposed of without formal proceedings.

The proposed victim's bill of rights provides that, upon written request, victims will be notified of formal and informal developments in the cases that involve them. This bill also provides that all victims shall be advised of the financial assistance and social services that may be available to them.

Your Committee has amended the bill to delete a difficult to implement provision that would have fined offenders to create a fund for victims. The Family Court and the State Judiciary supported this amendment. Another amendment allows the crime victim access to the agency responsible for monitoring restitution payments if an offender fails to make payments as ordered by the Court.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1493, S.D. 1, as amended herein, and recommends that it be referred to the Committee on Ways and Means in the form attached hereto as H.B. No. 1493, S.D. 2.

Signed by all members of the Committee except Senators Cayetano, Abercrombie, Aki, Kawasaki and Toguchi

SCRep. 569-86 Judiciary on H.B. No. 100

The purpose of this bill is to make comprehensive amendments to Title 37, Hawaii penal code, by incorporating certain recommendations of the committee on penal code revision and reform of the judicial council of Hawaii.

The numerous amendments to the bill reflect policy decisions to provide the following changes for consideration at public hearing:

- 1) Amend Section 702-718, Hawaii Revised Statutes, to provide for the defense of ignorance or mistake of law.
- 2) Amend Chapter 704, Hawaii Revised Statutes, by restructuring the insanity defense.
- 3) Amend Section 706-606.5, Hawaii Revised Statutes, to make the mandatory minimum period of imprisonment for repeat offenders commensurate to the seriousness of the felony committed; to subject attempt to commit any of the currently enumerated offenses to the repeat offender statute.
- 4) Amend Section 706-614, Hawaii Revised Statutes, by expanding the discretionary conditions of probation.
- 5) Amend Section 706-629, Hawaii Revised Statutes, by incorporating the committee on penal code revision's recommendation for calculation of multiple dispositions.
- 6) Amend Section 706-640, Hawaii Revised Statutes, by adjusting the amounts of authorized fines.
- 7) Amend Section 706-662, Hawaii Revised Statutes, by incorporating the committee on penal code revision's recommendations on extended terms of imprisonment.
- 8) Amend Section 706-667, Hawaii Revised Statutes, to exclude young adult defendants who commit attempted murder from receiving a special indeterminate term of imprisonment.
- 9) Amend Chapter 706, Hawaii Revised Statutes, by adding a new section on multiple sentences of imprisonment.
- 10) Amend Chapter 706, Hawaii Revised Statutes, by adding a new section on the use of juvenile offenses in sentencing.
- 11) Amend Section 707-700, Hawaii Revised Statutes, by incorporating the committee on penal code revision's definition of sexual contact; amending the definition of dangerous instruments.
- 12) Provide for two levels of manslaughter.
- 13) Amend Section 707-720, Hawaii Revised Statutes, by incorporating the committee on penal code revision's definition of kidnapping.
- 14) Amend Section 707-726, Hawaii Revised Statutes, by adding a new offense of custodial interference.
- 15) Amend Chapter 707, Hawaii Revised Statutes, by adding a fifth level of sexual assault; including sexual penetration with an imprisoned person and sexual contact by compulsion with a imprisoned person as felonious sexual assaults.
- 16) Amend Chapter 700, Hawaii Revised Statutes, by adjusting the threshold amount for criminal property damage, theft, shoplifting; amends 708-857, negotiating a worthless negotiable instrument.
- 17) Amend Chapter 707, Hawaii Revised Statutes, by adding a second offense of endangering the welfare of a minor.
- 18) Amend Chapter 710, Hawaii Revised Statutes, by adding a new offense of compensation of juveniles for crimes.
- 19) Amend Chapter 712, Hawaii Revised Statutes, by adding a new felony level offense of promoting pornography.
- 20) Adding a new chapter relating to criminal penalties for violation of weapons and explosive statutes.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 100, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 100, H.D. 1, S.D.1, and be recommitted to the Committee on Judiciary for further consideration.

Signed by all members of the Committee except Senators Cayetano, Aki, Toguchi and Kawasaki.

SCRep. 570-86 Consumer Protection and Commerce on H.B. No. 1728-86

The purpose of this bill is to incorporate credit card offenses into the penal code.

Presently, credit card offenses are set forth in Chapter 851, Hawaii Revised Statutes.

Your Committee received testimony in support of the bill from the Honolulu Prosecuting Attorney, the Honolulu Police Department (HPD), American Savings and Loan Association, and the Hawaii Banker's Association. HPD testified that in 1985 they investigated 410 credit card offenses, and further testimony indicates that nationwide credit card scams involving counterfeiting credit cards and unauthorized purchases, cost consumers millions of dollars annually.

Your Committee finds that the offenses relating to credit cards are essentially types of fraud, theft, or forgery that can be classified as property crimes under the penal code, and

believes that this measure is necessary to protect the consumer from persons who may fraudulently use credit cards.

Your Committee has amended the bill by adding a new section to restrict the transfer of credit card lists without the express written permission of the issuer and the cardholders. The provision is designed to protect consumers and further deter fraudulent use of credit cards.

Your Committee has also made numerous technical non-substantive amendments to conform the bill to recommended drafting format with respect to the numbering of subsections and paragraphs. Additionally, a typographical error was corrected on page 8, line 5 of the bill as received.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1728-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1728-86, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Cayetano, Kuroda, Matsuura and McMurdo.

SCRep. 571-86 Consumer Protection and Commerce on H.B. No. 1934-86

The purpose of this bill was to appropriate funds to provide training for the Division of Financial Institutions staff of examiners and supervisory personnel.

This bill appropriated \$32,000 for the fiscal year 1986-1987, reflecting a "status quo" situation in view of anticipated cuts in federal training subsidies. The Division of Financial Institutions of the Department of Commerce and Consumer Affairs testified that in previous years, the Federal Home Loan Bank Board subsidized the training of state examiners (e.g., transportation, tuition, and lodging expenses) one hundred percent. Recently, however, the Federal Home Loan Bank Board has advised all state regulatory agencies that federal funding for training state examiners would be severely restricted. The loss of federal funds will have a serious impact on the State's capability to examine and monitor financial institutions unless state funds can be obtained.

Upon the recommendation of the Division of Financial Institutions, your Committee has amended this bill to increase the appropriation to \$40,000. The Division of Financial Institutions further testified that in addition to the compensation previously provided by the Federal Home Loan Bank Board, the Division of Financial Institutions anticipates the need for additional funding for training expenses for schools sponsored by the Federal Deposit Insurance Corporation (FDIC) and the Conference of State Bank Supervisors (CSBS).

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1934-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1934-86, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cayetano, Kuroda, Matsuura and McMurdo.

SCRep. 572-86 Consumer Protection and Commerce on H.B. No. 1913-86

The purpose of this bill is to require the Legislative Auditor to incorporate drafts of legislation in the Auditor's Sunset Review reports prepared in compliance with the Sunset Review Law (Chapter 26H, Hawaii Revised Statutes).

Under the sunset review procedure established under Chapter 26H, Hawaii Revised Statutes, the Legislative Auditor evaluates the effectiveness and efficiency of regulatory programs and makes reports to the Legislature containing recommendations to improve policies, procedures and practices. Members of the Legislature often use the recommendations of the Auditor as a basis to draft bills to improve regulatory programs. Therefore, there is a delay between the time the Auditor's reports are received and the time when specific legislative proposals to remedy deficiencies are considered.

This bill would require the Legislative Auditor, with the assistance of the Legislative Reference Bureau, to include in the reports to the Legislature, specific drafts of proposed legislation to carry into effect the recommendations made to improve the programs evaluated. Your Committee finds that such a procedure would improve the sunset review process by informing members of the Legislature of specific measures which might be adopted at the time the reports are received, thereby providing for more timely and careful consideration of such

measures.

Your Committee has amended the language and format of the changes to the law proposed by this bill for the purposes of clarity and style. The amendments have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1913-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1913-86, H.D. 1, S.D. 1, and be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senators Cayetano, Kuroda, Matsuura and McMurdo.

SCRep. 573-86 Consumer Protection and Commerce on H.B. No. 2045-86

The purpose of this bill is to allow the Department of Commerce and Consumer Affairs to pursue the collection of any fine imposed on a licensee in the same manner in which a civil judgment would be pursued.

Presently, the Department, and the boards and commissions assigned to it, are authorized to conduct disciplinary case hearings in accordance with the contested case provisions of Chapter 91, Hawaii Revised Statutes. If at the conclusion of the proceeding a fine is imposed as a sanction, the Department should be allowed to fully enforce the decision.

Your Committee concurs with the intent of this bill to provide the Department a manner in which fines assessed as a penalty can be collected.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2045-86, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Kawasaki, Kuroda, Matsuura and McMurdo.

SCRep. 574-86 Consumer Protection and Commerce on H.B. No. 2046-86

The purpose of this bill is to clarify and increase penalties that may be imposed for engaging in unfair trade practices.

This administration bill proposes to amend Section 480-3.1, Hawaii Revised Statutes, to specify that the civil penalties in this section are cumulative to remedies or penalties available under all other state laws. This bill also proposes to further amend this section by specifying that each daily violation shall be considered a separate violation.

Your Committee is in agreement with the Department of Commerce and Consumer Affairs that the amendments proposed by this bill will increase the effectiveness of the statutes, especially in larger cases of fraud against consumers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2046-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Kuroda, Matsuura and McMurdo.

SCRep. 575-86 Consumer Protection and Commerce on H.B. No. 2549-86

The purpose of this bill was to allow employer groups the opportunity to form workers' compensation self-insured groups in the State of Hawaii.

This bill was adopted from the model legislation developed by the National Association of Insurance Commissioner (NAIC) to permit individual insureds, with similar types of operations, to cooperatively provide insurance. These self-insurance groups, which are certified by the Insurance Commissioner and exempted from the insurance laws and rules, would be subject to the provisions of a new part under Chapter 386 and would secure compensation to their employees under Section 386-121(a) through their membership in the group with a valid certificate of approval issued by the Insurance Commissioner.

Your Committee received testimony from the Insurance Commissioner, numerous business organizations, and several insurance associations in support of the intent of this bill.

Testimony from the Insurance Commissioner indicated that the amount allocated to implement the provisions of this bill should be modified to reflect the current salary for an actuary specialist. The \$177,000 in this bill includes an estimate that the salary of the actuary position is \$80,000, rather than \$24,000. Your Committee has amended this bill accordingly to allocate \$153,000 for staffing, current expenses and equipment.

Your Committee has amended Section 386-194 of the bill to require that each group shall establish and maintain a safety and accident prevention program and that the Insurance Commissioner shall prescribe minimum requirements for the program. Your Committee has further amended this bill by amending Section 386-194(b)(4), to provide that the estimated annual standard premium be at least \$100,000, with no additional requirement thereafter, and amending section 386-197(1) to include a subparagraph to require an administrator to manage the cases of the group.

Additionally, Section 3 of the bill has been amended by inserting a reference to Section 386-194 in the proposed Section 386-121(a)(4) and Section 5 of the bill has been amended by inserting a reference to Part VI of Chapter 386 in the proposed amendment to the definition of "employing unit."

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2549-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2549-86, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki, Kuroda, Matsuura and McMurdo.

SCRep. 576-86 Consumer Protection and Commerce on H.B. No. 2800-86

The purpose of this bill was to provide a contingency plan to be instituted by the Insurance Commissioner upon the unavailability of liability insurance in connection with certain businesses or professions in this State, except automobile insurance, as determined by the Insurance Commissioner.

Your Committee heard testimony that the State is in the midst of an insurance capacity crisis. Insurers are selectively writing and in certain cases, abandoning certain lines of insurance. The Insurance Commissioner informed your Committee that for the most part, specialty lines carriers have abandoned Hawaii, leaving businesses such as rent-a-car and pest control operators in a panic.

However, your Committee also heard testimony from the Hawaii Independent Insurance Agents that insurance carriers generally do not consider Hawaii to be a good place to do business, and that if this bill were to be passed in its present form, it could result in insurance carriers leaving this market place because of reinsurance agreements and financial conditions.

Your Committee believes that there is a need to establish a better environment for attracting property and casualty insurers in all lines. Your Committee also believes that there is a need to change the scale of automobile insurance affordability so that good drivers do not subsidize bad drivers and prevent drivers from securing affordable insurance premiums due to the "take-all-comers" provision in the existing law.

Your Committee has accordingly amended the bill by:

(a) Amending subsection 294-9(b), Hawaii Revised Statutes, to provide that except as provided in subsection (d), an application for a no-fault policy, including required optional additional insurance meeting provisions of Section 294-11, covering a motor vehicle shall not be rejected by an insurer authorized to issue a no-fault policy unless the insurer has offered joint underwriting coverage through a servicing carrier to the applicant.

(b) Amending subsection 294-9(c), Hawaii Revised Statutes, to provide that a no-fault policy, including required optional insurance meeting provisions of Section 294-11, once issued shall not be canceled or refused renewal by an insurer unless the insurer has offered joint underwriting coverage through a servicing carrier to the applicant.

(c) Deleting the requirement in subsection 294-9(d), Hawaii Revised Statutes, that an insurer may reject or refuse to accept additional applications for, or refuse to renew no-fault policies if the insurer cease to write any new policies of insurance of any kind in this State.

(d) Deleting the requirement of subsection 294-22(a), Hawaii Revised Statutes, that the Insurance Commissioner shall establish classifications of eligible persons and uses for which the

joint underwriting plan shall provide both the required no-fault policies and any optional insurance an eligible person or user applies for.

(e) Deleting the requirements of subsection 294-22(b), Hawaii Revised Statutes, that the Hawaii Joint Underwriting Plan shall provide all no-fault benefits and policies for all motor vehicles owned by licensed assigned risk drivers as the Commissioner shall, by regulation define; all motor vehicles owned by licensed drivers convicted within the thirty-six months immediately preceding the date of application of various offenses; all commercial uses, first class, defined as any commercial use engaged in the transport of passengers for hire or gratuitously; all commercial uses, second class, defined as any commercial business, or institutional use; and all motorcycles, motor scooters, and vehicles with less than four wheels required to be registered under Chapter 286.

(f) Amending Sections 294-24 and 294-33 to provide that age and length of driving experience may be used as a possible standard when setting rates.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2800-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2800-86, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Kuroda, Matsuura and McMurdo.

SCRep. 577-86 Agriculture on H.B. No. 2300-86

The purpose of this bill is to appropriate \$100,000 for the promotion of papayas, to be matched dollar-for-dollar by private contributions.

Your Committee received testimony from the Department of Agriculture indicating that since utilizing the double-dip hot water fruit fly disinfestation 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. Further, the industry's 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. Although the "hard fruit" problem has been virtually eliminated, promotion of papayas is needed to restore consumer demand.

Your Committee finds that this bill would assist the papaya industry to regain its market by attracting consumers to buy high quality fruit and that preventing further decline or loss to this industry will be beneficial to the economy of the State.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 2300-86, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 578-86 Agriculture on H.B. No. 1965-86

The purpose of this bill is to appropriate funds for financial assistance to Molokai cattle ranchers.

Your Committee received testimony from the Board of Agriculture supporting the intent of this bill. The Board is sympathetic to the apparent hardships the Molokai cattle ranchers face following the depopulation of cattle from that island in the Board's efforts to eradicate bovine tuberculosis.

Under the present Agricultural Loan Program, Chapter 155, Hawaii Revised Statutes (HRS), those ranchers who qualify may receive financial assistance from the Board. However, some of the ranchers who were affected do not meet the "qualified farmer" definition.

Section 155-1(1), HRS, includes livestock production as a proper use of "farm land". Section 155-1(2), HRS, requires that a "qualified farmer" derive at least one-third of the farmer's net cash income from farming, or devote at least one-third of the farmer's time, either in the past, presently, or intended in the future, to farming. Thus, there may be instances where a part-time farmer's full-time occupation would prevent the farmer from meeting the criteria of the Agricultural Loan Program.

The Board indicated a belief that the sum of \$50,000 appropriated by this bill is sufficient to

meet the needs of those ranchers who would not qualify under the existing Agricultural Loan Program.

Your Committee notes that the Board is continuing a survey of the Molokai cattle ranchers to assist in better identification of the ranchers' specific needs.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1965-86, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 579-86 Agriculture on H.B. No. 1697-86

The purpose of this bill is to appropriate funds for sugar research and development, including research on alternate crops, provided that the Hawaiian Sugar Planters' Association provides a dollar-for-dollar match of funds.

Hawaii's sugar industry is a vital component of the State's economic base. Failure of this industry would have widespread detrimental effects on the economy of the state.

Your Committee finds that past research efforts to reduce production costs, continue to develop innovative practices and techniques and disease-resistant and high yielding varieties of cane have greatly benefited the sugar industry and have been directly responsible for maintaining the industry's profitability during this period of depressed prices. Your Committee believes that continuing sugar research and development, including research on alternate crops and by-products, is important for the future of Hawaii's sugar industry.

Your Committee has amended this bill by: (1) increasing the appropriation from \$1,500,000 to \$2,500,000; (2) amending the amount earmarked for research and development of alternate crops and by-products from \$250,000 to \$150,000; and (3) changing the effective date from "upon its approval" to "on July 1, 1986."

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1697-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1697-86, H.D. 2, S.D.1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 580-86 Agriculture on H.B. No. 2273-86

The purpose of this bill is to transfer all functions relating to the administration of agricultural park leases from the Department of Land and Natural Resources (DLNR) to the Department of Agriculture (DOA).

Your Committee received favorable testimony in support of S.B. No. 1908-86, which is also on agricultural parks, from the DLNR and the DOA.

This bill provides a clear expression of legislative intent regarding agricultural parks; establishes broad authority of the DOA to plan, develop, and manage agricultural parks; and requires the Board of Agriculture to adopt rules governing the agricultural park program. Agricultural park lands would be acquired by the DOA from the DLNR, through the Governor's set-aside powers.

Your Committee has amended the bill by requiring all funds in the agricultural park special fund under Section 171-116.5, Hawaii Revised Statutes, (which is repealed in the bill) to be transferred to the agricultural special fund established under this bill.

Your Committee has also amended the bill by generally making changes which clarify the intent of the bill and by making technical changes which have no substantive effect.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 2273-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2273-86, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 581-86 Agriculture on H.B. No. 1966-86

The purpose of this bill is to provide \$200,000 for the promotion of fresh Hawaiian pineapple in the western United States and Canada. The funds would be expended by the Department of Agriculture, provided that the sum is matched dollar-for-dollar by private contributors.

Your Committee received supporting testimony from the Chairperson of the Board of Agriculture, the Dean of the College of Tropical Agriculture and Human Resources at the University of Hawaii, and the Hawaii Farm Bureau Federation, and finds that nearly seventy percent of all fresh pineapple reaching the U.S. Mainland is from Hawaii, and that in the eleven western states, Hawaiian pineapple accounts for ninety-eight percent of the business.

However, your Committee further finds that the pineapple industry continues to experience adverse economic conditions which could lead to loss of this key industry without timely and sufficient support from the public and the private sectors. Therefore, your Committee finds that this bill is consistent with agricultural and economic goals of the State and that it is in the public interest to continue measures enacted in prior years to assist the pineapple industry through mainland promotion.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1966-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 582-86 Housing and Community Development on H.B. No. 55

The purpose of this bill is to exempt holders of individual housing accounts from a ten percent tax liability assessed upon termination of the account, if they marry an individual who has had or has any interest in residential real property.

Currently, Section 235-5.5, Hawaii Revised Statutes, 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 purposes of purchasing the individual's first primary residence. Any present or prior interest in residential real property by the taxpayer or spouse makes the individual ineligible to establish or retain such an account.

Your Committee finds the ten percent tax liability places an undue burden on holders of the housing account should they marry an individual with an interest in residential property. The proposed amendment conforms with the intent of the statute to assist Hawaii residents in purchasing homes.

Your Committee on Housing and Community Development is in accord with the intent and purpose of H.B. No. 55, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 583-86 Housing and Community Development on H.B. No. 1687-86

The purpose of this bill is to provide a \$1,000,000 appropriation to the rental assistance revolving fund established in Section 356-303, Hawaii Revised Statutes.

The State's rental housing assistance program was created to stimulate the development and rehabilitation of rental housing accommodations for Hawaii residents. This program provides interest earnings on 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 is funded with \$4,000,000. According to testimony of the Hawaii Housing Authority (HHA), this sum has generated \$571,000 in net interest earnings and allows HHA to issue commitments for rental assistance payments to owners of three 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 finds that additional funds to the rental assistance revolving fund will help stimulate additional development and rehabilitation of affordable rental housing units. Additionally, such funds are necessary because of increasing costs in development, construction, and maintenance of rental housing, and the growing unavailability of key federal subsidy programs. Your Committee received testimony from the Housing Coalition and the Hawaii Housing Authority requesting that the appropriation be increased to \$5,000,000, in order to assist the 6,000 families on the waiting list of applicants for rental assistance.

Your Committee, therefore, has amended this bill to provide the \$5,000,000 requested

amount, in an effort to alleviate the needs of low and fixed-income persons for rental assistance.

Your Committee on Housing and Community Development is in accord with the intent and purpose of H.B. No. 1687-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1687-86, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 584-86 Housing and Community Development on H.B. No. 2119-86

The purpose of this bill is to amend the definitions of "development tract" and "lot," "house lot," "residential lot," and "residential house lot."

Currently, the Land Reform Act applies to development tracts which are a single contiguous area of real property not less than five acres. The proposed amendment to the definition of "development tract" attempts to remedy those situation in which a number of leased fee interests have been sold, either through court action or voluntary conversion, and have segmented the development tracts.

Testimony submitted by the Hawaii Housing Authority states the proposed amendment is in response to an opinion rendered by the Office of the Attorney General. The opinion stated that lots in a tract which have been converted to fee simple may not be included as part of a development tract. The opinion further stated that non-residential properties, i.e., parks, roadways, etc., also should not be included in calculating the total area of a developmental tract.

Your Committee finds that without the amendment, lessees within such development tracts, who wish to use the Land Reform Act, would no longer qualify since the properties may not be contiguous or may not meet the five acre minimum requirement.

The definition of "lot," "house lot," "residential lot," and "residential house lot" is amended to include appurtenant lots to the residential lot specified in the lease as providing access to the house lot. The amendment to the definition attempts to clarify that land conveyed with the residential lot in the lease document for purposes of providing ingress and egress for the lot shall be considered a part of the lot for fee conversion purposes.

However, your Committee finds that this amendment does not address specific situations which may exist. For example, where access provided over a servient lot is not specifically stipulated in the lease document, the lessor may be in the position of having to retain ownership of a lot used solely for the purpose of providing access to the dominant lot. The language also would seem to allow an owner of a lot to purchase the access-way even if the access is over another lessee's house lot. Further, where the access lot is a private roadway lot which provides access to many lessees, and not all lessees purchase the fee title to their lots, the language does not specifically address whether lessees' and new owners' interests would be partitioned or whether these interests would continue under the terms of the lease.

After discussions with HHA related to these specific concerns, HHA has suggested the proposed amendment to the definition of "lot," "house lot," "residential lot," and "residential house lot" be deleted from the bill. Your Committee concurs with the HHA and has deleted the proposed amendment from the bill; however, it is your Committee's intent that where servient lots exist, the HHA allow or require the condemnation of such servient lots to assure access is provided the dominant lot.

Your Committee on Housing and Community Development is in accord with the intent and purpose of H.B. No. 2119-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2119-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 585-86 Housing and Community Development on H.B. No. 2122-86

The purpose of this bill is to authorize the Hawaii Housing Authority to issue capital appreciation bonds under the Hula Mae Program.

A capital appreciation bond, which is similar in concept to a savings bond, is purchased at a discounted price and redeemed for its full face value at maturity. During the period between the bond's purchase and redemption, a capital appreciation bond accretes in value. The

principal of accretion is important since capital appreciation bonds (1) are considered to bear no interest (they increase in principal value), and (2) have no regular payments of interest. These two technical deviations from the typical characteristics of bonds are addressed 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 per cent. This is achieved by issuing capital appreciation bonds in a discounted amount equal to seven to ten per cent of the total amount of 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 finds that the benefits derived by authorizing the HHA to issue capital appreciation bonds will accrue to both consumer and investor.

Your Committee received testimony indicating that current estimates of housing unit shortages range from 30,000 to 60,000 units. In 1980, Hawaii's homeownership rate was less than 50 per cent. The decline in homeownership is made more acute by the increasing divergence between average incomes and average housing costs. Between 1970 and 1980, the average income on Oahu rose by 72 per cent while the cost of a single-family detached home increased by 220 per cent.

Your Committee further finds that the State should aggressively use its powers and resources to assist in the provision of affordable housing to its residents. Since the high price of land directly affects the cost of housing, a State appropriation for land acquisition for development of affordable housing projects will have a dramatic and profound impact on the availability of affordable housing.

Your Committee therefore has amended the bill to provide a \$20 million appropriation to the Hawaii Housing Authority for purposes of land acquisition and master-planning of land to create new planned communities. Information previously obtained from the HHA indicates that purchase of 500 acres, for example, can be master-planned to provide approximately 4,000 new homes primarily for families of low and moderate incomes and the gap group.

Your Committee on Housing and Community Development is in accord with the intent and purpose of H.B. No. 2122-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2122-86, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 586-86 Housing and Community Development on H.B. No. 2209-86

The purpose of this bill is to appropriate \$25,000 for the support of the Main Street Task Force.

Your Committee finds that the Main Street Program is an effort to economically revitalize small towns through the cooperative participation of the private and public sectors. Each participating community develops its own program in accordance with established guidelines of the Main Street Program. Coordination of the State's overall program and the general direction of the local programs comes from the Historic Hawaii Foundation.

Your Committee is in agreement with the County of Hawaii Office of Housing and Community Development, the Hilo Downtown Improvement Association and Hawaiian Telephone Company that this bill will directly benefit the small town areas in neighbor island communities, and the rest of the people of the State as well.

Your Committee on Housing and Community Development is in accord with the intent and purpose of S.B. No. 2209-86, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 587-86 Transportation on H.B. No. 2429-86

The purpose of this bill is to appropriate \$30,000 out of the state highway fund for a study investigating the creation of a ridesharing authority.

This bill, along with H.B. No. 2428-86, H.D. 1, and H.B. No. 2430-86, H.D. 1, addresses anticipated transportation needs for Leeward and Central Oahu.

The State Department of Transportation testified in favor of this bill. According to the Department, the City and County of Honolulu has approved 51,500 additional dwellings in Leeward and Central Oahu. Furthermore, an average of one thousand homes per year were built in these areas over the past five years. The Department also pointed out that the 1986 amendments to the City and County's development plans proposed another 60,000 new units. Although some of these units were not approved, the Department noted that these units could come up for consideration again.

The Department stated that increasing development would cause greater traffic demands, resulting in severely congested highways. However, with constraints on State and federal funds, environmental concerns, and scarcity of land, there are limits to highway construction. Therefore, alternate means of reducing congestion are needed.

The Department affirmed that ridesharing would alleviate transportation problems caused by new development in Leeward and Central Oahu. According to the Department, up to three-quarters of the vehicles presently on the highways are occupied by only one person. By having more people ride together, traffic congestion would be reduced.

The Department testified that the ridesharing concept could be promoted through a ridesharing authority. Funds appropriated through this bill would be used to study the feasibility of a ridesharing authority and would include the advantages and disadvantages of ridesharing; the organization and duties of the ridesharing authority; the infrastructure needed for a ridesharing program; identification of conflicts with other programs or laws and the changes needed to establish a ride sharing program; the costs of such a program, along with a cost-benefit analysis and suggestions how to fund the program; an action plan with specific methods to encourage ridesharing; and preparation of suggested legislation.

The Department also informed your Committee that creation of a ridesharing authority as part of an overall proposal to answer traffic needs for Leeward and Central Oahu. This proposal, to be done in phases, includes highway widening, use of contraflow and high-occupancy vehicle (HOV) lanes, provision of exclusive busways convertible to rail systems, encouragement of transportation improvement districts, and development of commercial and employment centers in Leeward and Central Oahu.

Favorable testimony was also received from the Department of Transportation Services of the City and County of Honolulu; Oceanic Properties, Inc.; and the Land Use Research Foundation of Hawaii.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2429-86, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cobb, Hagino and Soares.

SCRep. 588-86 Housing and Community Development on H.B. No. 2501-86

The purpose of this bill is to add a new part to Chapter 356, Hawaii Revised Statutes, to permit the Hawaii Housing Authority (HHA) to establish a taxable mortgage securities program to assist in the provision of affordable housing for qualified participants.

Your Committee received testimony from the HHA stating that the United States House of Representatives recently passed a tax reform measure which will severely restrict tax-exempt bond programs, such as Hawaii's Hula Mae Program. This federal legislation is before the United States Senate for consideration, and Senate action is expected later this year. Further testimony submitted by the HHA indicates the United States Senate will agree to the House measure to curtail tax-exempt bond programs, and thus the future survival of the State's Hula Mae Program is questionable. The Authority requests that the State seek alternatives to ensure uninterrupted availability of below-market interest rate mortgages to Hawaii residents.

The provisions of this bill would establish the taxable mortgage securities program, to be used in the event tax-exempt programs, for all practical purposes, are nullified. In order for the Authority to offer mortgages with below-market interest rates, the State will have to subsidize taxable bond issues with future appropriations or with funds created through previous Hula Mae bond issues.

The bill permits the HHA to use taxable bonds for a Collateralized Mortgage Obligation (CMO) Program. 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 home buyers through 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 finds the State's Hula Mae Program has been a valuable, effective tool in assisting Hawaii families to obtain home ownership and should be supported to ensure continued Program benefits for Hawaii residents.

Your Committee notes that although this bill provides the enabling legislation for the HHA to establish a taxable mortgage securities program, it does not provide a dollar authorization amount for the program. Therefore, your Committee has amended the bill by inserting an authorization amount of \$200 million. This would ensure the HHA is able to commence its taxable mortgage securities program as soon as necessary.

Your Committee has also made technical amendments to the bill by substituting a semi-colon for the colon after "Housing loan programs" on page 3, line 15 and by renumbering some of the proposed new sections in order that the sections are in proper numerical sequence.

Your Committee on Housing and Community Development is in accord with the intent and purpose of H.B. No. 2501-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2501-86, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee.

SCRep. 589-86 Transportation on H.B. No. 2430-86

The purpose of this bill is to appropriate \$100,000 out of the state highway fund to study the creation of high occupancy vehicle (HOV) lanes in Leeward and Central Oahu.

This bill, along with H.B. No. 2428-86, H.D. 1, and H.B. No. 2429-86, H.D. 1, addresses anticipated transportation needs in Leeward and Central Oahu.

The State Department of Transportation testified in favor of this bill. According to the Department, the City and County of Honolulu has approved 51,500 additional dwellings in Leeward and Central Oahu. Furthermore, an average of one thousand homes per year were built in these areas over the past five years. The Department also pointed out that the 1986 amendments to the City and County's development plans proposed another 60,000 new units. Although some of these units were not approved, the Department noted that these units could come up for consideration again.

The Department stated that increasing development would cause greater traffic demands, resulting in severely congested highways. However, with constraints on State and federal funds, environmental concerns, and scarcity of land, there are limits to highway construction. Therefore, alternate means of reducing congestion are needed.

The Department affirmed that HOV lanes would alleviate transportation problems caused by new development in Leeward and Central Oahu. According to the Department, up to three-quarters of the vehicles presently on the highways are occupied by only one person. Creation of HOV lanes would encourage people to ride together, thereby reducing traffic congestion.

The Department explained that the funds for the study would be used to examine the creation of HOV lanes for Leeward and Central Oahu, and would include the advantages and disadvantages of HOV lanes, recommendations on physical improvements necessary for HOV lanes, and specific suggestions for implementation.

The Department also informed your Committee that creation of HOV lanes was part of an overall proposal to answer traffic needs for Leeward and Central Oahu. This proposal, to be done in phases, includes highway widening, use of contraflow lanes, provision of exclusive busways convertible to rail systems, and the encouragement of transportation improvement districts, ridesharing authorities, and development of commercial and employment centers in Leeward and Central Oahu.

Favorable testimony was also received from the Department of Transportation Services of the City and County of Honolulu; Oceanic Properties, Inc; and the Land Use Research Foundation of Hawaii.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2430-86, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cobb, Hagino and Soares.

SCRep. 590-86 Transportation on H.B. No. 2428-86

The purpose of this bill is to provide \$120,000 out of the state highway fund for a study investigating the creation of a transportation improvement district.

This bill, along with H.B. No. 2429-86, H.D. 1, and H.B. No. 2430-86, H.D. 1, addresses anticipated transportation needs for Leeward and Central Oahu.

The State Department of Transportation testified in favor of this bill. According to the Department, the City and County of Honolulu has approved 51,500 additional dwellings in Leeward and Central Oahu. Furthermore, an average of one thousand homes per year were built in these areas over the past five years. The Department also pointed out that the 1986 amendments to the City and County's development plans proposed another 60,000 new units. Although some of these units were not approved, the Department noted that these units could come up for consideration again.

The Department stated that increasing development would cause greater traffic demands, resulting in severely congested highways. However, the Department testified that with so many proposals within a short period of time, transportation planning was "very difficult." The Department further noted that with limits on state and federal funds, additional constraints were placed on transportation programs. Therefore, new and flexible methods of solving transportation problems are needed.

The Department affirmed that creation of a transportation improvement district would alleviate transportation problems caused by new development in Leeward and Central Oahu, and would make the private sector partially responsible for solving transportation problems caused by new development. Under this arrangement, an area would be designated as a transportation improvement district. The district would participate in programs to minimize highway congestion, such as ridesharing or highway widening. Those wishing to develop in the district would be required to support the district's transportation programs, either through partial subsidy or other means.

The Department explained that funds appropriated by this bill would be used to study the feasibility of a transportation improvement district, analyze similar districts elsewhere, obtain reactions from developers, and draft suggested legislation.

The Department also informed your Committee that the creation of a transportation improvement district was part of an overall proposal to answer traffic needs in Leeward and Central Oahu. This proposal, to be done in phases, includes highway widening, use of contraflow and high-occupancy vehicle lanes, provision of exclusive busways convertible to rail systems, encouragement of the creation of ridesharing authorities and development of employment and commercial centers in Leeward and Central Oahu.

Favorable testimony was also received from Oceanic Properties Inc., and the Land Use Research Foundation of Hawaii.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2428-86, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cobb, Hagino and Soares.

SCRep. 591-86 Human Services on H.B. No. 1678-86

The purpose of this bill is to expand respite programs for the elderly by providing each county with funds to improve their elderly day care programs and respite centers.

Your Committee finds that maintaining frail elderly individuals in their own homes under the primary care of their families is often preferable to long-term institutional care. Many families, with regular periods of respite assistance, are able and willing to maintain this responsibility, thus delaying the more costly alternative of institutionalization. Such respite care, in addition to being more economical, is also psychologically beneficial to the frail elderly and their families.

With the increase in the elderly population and the desire of more of the elderly to remain in their own homes for as long as possible, your Committee recognizes a need to expand services that contribute to allowing the elderly to remain at home. This would include providing funds for construction and operation of respite resources in each county.

This bill authorizes the issuance of general obligation bonds in the sums of \$48,442 for renovation of the Puunene Day Care Center, County of Maui, and \$150,000 for renovation of a wing of the former Hilo Memorial Hospital, County of Hawaii, to convert both facilities to provide respite care for the frail elderly.

This bill also appropriates \$40,000 to the County of Kauai for a demonstration project of limited overnight and weekend respite care, and \$100,000 to the City and County of Honolulu to develop a respite clearinghouse to assist in providing respite services to families on Oahu.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 1678-86, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 592-86 Human Services on H.B. No. 1823-86

The purpose of this bill is to appropriate funds out of the general revenues of the State to compensate 403 victims and providers of services under the Criminal Injuries Compensation Act, Chapter 351, Hawaii Revised Statutes.

Your Committee finds that the funds appropriated by this bill are to replenish the Criminal Injuries Compensation Fund, from which payment of awards has already been made. Applicants under Chapter 351 are compensated for out-of-pocket medical costs, loss of earning power, funeral and burial expenses, and pain and suffering.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 1823-86 and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 593-86 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.

Your Committee finds that in July, 1985, the Circuit Court of the State of Hawaii ruled against a family day care provider who was sued by the condominium association of the building in which the day care provider operated over concern about possible liability of the association. The Circuit Court 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 condominium association in curtailing the child care activities was proper.

Your Committee finds further that there is a shortage of child day care providers in Hawaii. The majority of family day care providers are renters of the premises on which they operate. As a result of the Circuit Court decision, your Committee recognizes the need for legislation to prevent the elimination of family day care providers who rent their premises.

Your Committee is in agreement that child day care providers perform a needed service for the working parents of Hawaii, and that the provisions of this bill are in the best public interest to prevent further reduction of child care services.

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 referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 594-86 Human Services on H.B. No. 2219-86

The purpose of this bill is to change the definition of "criminal history record check" in current statutes, and to clarify that the Department of Social Services and Housing (DSSH) has the responsibility to conduct criminal history record checks of child care facilities as part of the licensing process.

Your Committee finds that 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 (FBI) for a

criminal history record check.

This bill proposes to change criminal history record checks to include an initial fingerprint and name inquiry FBI check, and subsequent FBI checks for new hires and rehires. Annual record checks shall be by name inquiry into state record files only. For the purposes of licensing child care facilities, DSSH shall be responsible for conducting criminal history record checks of persons employed or seeking to be employed in child care facilities.

This bill also appropriates \$60,000 for personnel and operating expenses for the Hawaii Criminal Justice Data Center to carry out the provisions of this bill, of which \$5,200 is to reimburse the counties for processing fingerprints. Your Committee has amended the appropriation to specify that part of the sum appropriated is for the purchase of a van for the Honolulu Police Department.

Your Committee also made technical amendments which have no substantive effect.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2219-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2219-86, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 595-86 Human Services on H.B. No. 2238-86

The purpose of this bill is to amend Chapter 346, Hawaii Revised Statutes, to add a new section dealing with liability insurance coverage requirements for child care facilities.

This bill proposes to define "liability insurance coverage"; to specify that liability insurance shall not be required as a condition of licensure by the Department of Social Services and Housing (DSSH); to specify that DSSH shall require an uninsured child care facility to disclose to parents or guardians the lack of insurance or the loss of insurance within seven working days of the loss; and to specify that DSSH may suspend or revoke a child care facility's license if the facility fails to disclose the lack or loss of insurance.

Your Committee finds that current DSSH licensing regulations require insurance coverage of \$5,000 per child and \$10,000 per occurrence. Due to rapidly increasing insurance premiums, and the refusal of some insurance companies to cover child care facilities, many child care facilities are experiencing difficulty in meeting the current licensing regulations.

Your Committee is in agreement that removing liability coverage as a condition of licensure will allow a child care facility to continue to seek adequate and affordable coverage without having to either close its operation or operate in violation of DSSH regulations. However, requiring facilities to disclose the lack or loss of insurance to parents and guardians will ensure that parents and guardians are fully informed of the status of the facility, allowing them to make decisions in the best interest of their own children.

Your Committee made a technical, nonsubstantive amendment to correct the bill number on page 2.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2238-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2238-86, H.D. 2, S.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 596-86 Human Services on H.B. No. 2580-86

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.

Your Committee finds that Public Law 99-198, which takes effect on October 1, 1986, bars participation in the food stamp program to states in which the Secretary of Agriculture determines that state or local sales taxes are collected on food stamp purchases. Although Hawaii does not have a sales tax per se, the general excise tax is passed on to the consumer, and thus may be construed to be a "sales tax." The Department of Social Services and Housing is waiting for an official response on whether Hawaii's excise tax is a "sales tax." For this reason, a proviso has been included in the amendment to Section 237-24, Hawaii Revised

Statutes, to exempt food stamp purchases only if the Secretary of Agriculture determines that Hawaii's general excise tax is a "sales tax" that disqualifies the State from participating in the federal food stamp program.

Your Committee amended the bill by including a provision for an income tax credit for long term care insurance premiums, against the Hawaii state individual or corporate net income tax, in an amount not to exceed one hundred per cent of the annual insurance premium. The credit shall be claimed for premiums paid after December 31, 1985 but before December 31, 1989. Your Committee also amended the bill by changing the effective date from October 1, 1986 to July 1, 1986.

Your Committee also made technical amendments which have no substantive effect.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2580-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2580-86, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 597-86 Human Services on H.B. No. 2725-86

The purpose of this bill is to provide immunity from civil liability for persons acting in good faith, on behalf of and authorized by the Department of Social Services and Housing (DSSH), to prevent child abuse and neglect while in the performance of their duties and responsibilities.

Your Committee finds that especially in the area of Child Protective Services, social workers are experiencing difficulty in carrying out their jobs due to concern over threats of civil suits. Because of the nature of their duties, social workers are vulnerable to charges of overzealous intrusion on one hand, and lack of aggressive intervention on the other.

Your Committee received testimony from the DSSH in support of the bill but requesting that the language granting immunity read as follows:

"Any person employed by or under contract to the department of social services and housing to prevent abuse or neglect, safeguard and enhance the welfare of the minor, or preserve family life as required under section 350-2 or chapter 587 shall have immunity from civil liability."

Your Committee finds merit in the language suggested by DSSH but finds that additional language is needed to clarify that the immunity granted is limited to actions taken in carrying out the responsibilities of the DSSH. Therefore, the recommended language of the DSSH has been augmented by language making the grant of immunity applicable only "for acts performed pursuant to the person's employment or contractual relationship with the department of social services and housing."

Your Committee is in agreement with the Department of Social Services and Housing that statutory support for social workers providing child protective services is necessary to shield them from civil suits, as long as they act responsibly in the performance of their duties.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2725-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2725-86, H.D. 1, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Yamasaki.

SCRep. 598-86 Transportation on H.B. No. 2337-86

The purpose of this bill is to amend section 291-4, Hawaii Revised Statutes, to require those diagnosed by a certified substance abuse counselor as abusers of alcohol to obtain treatment.

Currently, treatment is only required for those diagnosed as having a dependency on alcohol. Since a person may abuse alcohol without having dependency on it, this bill would expand the statute to include these people who also have a problem with alcohol.

The Department of Health testified in favor of this bill.

Your Committee made a technical and non-substantive amendment.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2337-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2337-86, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Cobb, Hagino and Soares.

SCRep. 599-86 Higher Education on H.B. No. 1663-86

The purpose of this bill is to establish a child care center pilot project at the University of Hawaii.

Your Committee has received an abundance of testimony from the university and its students which demonstrates an established demand for child care centers to meet the needs of students, faculty, and staff. In addition, the university has emphasized the fact that "child care centers meet the basic philosophy, values, and mission of the University of Hawaii in terms of access to education; faculty and staff development; and widening the pool from which students, faculty, and staff are selected."

In a public hearing on this bill, your Committee learned that the Board of Regents is able to establish child care centers without additional legislation. The Board, however, is not authorized to establish a revolving fund for child care centers. Your Committee therefore has amended this bill to include only a provision on the establishment of a child care center revolving fund.

Your Committee feels that the establishment of child care centers by the university is a concern which should be more appropriately addressed by the Board of Regents. In making this decision, it is the understanding of your Committee that the Board will be responsible for implementing a child care program which is responsive to the needs of the university's students, faculty, and staff. It is also your Committee's understanding that the Board is fully accountable for whatever action it may take in this area.

As a matter of public policy, however, your Committee strongly encourages the Board of Regents to consider the following priority of target groups to be served by child care centers:

- (1) The target group of first priority should be students;
- (2) The target group of second priority should be faculty and staff of the university; and
- (3) The target group of third priority should be other citizens.

Your Committee has also amended the bill by including a provision that a child care center be pilot tested until June 30, 1987.

Your Committee on Higher Education is in accord with the intent and purpose of H.B. No. 1663-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1663-86, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Abercrombie and Henderson.

SCRep. 600-86 (Joint) Higher Education and Human Services on H.B. No. 2138-86

The purpose of this bill is to authorize the transfer of the Hoomana School program from the University of Hawaii to the Department of Social Services and Housing.

At present, the administrative functions of the Hoomana School Program are placed with the Department of Social Services and Housing while the operational functions rest with the University of Hawaii. This bill unifies the two functions in order to effectuate a more efficient and appropriate educational program at the Oahu Community Correctional Center.

Your Committees held a public hearing on the Senate version of this bill. At the hearing, supportive testimony was received from the University of Hawaii, Department of Social Services and Housing, and Office of Hawaiian Affairs.

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

Your Committees on Higher Education and Human Services are in accord with the intent and purpose of H.B. No. 2138-86, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2138-86, H.D. 1, S.D. 1, and be referred to the

the Committee on Ways and Means.

Signed by all members of the Committees except Senators Henderson and A. Kobayashi.

SCRep. 601-86 Transportation on H.B. No. 2170-86

Your Committee has heard S.B. No. 746-85 on February 26, 1985, a bill of similar substance and content and has incorporated the Committee's concerns into H.B. No. 2170-86.

The purpose of this bill is to grant immunity from civil liability for authorized persons who withdraw blood at the direction of a police officer for the testing of the blood's alcoholic content. The bill also amends Sections 286-152 and 286-153, Hawaii Revised Statutes, to include licensed clinical laboratory personnel among those authorized to withdraw blood at the direction of a police officer.

Your Committee finds that granting immunity to authorized personnel will provide them financial protection in performing a service for the State. Civil liability has been a concern of such personnel asked to draw blood and has inhibited them from working with the police.

According to the Prosecutor's Office, medical personnel are reluctant to withdraw blood for the purposes of determining its alcoholic content as a result of Rossell v. City of Honolulu, 59 Haw. 173 (1978), wherein the court held that a doctor was liable when a blood sample was taken against a person's will and consent. The Hawaii Chapter of the American College of Emergency Physicians stated that they were willing to assist police in drawing blood specimens, however, its membership were concerned by the issues raised in the Rossell case.

Your Committee has sought to deal with the concerns raised in the Rossell case by a clause noting that implied consent is given by any person who operates a motor vehicle as provided in Section 286-151, Hawaii Revised Statutes. To ensure that the taking of blood is appropriately done, 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 person's negligence, wanton acts, or omissions.

The purpose of the amended bill is to provide authorized persons immunity from civil damages for withdrawing blood at the direction of police officers for the testing of the blood's alcoholic content noting that implied consent is given by any person who operates a motor vehicle. The amended bill provides that immunity shall not be granted for damages arising from the authorized person's negligence, wanton acts, or omissions in withdrawing blood.

Your Committee has made technical and nonsubstantive changes.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2170-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2170-86, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senators Cobb, Hagino and Soares.

SCRep. 602-86 Economic Development on H.B. No. 1699-86

The purpose of this bill is to establish a Small Business Procurement Assistance Office in the Department of Planning and Economic Development to assist and encourage Hawaii's businesses to participate more in the federal procurement process and compete with mainland firms for federal government contracts and subcontracts for goods and services. A \$50,000 appropriation is provided for the establishment of the office.

Your Committee received testimony in support of this bill from the Director of Planning and Economic Development, the Chamber of Commerce of Hawaii, and Halawa Garden Products, and finds that the complexity of the federal procurement process requires that participants have specialized knowledge and expertise in order to compete successfully with more experienced mainland firms. This bill would assist Hawaii's businesses in participating effectively in the federal procurement process and would improve the competitive position of local businesses in relation to their mainland competition.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1699-86, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 603-86 Economic Development on H.B. No. 1700-86

The purpose of this bill is to establish an exchange program between the State of Hawaii and its regional sister-relationships in order to share theories, methodologies, and practicalities on economic development, trade, science, education, agriculture, tourism, and related activities in the promotion of continued goodwill and friendship and for the benefit of the peoples of these regions.

Your Committee received testimony from the Department of Planning and Economic Development, indicating that Hawaii's sister-relationships can be a valuable means for Hawaii to develop international goodwill and to foster cooperative efforts of an economic, educational, cultural, and social nature. Your Committee finds that the proposed exchange program could be a major positive factor in enhancing the several sister-relationships already established between Hawaii and other regions.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1700-86, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 604-86 Economic Development on H.B. No. 1707-86

The purpose of this bill is to improve decision making in the management of our ocean resources by appropriating funds for the establishment of a statewide marine resources inventory system.

Your Committee received testimony from the Department of Planning and Economic Development indicating that a major constraint to properly managing our ocean environment is the lack of a comprehensive data processing system that is designed based on user needs and accessible to various user groups. Too many marine management decisions are being made on a "best guess" basis simply because much of the available data are often not usable by anyone other than the generating organization. It is also important to note that while the State expends large sums of money for ocean and marine environmental research, the data acquired serve no useful purpose for anyone other than the researcher because of the wide disparity in formats and display modes.

The proposed system provides for uniform digitization of existing data bases which would significantly enhance their applicable usefulness by any on-line user. This bill provides a \$200,000 appropriation for conducting a comprehensive user needs analysis, designing an operating marine resource inventory system, implementing a pilot system, and developing a full implementation plan.

Additionally, while the proposed system is labeled a Marine Resource Inventory System, it is more commonly referred to in the industry as a Geographic Information System which means it can also be extended to include land-based data. One of the more obvious applications would be in the preparation of Environmental Impact Statements for both the public and private sectors which currently face huge costs for geographic data acquisition, interpretation, and interface formatting.

Your Committee concurs with the need for a comprehensive data processing system for assisting future decision-making affecting Hawaii's marine environment.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1707-86, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 605-86 Economic Development 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.

Your Committee received testimony from the Department of Land and Natural Resources indicating 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 that habitat of deepwater bottomfish species due to increasing fishing pressures on the bottomfish population. 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 the supply decreases, competition for limited sources heightens, which, if left unchecked or unresolved, leave their irreversible mark on our marine ecosystems.

Appropriately, the Departments first efforts are directed to establishing a deepwater bottom-fish artificial reef enhancement project off Oahu. This bill provides for \$30,000 to implement the pilot project in this area.

Your Committee finds that this project could assist with the enhancement of commercial bottomfish resources, and further finds that the materials utilized to develop artificial habitats for Hawaii's bottomfish should be limited to rock, stone, and concrete in order to minimize the possibility of debris that might add to the polluting of the ocean environment.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1710-86, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 606-86 Economic Development on H.B. No. 1851-86

The purpose of this bill is to implement the findings of a feasibility study regarding the development of a cargo distribution center in the County of Hawaii. The Department of Planning and Economic Development (DPED) will expend funds as appropriated.

The 1985 Legislature appropriated \$100,000 for a feasibility study regarding a cargo distribution center in the County of Hawaii, and the study is presently being conducted.

Testimony provided by DPED indicates that the initial study will soon be completed, and the Department will then consult with the Mayor of Hawaii to implement the findings of the study.

Your Committee finds that funds should be made available to develop this center, if so recommended by the study.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1851-86, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 607-86 Economic Development on H.B. No. 1891-86

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.

Your Committee heard testimony from the Department of Planning and Economic Development and from Island Power Company, Inc. in support of the bill. The Island Power Company, Inc. indicates that this plant will include a diversion structure, a penstock, two Francis-type turbines and a 12 kv transmission line. The electrical output of the facility will be made available for use by members of the general public by sale to Kauai Electric Company.

Your Committee supports the intent of this bill to increase energy self-sufficiency on the island of Kauai via the issuance of special purpose revenue bonds to provide moneys for hydroelectric projects.

Your Committee recognizes the attraction of the renewable, non-polluting technology that these projects propose. Your Committee feels that if special purpose revenue bonds are used to enhance the profitability and economic feasibility of such projects, the Public Utilities Commission should consider this factor when investigating rate schedules. Savings realized by the developers of these projects should be passed on to the public consumers in the form of rate reductions or moderation of increases.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. 1891-86, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 608-86 Economic Development on H.B. No. 2013-86

The purpose of this bill is to increase the annual appropriation for the fire fighter's contingency fund from \$200,000 to \$300,000.

Chapter 185, Hawaii Revised Statutes, places the responsibility for extinguishment of forest fires on state owned or private lands within state reserves with the Department of Land and Natural Resources. Section 185-4, Hawaii Revised Statutes, provides for payment of the costs of fighting fires on such lands from the fire fighter's contingency fund. The section also provides for an annual appropriation of \$200,000 to the fund. This bill would increase the annual appropriation to \$300,000.

Testimony submitted by the Department of Land and Natural Resources supports this measure and a list of expenditures was provided which shows cost-overruns in this program for three of the past five fiscal years. The Department also noted that these costs must be taken out of other program budgets within the Department.

Your Committee finds that the requested increase for fire suppression is reasonable in light of increasing costs.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2013-86, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 609-86 Economic Development on H.B. No. 2023-86

The purpose of this bill is to increase the scope of the High Technology Research and Development Fund to enable the High Technology Development Corporation to accumulate revenues and pursue other objectives for encouraging the growth of high technology industries in Hawaii.

Specifically, the bill would change the name of the High Technology Research and Development Fund to the High Technology Development Corporation Special Fund and would authorize deposits into the Fund of all moneys, grants, and gifts received by the Corporation; provided that lease rents and fees would be placed in the general fund.

Your Committee received testimony in support of this bill from the Executive Director of the High Technology Development Corporation and finds that the Corporation will soon begin operating the Hawaii Ocean Science and Technology (HOST) Park at Keahole Point, Kailua-Kona, Hawaii. The Corporation is also working on other projects, including Mililani Town and Maui High Tech Parks. However, the Corporation noted that the provision restricting the deposit of lease rents and fees into the Special Fund severely reduces the opportunity for the Corporation to become self-sufficient. Thus, the ultimate goal of self-sufficiency for the Corporation would be greatly inhibited.

Your Committee, therefore has amended this bill to provide for the deposit of lease rents and fees into the Special Fund. Your Committee has further amended the bill by removing the language on page 3, line 9 to allow the Corporation to provide "seed money investments", as this is not a desirable activity endorsed by the Corporation or Your Committee.

Your Committee further finds that this bill would facilitate the mission and enhance the effectiveness of the High Technology Development Corporation and is therefore in the public interest.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2023-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2023-86, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 610-86 Economic Development on H.B. No. 2102-86

The purpose of this bill is to consolidate the Department of Hawaiian Home Land's (DHHL's) funding structure, by reducing the number of funds from fifteen to seven.

This bill amends the Hawaiian Homes Commission Act to abolish certain funds, merge existing funds, and rename one fund to serve as a holding account. A diagram of the proposed changes is attached.

Currently, DHHL is responsible for handling fifteen different funds which provide loans for the development and repair of home lands; assistance to farm land operations; operating moneys for the Department; trust funds for holding moneys received from other parcels; and assistance

to native Hawaiian rehabilitation activities.

Testimony submitted by DHHL and the Office of Hawaiian Affairs supports this measure as a more practical and efficient funding structure which will enhance financial management.

Your Committee finds that this measure will facilitate more efficient financial administration within the Department.

Your Committee has amended the bill by making nonsubstantive changes as follows:

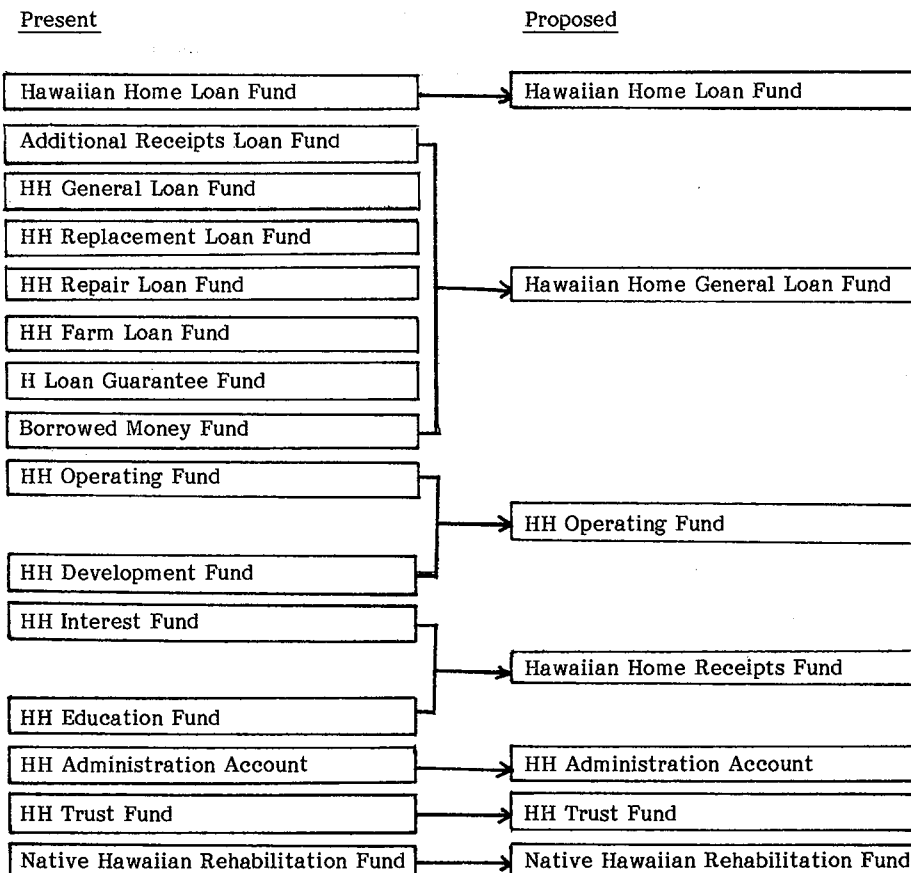
- 1) Page 1, line 5 - added "the" between the words "of" and "first."
- 2) Page 9, line 10 - substituted "conditions" for "condition."
- 3) Page 14, line 2 - underscored the word "made."
- 4) Page 20, line 22 - underscored the comma following the deleted semicolon.
- 5) Page 26, line 21 - underscored the colon.
- 6) Page 27, line 5 - underscored the comma after the word "reservoirs."

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2102-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2102-86, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

(SCRep. 610-86 on H.B. No. 2102-86) - Diagram of Proposed Changes.

Department of Hawaiian Home Lands
Present and Proposed Fund Structures



SCRep. 611-86 Economic Development on H.B. No. 2275-86

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.

The Department of Planning and Economic Development (DPED) testified that DPED contracted with the Hawaii Seafood Promotion Committee (HSPC) for fresh seafood promotion in 1985. The contract is in the process of being completed. DPED intends to use the funds appropriated by this bill to work with the HSPC to the extent that HSPC is further able and willing to participate in fresh seafood promotion efforts.

The Hawaii Seafood Promotion Committee has developed a manual on approximately 20 species of fish which will serve as a text for acquainting users with how these species might be used as a substitute to the more popular fish and seafood presently in demand. The HSPC intends to develop a series of posters and attend trade shows across the country in order to maximize its efforts in promoting underutilized seafoods from Hawaii.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2275-86, H.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 612-86 Economic Development 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 for these projects.

HOE represents a comprehensive scientific study of Hawaii's ocean environment to enhance present understanding and knowledge of oceanographic conditions.

When fully established, CORT will assist in translating the knowledge and experience gained under HOE into working programs. CORT will provide the technology generating bridge to facilitate the conversion of ocean resources research into industries, providing a framework for partnerships between researchers and industrial representatives.

Your Committee finds that ocean research and related technology development is expected to play an increasingly important role in Hawaii's future economic growth. Hawaii possesses advantages in this field, in terms of location and the many ocean research facilities and institutions already located here.

Your Committee is in agreement with the Department of Planning and Economic Development, the University of Hawaii, and the Pacific Congress on Marine Technology, that the development of Hawaii as a base for ocean research expeditions and projects, as supported by the funds appropriated by this bill, will contribute to providing needed high-skilled jobs for Hawaii's people.

Your Committee has amended this bill by increasing the amount of the appropriation from \$200,000 to \$400,000, to better effectuate the purposes of this bill. Your Committee also made technical, non-substantive amendments for stylistic purposes.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2275-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2275-86, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 613-86 Economic Development on H.B. No. 2468-86

The purpose of this bill is to provide native Hawaiians and Hawaiians the right to bring suit in State courts to resolve controversies relating to the administration of the Hawaiian Homes Commission Act, 1920, as amended, and the Admission Act.

Your Committee recognizes and supports the rights of native Hawaiians to bring suit for the enforcement of provisions which directly affect their status as native Hawaiians and the rights and benefits due to them.

Your Committee received testimony from representatives of native Hawaiians and native Hawaiian organizations expressing their concern with this bill. Their testimony indicates that this bill expands the original intent of the legislation to include persons who are not native Hawaiians as defined by state and federal law. This does not reflect the original intent of the public trust established pursuant to the Hawaiian Homes Commission Act of 1920 and the Admission Act of 1959. Your Committee finds that S.B. 1376, S.D. 1, which was passed last year by the Senate and is awaiting final approval in the House, reflects the original intent in providing native Hawaiians the right to sue in State courts to enforce the Hawaiian Homes Commission Act, 1920, as amended, and the Admission Act.

Based on the testimony presented and the findings of your Committee, the bill has been amended to reflect the language of S.B. No. 1376, S.D. 1. As amended, the bill gives native Hawaiians and native Hawaiian organizations the right to initiate actions in State courts to resolve controversies relating to the native Hawaiian public trust under Article XII of the State Constitution implementing Sections 4 and 5(f) of the Admission Act. The proposed requirement that administrative remedies be exhausted prior to filing an action has been eliminated and Section 3 of the bill as received has been deleted in its entirety. Corresponding amendments have been made to the findings and purpose contained in Section 1 of the bill and the effective date of the bill has been changed from one year after approval to upon approval.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2468-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2468-86, H.D. 2, S.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 614-86 Economic Development on H.B. No. 2495-86

The purpose of this bill is to provide for "lifeline telephone service" to be offered by telephone companies upon approval by the Public Utilities Commission.

Lifeline telephone service would include a basic, residential local exchange access offered to eligible consumers identified as elderly and handicapped persons with limited income. The telephone companies providing this service would receive a tax credit equal to the subsidy, to be applied against their tax liability imposed under Chapter 239, Hawaii Revised Statutes.

Testimony submitted by Kokua Council for Senior Citizens, the Commission on the Handicapped, Executive Office on Aging, and Hawaiian Telephone support the measure.

Your Committee finds that having telephone service is essential to many persons with low and limited incomes as they are significantly dependent on the telephone to maintain communication with public agencies and providers of medical care as well as to retain necessary social contacts in the community. Therefore, your Committee finds that the concept of lifeline telephone service is commendable and should be made available to persons with low and limited incomes, in the face of rising telephone service costs. Your Committee intends that lifeline rates be made available to elderly persons with limited incomes, handicapped persons with limited incomes, and other persons with limited incomes, as designated by the Public Utilities Commission.

Accordingly, your Committee has amended this bill by modifying the definition of "lifeline telephone rate" to read:

"Lifeline telephone rate" means a discounted rate for residential telephone service for persons with low or limited income including but not limited to elderly and handicapped individuals as designated by the Commission.

The amendment allows the Public Utilities Commission to designate persons with low and limited incomes, other than the elderly and handicapped, as eligible to receive lifeline telephone rates.

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

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2495-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the

form attached hereto as H.B. No. 2495-86, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 615-86 Economic Development on H.B. No. 2536-86

The purpose of this bill is to authorize the issuance of special purpose revenue bonds in a total amount not to exceed \$12,000,000 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 recognizes the attraction of the renewable, non-polluting technology that these projects propose. Your Committee feels that if special purpose revenue bonds are used to enhance the profitability and economic feasibility of such projects, the Public Utilities Commission should consider this factor when investigating rate schedules. Savings realized by the developers of these projects should be passed on to the public consumers in the form of rate reductions or moderation of increases.

Your Committee finds that the proposed Hanalei hydroelectric development project could help Kauai and its people to move toward the goal of energy self-sufficiency.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2536-86, H.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 616-86 Economic Development on H.B. No. 2624-86

The purpose of this bill is to establish the Hawaii Industrial Development Corporation (HIDC), within the Department of Planning and Economic Development (DPED), for the purpose of providing investment capital and assistance to Hawaii businesses.

The HIDC will be involved in providing financial (capital) investment; technical, managerial, marketing and promotional advice; coordination with special programs and enterprise zone programs; securities transactions and investments of donations and grants; borrowing money and making loan guarantees; acquisition and disposal of property; and exercise of any other powers of a corporation organized under the laws of Hawaii. There is also established the Hawaii Venture Capital Revolving Fund into which all moneys shall be deposited, as directed by the Board of HIDC. The corporation shall submit a biennial report of activities and be subject to an annual audit. The bill also provides for two separate appropriations, for moneys into the revolving fund and to staff the corporation.

Testimony submitted by DPED supports this measure as a priority issue for the future development of new business in Hawaii. The High Technology Development Corporation and other organizations also testified in support of this measure as a necessary vehicle to stimulate economic growth in the future.

Your Committee amended the bill by increasing the appropriation from \$1 to \$500,000 for venture capital and \$200,000 for necessary staff, to effectuate the purposes of this bill.

Your Committee finds that this measure is an important part of the State's responsibility to ensure a healthy economy for Hawaii's future.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2624-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2624-86, H.D. 2, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 617-86 Consumer Protection and Commerce on H.B. No. 1694-86

The purpose of this bill is to add a new chapter to the Hawaii Revised Statutes (HRS) to provide for the formation of captive insurance companies in Hawaii.

Over the years corporations and business associations have had to deal with the ever increasing problems in the insurance marketplace. This has led to the formation of insurance subsidiaries or so-called captive insurance companies established primarily to insure or reinsure the insurance risks of its parent company and its affiliates.

This bill provides for the formation of pure captive insurance companies in Hawaii, and appropriates \$42,500 to carry out the purposes of this bill, including the hiring of necessary staff.

Your Committee received testimony from several local associations requesting that association captive insurance companies or companies comprised of member organizations, be included with pure captive insurance companies in this bill. These associations have also been affected by ever increasing insurance rates and believe that this bill would serve to reduce or contain their present insurance costs. Therefore, after due consideration, your Committee has amended this bill to include association captive insurance companies. Further, association captive insurance companies are required to possess and maintain capital of not less than \$400,000 and a surplus of not less than \$750,000; and pure captive insurance companies are required to possess and maintain capital of not less than \$200,000 and a surplus of not less than \$400,000.

Your Committee has also deleted Section -14 which provides for preferential premium tax treatment during the first five years of a captive insurance company's operation. This treatment is not available to any new insurance company applying for a charter under Chapter 431, HRS, and that if preferential premium tax treatment is provided for captive insurance companies, the same should be provided in Chapter 431. Your Committee believes this matter should be further discussed and considered by the Ways and Means Committee.

Additionally, your Committee has amended the effective date to September 1, 1986 and has made clarifying language changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1694-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1694-86, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Kawasaki, Matsuura, Young and A. Kobayashi.

SCRep. 618-86 (Majority) Transportation on H.B. No. 1392

The purpose of this bill is to amend Section 102-2, Hawaii Revised Statutes, giving the department of transportation the flexibility to determine whether in-bond merchandise contract concessions should be let pursuant to competitive bidding or negotiation.

Your Committee has heard testimony that the letting of in-bond concession on the basis of competitive bidding may not be in the best interests of the State. The purpose for the letting of in-bond concessions is the generation of revenues for the State. Your Committee finds that competitive bidding can at times undermine the intent of the in-bond concession. Under competitive bidding, a concessionaire can win a bid by submitting high guarantees or a percentage of sales based on a plan of charging high retails, employing low levels of staffing, and having inadequate facility improvements. Thus, high quality service to the traveling public sacrificed at a cost to generate income. Moreover, in the face of competitive bidding, unrealistic bids may be put forward that may result in concessionaires seeking either financial relief from or even defaulting on their commitments.

Such a default occurred in the case of Host International in 1981. Under Host International's bid, the state would have received \$232,783,333.00 over a seven year period. However, within nine months into the contract, Host International pulled out of its in-bond merchandise operations at the Honolulu International Airport and Waikiki.

Your Committee heard testimony from the department of transportation that although its analysis of Host International's bid revealed the bid was unrealistically high, the department was constrained by law to accept it. Therefore your Committee finds that the letting of in-bond concession on a bid basis is not always in the best interests of the State.

Your Committee has heard testimony that replacing competitive bidding with negotiation or renegotiation has resulted in enhanced revenues in a number of airports. Instances of airports switching from competitive bidding to negotiated or renegotiated letting of in-bond concession include those in New York; Wichita, Kansas; Cincinnati; Dallas/Fort Worth; and Miami.

Your Committee has heard testimony noting the "fragile" nature of the market. The viability of an in-bond merchandise concession can be easily affected by external circumstances. For example, the introduction of security screening has affected passenger flows, resulting in decreased revenues. A more recent instance is United Airline's recent acquisition of Pan American Airline's route to Japan resulting in renovations costing 3 million dollars. This was an unexpected development which none of the parties foresaw at the time they entered the contract. Because of this development, Duty Free Shoppers' finds itself unable to amortize this unexpected cost over the remaining two and a half years of its contract. This obvious problem affects Duty Free Shoppers' ability to maximize revenues from its operations. Because the state's contract with Duty Free Shoppers' is based on twenty percent of the gross receipts or \$20 million, whichever is greater, it is in the state's interest to have Duty Free Shoppers make renovations which will help maximize its revenues. Thus, your Committee finds that the department of transportation should have flexibility both to renegotiate short term leases or extensions, and to seek bids at a favorable time to respond to such commercial situations.

Your Committee has amended the bill to allow the department of transportation to renegotiate the in-bond concession at the Honolulu International Airport for a one-time three year period prevailing rates which were paid to the state in the 1985 calendar year. Your Committee finds that renegotiation will give the department of transportation the flexibility needed to negotiate with a concession operator with a proven track record. The flexibility to renegotiate would allow the department of transportation to maximize and stabilize an important source of state revenue.

Your Committee has heard concerns that allowing the department of transportation to renegotiate in-bond concession could lead to charges of favoritism. In light of this concern your Committee has amended the bill to limit the renegotiated contract to three years at prevailing rates not less than that paid to the state in the 1985 calendar year. Testimony by the director of the department of transportation indicated this may amount to as much as \$36 million.

Your Committee also received testimony from Duty Free Shoppers indicating that it was granted an exemption by Congress grandfathering its Waikiki Duty Free Shoppers outlet from the prohibition against duty free outlets located more than three miles from Honolulu International Airport. Your Committee noted that Duty Free Shoppers is the sole owner of the physical facilities of its Waikiki outlet and the custom bond permitting duty free business in the area. This exemption was obtained through the efforts of Hawaii's congressional delegation and intensive lobbying by Duty Free in Congress. Your Committee noted that should the in-bond merchandise concession at the Honolulu International Airport be let for bid, the potential bidders would face the problem of obtaining a similar exemption from Congress in the face of opposition from the United States Customs Service, buy out Duty Free's Waikiki outlet or engage in litigation to take it over.

Your Committee has amended the bill to provide for a study to determine whether the in-bound merchandise concession should be continued to be let on a bid basis. In this connection, it should be noted that it is not your Committee's intent that the renegotiation be contingent on the completion of the study.

The purpose of the amended bill is to amend Section 102-2, Hawaii Revised Statutes, to allow the department of transportation to renegotiate the in-bond concession at Honolulu International Airport for a one-time, three year extension.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1392, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1392, S.D. 1, and be referred to the Committee on Ways and Means.

Signed by all members of the Committee except Senators Cobb, B. Kobayashi and George. Senator Soares did not concur.

SCRep. 619-86 Higher Education on Gov. Msg. No. 177

Recommending that the Senate advise and consent to the nomination of KENNETH N. KATO to the Board of Regents of the University of Hawaii, for a term ending June 30, 1990.

Signed by all members of the Committee except Senators Abercrombie and Henderson.

SCRep. 620-86 Higher Education on H.B. No. 2786-86

The purpose of this bill is to exempt stadiums owned by the University of Hawaii from the jurisdiction of the outdoor advertising device and billboard regulation law.

Your Committee finds that the exemption provided by this bill is too broad. Thus, the bill's

actual impact is undeterminable. Your Committee has prepared an amended version which attempts to balance the concerns of persons who have testified for and against the bill. Your Committee will hold a public hearing on the bill in its amended form.

Your Committee on Higher Education is in accord with the intent and purpose of H.B. No. 2786-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2786-86, S.D. 1, and be recommitted to the Committee on Higher Education.

Signed by all members of the Committee except Senators Abercrombie and Toguchi.

SCRep. 621-86 Consumer Protection and Commerce on H.B. No. 2028-86

The purpose of this bill is to remove the requirement that solar energy device dealers be bonded, by repealing Chapter 468B, Hawaii Revised Statutes (HRS).

Presently, Chapter 468B, HRS, requires the bonding of solar energy device dealers in the amount of \$5,000, to ensure that consumers have recourse to collect damages.

Your Committee finds, from testimony by the Department of Commerce and Consumer Affairs (DCCA), that many solar energy device dealers were unable to obtain bonds from insurance companies. Consequently the DCCA accepted as an alternative, registration with a contractor's license under Chapter 444, HRS, with specialty classifications of C-37, plumbing; C-61, solar energy systems; or C-61a, solar hot water systems. Of the fifty currently registered solar energy device dealers, forty-nine are specialty contractors under Chapter 444.

Chapter 444, HRS, provides greater protection to consumers than Chapter 468B. Chapter 444 requires that specialty contractors provide proof of financial integrity in the amount of \$8,000, and provides that consumers may file claims against the Contractor's Recovery Fund which has a liability of \$12,500 against each licensee.

Your Committee is in agreement with the DCCA that repealing Chapter 468B, HRS, as proposed by this bill, will eliminate duplication in current statutes while maintaining adequate protection for consumers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2028-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Kuroda, Matsuura and Henderson.

SCRep. 622-86 Agriculture on H.B. No. 1975-86

The purpose of this bill is to make Section 142-31, Hawaii Revised Statutes, applicable to all provisions of Chapter 142.

Currently, Section 142-31, which relates to the administration of oaths, applies only to Part I of Chapter 142. This bill would make the section applicable to the entire chapter.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1975-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 623-86 Agriculture on H.B. No. 1973-86

The purpose of this bill is to provide a standard form for the issuance of citation and summons for any violation of Chapter 142, Hawaii Revised Statutes.

Presently the statutes require a printed form for the issuance of citation and summons only for Part I of chapter 142, Hawaii Revised Statutes. The Chairman of the Board of Agriculture testified that this bill would provide for uniform and effective enforcement of the entire Chapter.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1973-86, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 624-86 Education on H.B. No. 2166-86

The purpose of this bill is to provide exclusive vending machine concession rights to blind or visually handicapped persons at public schools.

In 1973, the Board of Education authorized the school vending machine program to be operated by blind or visually handicapped persons pursuant to Section 102-14, Hawaii Revised Statutes, which gave preference to blind or visually handicapped persons to operate vending machines and stands in government buildings. Section 102-14 was amended in 1981 to provide blind or visually handicapped persons protection from outside competition, and to allow exceptions to that protection at certain state facilities including Department of Education (DOE) facilities. Although unintentional, Section 102-14 as amended, had the unexpected effect of raising doubts as to the preference provided to blind or visually handicapped persons operating vending machines at DOE facilities.

This bill would remove those doubts and clearly provide exclusive vending machine concession rights to blind or visually handicapped persons at public schools.

Your Committee has amended the bill by:

- 1) Specifying that concessions are to be operated only by blind or visually handicapped persons. The proposed language may be construed to allow persons other than blind or visually handicapped persons to operate concessions;
- 2) Defining "blind" or "visually handicapped" by reference to appropriate sections of the Hawaii Revised Statutes to insure that only qualified individuals are allowed to participate as vendors;
- 3) Providing the DOE with control over the "operation" of vending machines including designating times of operation. This amendment conforms the bill to DOE rules on this subject;
- 4) Deleting section 2 of the bill which amends section 102-14, Hawaii Revised Statutes. This section is unnecessary because DOE facilities are presently exempted from section 102-14, and because of the enabling legislation provided by section 1 of the bill.
- 5) Deleting section 3 of the bill which amends section 298-21, Hawaii Revised Statutes. This section prohibits the sale of certain merchandise at public schools without the written permission of the DOE. Presumably a blind or visually handicapped person operating a concession pursuant to the provisions of this bill would have obtained written permission which would make section 3 of the bill unnecessary;
- 6) Amending section 102-2, Hawaii Revised Statutes, to allow blind or visually handicapped persons to bid for concessions at public schools. Currently, section 102-2 exempts coin-operated machines and handicapped or blind persons from the bidding provisions of chapter 102. The amendments to section 102 are necessary to require blind or visually handicapped persons to bid for concessions at public schools as provided by section 1 of the bill.

This bill as amended would allow blind or visually handicapped persons to bid for concessions at public schools without interference from outside competition.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 2166-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2166-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 625-86 Transportation on H.B. No. 1830-86

The purpose of this bill is to amend section 290-12, Hawaii Revised Statutes, to clarify responsibility for abandoned or derelict vehicles.

Under current law, anyone who leaves an abandoned or derelict vehicle upon public roads is charged with a petty misdemeanor. The bill changes this by making the registered owner the one charged with the petty misdemeanor. The bill also provides that the charge against the registered owner would not apply if the vehicle has been taken from the owner without permission.

The Honolulu Police Department and the Department of Finance of the City and County of

Honolulu testified in favor of the bill. Both Departments stated that since under present statutes, the police were required to witness a person actually abandoning a vehicle before making a charge. With the provisions of the bill, this problem would be eliminated.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1830-86, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Cobb.

SCRep. 626-86 Transportation on H.B. No. 2626-86

The purpose of this bill is to provide new allowances on the gross vehicle weight of motor vehicles operated on interstate highways and other roads.

The State Department of Transportation testified that it had no objections to the bill. Favorable testimony was heard from the Hawaii Transportation Association and the Kona Transportation Company, Incorporated.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2626-86, H.D. 2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 627-86 Transportation on H.B. No. 2128-86

The purpose of this bill is to amend Sections 286-26 and 286-41, Hawaii Revised Statutes, exempting aircraft servicing vehicles used exclusively on airport lands from registration and inspection standards required for motor vehicles.

The Department of Transportation has testified in favor of H.B. No. 2128-86 indicating that it intends to establish procedures for the inspection and registration of aircraft servicing vehicles.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2128-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 628-86 Legislative Management on H.B. No. 1913-86

The purpose of this bill is to require the Legislative Auditor to incorporate drafts of legislation in the Auditor's Sunset Review reports prepared in compliance with the Sunset Review Law (Chapter 26H, Hawaii Revised Statutes).

Under the provisions of chapter 26H, Hawaii Revised Statutes, the Legislative Auditor is required to evaluate the effectiveness and efficiency of all regulatory boards, commissions and programs and to submit evaluation reports to the Legislature which include specific recommendations to improve policies, procedures and practices. Such recommendations often are used by the Legislature in the drafting and considerations of bills to amend regulatory programs.

This bill would require the Legislative Auditor, with the assistance of the Legislative Reference Bureau, to include in its evaluation reports drafts of proposed legislation which embody the recommendations of the Auditor to improve the programs evaluated. Your Committee concurs with the Committee on Consumer Protection and Commerce that such a requirement would strengthen the sunset review process by providing the Legislature more time to carefully consider proposed amendments.

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

Signed by all members of the Committee.

SCRep. 629-86 Transportation on H.B. No. 1727-86

The purpose of this bill is to increase the number of locations where open containers of alcohol in motor vehicles would be prohibited.

Under present law, open containers of intoxicating liquor are prohibited from being carried in motor vehicles that are on any public street, road, or highway. However, other locations are not covered by this statute. These locations include scenic lookouts, trails, alleys, bridges, bikeways, and areas of a highway not in the flow of traffic. The bill extends this prohibition to include these locations.

The Honolulu Police Department testified in favor of the bill, explaining that without the bill, the police would be unable to make arrests for open containers of alcohol in those areas not specified by statute.

Your Committee also heard favorable testimony from the State Department of Health, the State Department of Transportation, the Tantalus Community Association, the Makiki/Lower Punchbowl/Tantalus Neighborhood Board, and David McFaul and Rick Ralston, private citizens. In summary, these witnesses stated that empty containers of alcohol and related litter are a nuisance in many areas. The consensus among these witnesses was that the bill would help control this problem. Many of these witnesses also were concerned with the reckless driving of intoxicated drivers, and noted that the bill would also curb drinking and driving.

Your Committee made technical and non-substantive amendments to conform the bill to accepted drafting style.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1727-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1727-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 630-86 Transportation on H.B. No. 2605-86

The purpose of this bill is to amend section 267-6, Hawaii Revised Statutes, to allow volunteers to assist the State Department of Transportation in enforcing harbor rules and regulations.

The State Department of Transportation testified in favor of the bill, stating that the harbors division has only twelve regular enforcement officers on Oahu, and only one regular enforcement officer on each outer island. This workforce is too small to effectively enforce the Department's water regulations. The use of volunteers, the Department affirmed, would relieve some of the burdens upon the regular officers without great cost.

Meredith Riddle, chairman of the Portlock Community Marine Association, also testified in favor of the bill. Riddle stated that because there are not enough harbor enforcement officers, numerous infractions of water safety regulations have occurred, causing hazardous situations.

Your Committee learned that under the bill, the State Department of Transportation would be allowed to issue firearms to the volunteer officers, just as the Department is presently authorized to do with its regular officers. However, your Committee believes there is a difference in the training and attitude of volunteer and full-time enforcement officers and that these differences arrest the officer's skill and discretion with firearms. Therefore, your Committee has amended the bill so that the volunteer officers shall not be permitted to carry firearms.

Your Committee also made technical and non-substantive amendments.

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

Signed by all members of the Committee

SCRep. 631-86 Consumer Protection and Commerce on H.B. No. 1904-86

The purpose of this bill is to allow the Director of the Department of Commerce and Consumer Affairs to extend or defer the filing of periodic reports and to allow alternatives to bonding and insurance, as required of certain cemeteries and mortuaries under Chapter 441, Hawaii Revised Statutes (HRS).

Under present statutes, licensees engaged in cemetery or pre-need funeral trust sales are required to file audited financial statements and actuarial reports. The statutes also impose

certain insurance and bonding requirements on licensees.

Your Committee finds, from testimony of the Department of Commerce and Consumer Affairs (DCCA), that there exists a small group of licensees who are experiencing hardship in meeting the requirements relating to the filing of audited financial statements and actuarial reports. These licensees are mostly small in operation, with a majority of their burial plots already sold, who tend to have sufficient income generated from their trust funds to maintain and operate the cemetery but may not have sufficient surplus to cover the costs of the required reports.

DCCA testimony also indicated that due to the rising cost of insurance, it may become impossible for licensees to comply with the bonding and insurance requirements of Chapter 441. Therefore, the DCCA is in agreement with the proposal in this measure to allow alternate forms of security which would be comparable to the bonding and insurance requirements.

The DCCA testimony further stated that a proposed set of rules addressing these issues has been drafted and that the rules are designed to ensure that adequate information is filed and financial security is maintained.

Your Committee is in agreement with the DCCA that the provisions proposed by this bill will aid in preventing higher prices being charged to consumers who purchase burial plots or services, while maintaining adequate protection for consumers.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1904-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Kawasaki, Matsuura, Young and Henderson.

SCRep. 632-86 Consumer Protection and Commerce on H.B. No. 2029-86

The purpose of this bill is to add the regulatory programs for mortgage brokers and solicitors and for mortgage collection servicing agents to those scheduled for examination by the Legislative Auditor under the sunset review process.

Your Committee finds from testimony by the Department of Commerce and Consumer Affairs (DCCA) that these two regulatory programs are not currently included in the sunset review process. Besides allowing the Legislative Auditor to examine these programs, inclusion in the sunset review process will also allow their inclusion in the Compliance Resolution Fund program in the Regulated Industries Complaints Office (RICO). This will allow RICO to pursue consumer complaints in these two areas. This bill proposes to have these programs reviewed at the same time as the Real Estate Commission, because of inter-relationships between the programs.

This bill also proposes to delete Chapter 359L, Factory Built Housing Advisory Board, from the sunset review process, since this Board was abolished by Act 34, Session Laws of Hawaii 1984, and to correct the title of the Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects.

Your Committee is in agreement with the DCCA that inclusion of these two programs in the sunset review process will facilitate consumer protection in these two areas.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2029-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Kawasaki, Matsuura, Young and Henderson.

SCRep. 633-86 Consumer Protection and Commerce on H.B. No. 2040-86

The purpose of this bill is to allow the contractors licensing board in any action involving the contractors recovery fund, and the trustees in any action involving the travel agency recovery fund to employ or retain an attorney.

Your Committee finds that there are three recovery funds established in the Department of Commerce and Consumer Affairs (DCCA) 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 or the Director of DCCA is authorized to manage the fund and to hire an

attorney to represent the fund. However, through what the DCCA believes to have been an oversight, only the Real Estate Commission is allowed an exemption from the restrictions on the hiring of attorneys.

This bill would resolve this oversight by extending the exemption to cover all three funds.

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 except Senators B. Kobayashi, Kuroda, Matsuura, Young and Henderson.

SCRep. 634-86 Consumer Protection and Commerce on H.B. No. 2113-86

The purpose of this bill is to clarify and strengthen current statutes relating to penalties and sanctions under Chapter 448, Hawaii Revised Statutes (HRS), relating to dentistry.

This administration bill proposes to add two new sections to Chapter 448, HRS, to specify penalties for filing false information, and to specify that penalties under this Chapter are cumulative. Other amendments proposed by this bill include:

- (1) Adding "administrative penalties" to the title of Section 448-17, HRS;
- (2) Adding a "fine" as an administrative penalty in Section 448-17, HRS, and specifying the amount;
- (3) Adding that a violation of Section 447-4, HRS, is a reason for suspension or revocation of a license under Section 448-17, HRS; and
- (4) Amending Section 448-21, HRS, to specify that this Section relates to criminal penalties.

Your Committee finds from testimony by the Board of Dental Examiners that the amendments to Section 448-17, HRS, to include "administrative penalties" and "fine" are for purposes of clarity. The specification of the amounts of fines is to update this Section, taking the current economy into consideration. The inclusion of a violation of Section 447-4, HRS, is intended to clearly specify that dentists are also subject to disciplinary action for violations of the dental hygienists statute. The amendment to Section 448-21, HRS, to include "criminal" is also for purposes of clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2113-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Matsuura, Young and Henderson.

SCRep. 635-86 Transportation on H.B. No. 1739-86

The purpose of this bill is to clarify the type of violation that would result for failure to comply with the requirements of the seat belt law.

Your Committee finds that violations of Section 291-11.6, Hawaii Revised Statutes, relating to the mandatory use of seatbelts, should be considered an equipment violation, not a moving violation. This is based upon the fact that (1) not wearing a seat belt is not related to the degree of control exercised by a driver over a moving vehicle, a prime consideration in identifying moving violations, and (2) a passenger may also be cited for violating this section. The judiciary testified that the bill is in consonance with the interpretation of the existing statute made by past and present administrative judges of the District Court of the First Circuit.

Your Committee has received testimony in support of this bill from the judiciary and the department of transportation.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1739-86, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 636-86 Transportation on H.B. No. 2374-86

The purpose of this bill is to amend Section 286-108, Hawaii Revised Statutes, (HRS), to include drivers licensed by the Commonwealth of the Northern Mariana Islands (Marianas) among those persons allowed to be exempted from the road test needed to receive a driver's license.

Your Committee has heard S.B. No. 1875-86 on February 13, 1986, a bill of similar substance and content and has incorporated the Committee's concerns into H.B. No. 2374-86.

Your Committee finds from testimony that the Marianas require written, eye, and driving tests compatible with Hawaii's standards. Your Committee is in agreement with the Department of Finance of the City and County of Honolulu that drivers licensed by the Marianas should be accorded the same treatment given to those persons who have driver's licenses from other jurisdictions.

Upon consideration of this measure, your Committee has concluded that a corresponding amendment should be made to Section 286-105(3), HRS, which exempts any person from certain other jurisdictions who is at least eighteen years of age and who has a valid driver's license issued by the other jurisdiction from having a Hawaii driver's license in order to operate a motor vehicle in the State.

Accordingly, the bill has been amended to include the Marianas as one of the jurisdictions listed in Section 286-105(3), HRS, thereby allowing drivers licensed by the Marianas to drive in Hawaii without obtaining a Hawaii driver's license as allowed by Section 286-105(3), (HRS).

Your Committee has made technical and non-substantive changes.

The purpose of the amended bill is to amend Sections 286-105 and 286-108, HRS, making licensed drivers from the Commonwealth of the Northern Mariana Islands exempt from license and eligible for waiver from examination.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2374-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2374-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 637-86 Transportation on H.B. No. 2596-86

The purpose of this bill is to place mopeds under the same muffler exhaust regulations as motorcycles.

Presently, there are no muffler exhaust regulations for mopeds. The Honolulu Police Department and the Department of Finance of the City and County of Honolulu testified in favor of the bill. Both Departments explained while noisy mopeds are a problem, citations cannot be made due to the lack of regulations. By placing mopeds under the same muffler exhaust regulations as motorcycles, steps could be taken to decrease the number of noisy mopeds.

Favorable testimony was also offered by the State Department of Transportation, Citizens Against Noise, the Hawaii Business League, and Raymond Tabata, a private citizen.

Your Committee made an amendment to consolidate sections 291-22 and 291-23, concerning muffler exhaust regulations for motor scooters, into the provisions of the bill.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2596-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2596-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 638-86 Consumer Protection and Commerce on H.B. No. 2026-86

The purpose of this bill was to allow the Department of Commerce and Consumer Affairs (DCCA), or any of the boards or commissions placed within the DCCA to contract with professional testing services to prepare, administer, and grade examinations and tests for license applicants; and to allow the DCCA, or the boards or commissions to provide for alternative forms of security when a bond or insurance is required to be maintained by any licensee.

Your Committee heard testimony from the Hawaii Association of Realtors and the DCCA and finds that this bill responds to the current problem of insurance availability without sacrificing the protection of the consumer. Your Committee also finds that allowing the DCCA the general authority to contract with national testing agencies provides the DCCA with needed flexibility in the examination process and will help to ensure the professional expertise of its licensees.

Your Committee further finds that Act 276, Session Laws of Hawaii (SLH) 1985, relating to physical therapy practice, has created a situation whereby athletic trainers in educational institutions are prohibited from performing their physical therapy functions on student athletes. Your Committee heard testimony from the DCCA that the provisions of Act 276, SLH 1985, were not intended to apply to athletic trainers in educational institutions, and that the DCCA has no objection to clarification of the statutes regarding this problem.

Your Committee has accordingly amended the bill by adding a new subsection (d) to Section 461J-3, HRS, to specifically exempt athletic trainers in educational institutions from the prohibitions of the Chapter, and to add a definition of "educational institution" to Chapter 461J.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2026-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2026-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Kawasaki, Kuroda, Young and Henderson.

SCRep. 639-86 Consumer Protection and Commerce on H.B. No. 2036-86

The purpose of this bill is to delete the "qualifying written examination" as a requirement for registration as a professional land surveyor and to delete obsolete references to "oral" examinations.

Presently, the Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects (Board) administers an examination prepared by the Board as part of the requirement for registration as a surveyor. This local examination consists of an eight-hour qualifying examination and a twelve-hour professional examination.

In his 1983 Sunset Evaluation Report of the Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects, the Legislative Auditor noted deficiencies with the Board's examination and recommended that the Board utilize a "national" examination for surveyors in addition to a "local" examination on local surveying practices and procedures.

The National Council of Engineering Examinations (NCEE) currently sponsors a two-part professional national examination for land surveyors. The first part consists of an eight-hour "fundamentals" examination which is equivalent to the Board's "qualifying" examination. The NCEE, aware of the various regional and state differences in land surveying practices, also sponsors a four-hour "principles and practice" examination for the second part of its national examination. This four-hour examination is equivalent to a portion of the Board's "professional" examination. Under current arrangements with several states, the NCEE allows individual states to develop their own supplemental examinations which are tailored to test applicants on local surveying practices and procedures.

This bill reflects the Legislative Auditor's recommendation, and deletes the "qualifying written examination" in sections 464-8(11) and (12), Hawaii Revised Statutes. The "professional" examination which remains in statute and is still required of applicants would be specified by Board rules as the NCEE national examination to be supplemented by an eight-hour local professional examination designed specifically to test applicants on their knowledge of Hawaii land surveying practices, conditions, and problems.

The bill also deletes references in the law to oral examinations as such examinations are no longer administered.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2036-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2036-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Kawasaki, Kuroda, Young and Henderson.

SCRep. 640-86 Consumer Protection and Commerce on H.B. No. 2038-86

The purpose of this bill is to strengthen the powers and duties of the Board of Medical Examiners.

Specifically, this bill would:

- 1) Authorize the Board under certain conditions to issue temporary certificates to physician assistant applicants who have recently graduated and are waiting to take the certifying examination to become physician assistants. Since the waiting period to take and receive the results of the examination may be as long as ten months, the issuance of temporary certificates would allow these applicants to remain active and proficient as physician assistants;
- 2) Authorize the Board to "deny" applications for licensure. This would clarify the powers of the Board;
- 3) Provide grounds for disciplinary action by the Board for a licensee's or applicant's submission or filing of any statement with the Board which is false or contains any material misstatement or omission of fact;
- 4) Include an applicant with a licensee, in the requirement that they report in writing to the Board, any disciplinary decision issued in another jurisdiction against the applicant or licensee within thirty days of the decision;
- 5) Set minimum and maximum limits on fines imposed by the Board, exclusive of the costs of any disciplinary proceedings;
- 6) Provide that all remedies and penalties under Chapter 453, Hawaii Revised Statutes, pertaining to the Board of Medical Examiners are cumulative and in addition to each other and any other remedies and penalties available under all other laws of the State;
- 7) Provide applicants whose application have been denied with a right to a hearing pursuant to Chapter 91; and
- 8) Provide the same temporary certification provisions to Emergency Medical Technicians as would be provided to Physician Assistants under this bill.

Your Committee finds that this bill would serve to not only strengthen the powers and duties of the Board, but will ultimately provide a safer and more secure medical environment for both medical professionals and consumers alike.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2038-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2038-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Kuroda, Young and Henderson.

SCRep. 641-86 Consumer Protection and Commerce on H.B. No. 2042-86

The purpose of this bill is to amend Chapter 463E, Hawaii Revised Statutes, relating to Podiatrists.

Chapter 463E, Hawaii Revised Statutes, provides general regulatory provisions, licensing and examination requirements for registration, and cause for revocation and suspension of licenses, relating to the podiatry profession. This bill specifically amends these provisions in the following manner:

- 1) adds a requirement for a written test of clinical competency;
- 2) deletes references to the amounts of fees and clarifies the authority of the Director of the Department of Commerce and Consumer Affairs to establish fees through rules;

- 3) makes explicit the grounds for denial of licenses by the Board of Medical Examiners;
- 4) requires written reporting of disciplinary actions received;
- 5) establishes the limits for fines to be no less than \$500 and no more than \$5,000;
- 6) specifies that Chapter 91, Hawaii Revised Statutes, relates to hearings for license denial;
- 7) clarifies that remedies and penalties are cumulative; and
- 8) eliminates references to gender, updates language and makes other housekeeping changes.

Your Committee finds that these changes are necessary to ensure the effective regulation of the podiatry profession and to bring the podiatry profession in consonance with other regulated professions.

Your Committee has amended the bill on page 6, line 4 to correct the spelling of the word "barbiturate."

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2042-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2042-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Kawasaki, Kuroda, Young and Henderson.

SCRep. 642-86 Consumer Protection and Commerce on H.B. No. 2048-86

The purpose of this bill is to provide for administrative review of cases where a license is denied by a board or commission listed in Section 26H-4, Hawaii Revised Statutes (HRS), and to specify a time limit for requesting administrative review.

Your Committee finds from testimony by the Department of Commerce and Consumer Affairs that many of the statutes establishing regulatory boards and commissions do not provide for administrative appeals of license denials. This administration bill proposes to add a new section to Chapter 91, HRS, requiring any person contesting the denial or refusal of a license or certificate of registration by a board or commission listed in Section 26H-4, HRS, to proceed to an administrative hearing process prior to appealing to the circuit court. This will allow the boards, commissions, and the Department the first opportunity to review appeals.

Your Committee further finds that present statutes provide for deadlines for filing appeals of thirty days, sixty days, or no deadline. This bill proposes to impose an overall deadline of sixty days for filing appeals of license denials. This will ensure prompt filing of appeals, while records are available and memories of the event are fresh.

Your Committee is in agreement with the Department of Commerce and Consumer Affairs that the amendments as proposed by this bill are particularly important in cases where the licensing examination process itself is being contested.

Your Committee has amended the bill by adding the words "by law" after "provided" in line 5 for the purpose of clarity and substituting "the" for the word "such" in line 9.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2048-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2048-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Kawasaki, Kuroda, Young and Henderson.

SCRep. 643-86 Consumer Protection and Commerce on H.B. No. 2050-86

The purpose of this bill is to establish a minimum penalty for violations of the provisions of the contractors license law, Chapter 444, Hawaii Revised Statutes, and to clarify that the penalty shall be for each violation.

Current law does not specify a minimum penalty for violations and does not clearly state that the penalty shall be for each violation. This bill proposes to set a minimum fine of \$100 and a maximum fine of \$5,000 for each violation. This bill also makes technical, non-substantive

amendments for purposes of clarity and style.

Your Committee is in agreement with the Contractors License Board that the amendments proposed by this bill will provide clearer notice of the consequences for violating the contractors license law and will facilitate the imposition of penalties in administrative proceedings.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2050-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Kawasaki, Kuroda and Henderson.

SCRep. 644-86 Consumer Protection and Commerce on H.B. No. 2051-86

The purpose of this bill is to clarify, consolidate, and strengthen penalties and sanctions that may be applied to dental hygienists for violations of Chapter 447, Hawaii Revised Statutes (HRS).

Your Committee finds, from testimony by the Board of Dental Examiners, that currently Sections 447-6 and 447-7, HRS, address the same matters relating to sanctions to be imposed for violations of Chapter 447, HRS. Also, since these sections have not been amended for over thirty years, the language and the amounts of penalties have become outdated.

This administration bill proposes to incorporate the substance of Section 447-7 into Section 447-6, HRS; to specify that penalties under the chapter are cumulative; to increase the amounts of fines; to specify that each daily violation shall be considered a separate violation; to include a reference to a licensee's right to a hearing under Chapter 91, HRS; and to add a penalty for the filing of false information.

Your Committee is in agreement with the Board of Dental Examiners that updating and clarifying Chapter 447 is necessary to facilitate enforcement and provide a stronger deterrent effect.

Your Committee has amended the bill by making nonsubstantive changes in Section 2 on page 1 for the purposes of conformance with recommended drafting style.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2051-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2051-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Kawasaki, Kuroda, Young and Henderson.

SCRep. 645-86 Consumer Protection and Commerce on H.B. No. 2052-86

The purpose of this bill is to amend Chapter 464, Hawaii Revised Statutes, (HRS), by adding new sections on cumulative penalties and the right of an aggrieved person to appeal an adverse decision by the Board of Registration of Professional Engineers, Architects, Surveyors, and Landscape Architects to circuit court. This bill also amends Section 464-10, HRS, to provide for the imposition of an administrative fine of not less than \$500 nor more than \$1,000 for each violation of Chapter 464 and to specify that each day of violation constitutes a separate offense.

Your Committee received testimony from the Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects supporting this bill. The Board testified that Chapter 464, HRS, currently provides separate sections from which administrative, civil and criminal penalties may be imposed on licensees. To ensure that licensees are put on notice that they can be pursued under any one or all of the penalty sections listed in Chapter 464, HRS, a new section has been added to provide that the remedies or penalties are cumulative to each other. Also, the addition of the section entitled "Appeal to circuit court" would conform to other statutes and to Chapter 91, HRS, pertaining to administrative procedures, by granting an aggrieved applicant or registrant this due process right for judicial review of the Board's decision.

The Board further testified that Section 464-10, HRS, presently empowers the Board to suspend or revoke a license where the engineer, architect, surveyor or landscape architect poses a danger to public safety. The inclusion of a fine as a disciplinary sanction is to provide another

form of penalty when suspension or revocation may not be appropriate or warranted. Therefore, an amendment has been made to Section 464-10 to provide for an administrative penalty of a fine.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2052-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Kuroda, Young and Henderson.

SCRep. 646-86 Consumer Protection and Commerce on H.B. No. 2053-86

The purpose of this bill is to strengthen, consolidate and clarify disciplinary and administrative provisions relating to hearing aid dealers and fitters.

This bill proposes to:

- (1) Repeal Sections 451A-15 and 451A-16, Hawaii Revised Statutes (HRS), and incorporate substantive language formerly contained in those sections into Section 451A-13, HRS, to bring all provisions relating to disciplinary actions under one section;
- (2) Provide for a fine as an additional disciplinary sanction, with a minimum of \$100 and a maximum of \$1,000 for each violation and to add two additional grounds for disciplinary action;
- (3) Add a new section to Chapter 451A, HRS, specifying that all penalties and remedies are cumulative;
- (4) Delete the provision allowing licensure without examination for a period of six months after July 1, 1970, as this provision is no longer applicable; and
- (5) Replace the position "secretary-treasurer" with "vice-chairman", as the functions of secretary-treasurer are currently performed by the executive secretary of the Board, and a vice-chairman would better serve the Board in the absence of the chairman.

Your Committee is in agreement with the Board of Hearing Aid Dealers and Fitters that the amendments proposed by this bill will improve the implementation of Chapter 451A.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2053-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Chang, Kawasaki, Kuroda, and Henderson.

SCRep. 647-86 Consumer Protection and Commerce on H.B. No. 2111-86

The purpose of this bill is to clarify the contractor licensing requirements under Chapter 444, Hawaii Revised Statutes, as it applies to government employees.

The present statute may be interpreted to mean that all government employees are exempt from the contractor licensing law whether or not they are involved in a government project.

Although the intent of the law 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 licensing requirements.

This bill clarifies the law to limit the exemption to government employees who are in the performance of their governmental duties.

Your Committee has amended the bill to make nonsubstantive changes for the purposes of style and clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2111-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2111-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Kawasaki, Kuroda, Young and Henderson.

SCRep. 648-86 Consumer Protection and Commerce on H.B. No. 2112-86

The purpose of this bill is to amend Section 448-3, Hawaii Revised Statutes, to eliminate the term "general" in reference to the supervision of dental assistants by dentists and increasing the penalties for allowing unlicensed persons to practice dentistry.

Currently, Section 448-3, Hawaii Revised Statutes, requires that dental assistants perform duties under the "general" supervision, direction and responsibility of a dentist. This bill removes the word "general" in order that the Board of Dental Examiners may adopt rules specifying the type of supervision required. The Board testified in favor of this measure and stated that it is in the process of defining the various levels of supervision to be required of dental assistants by dentists.

Your Committee finds that the \$100 fine for violations of Section 448-3 has not been increased in over thirty years and, in light of today's economy, does not provide a strong deterrent effect. This bill increases the fines to maximum of \$1,000 for a first offense and \$2,000 for a second offense.

Your Committee has amended the bill by making nonsubstantive clarifying language changes to the provision increasing the fines.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2112-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2112-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Kuroda, Young and Henderson.

SCRep. 649-86 Consumer Protection and Commerce on H.B. No. 2114-86

The purpose of this bill is to allow a prospective hearing aid purchaser to waive the requirement for a medical examination, and to extend the time period for which a medical examination is valid.

Your Committee finds that present statutes require all hearing aid purchasers to obtain a medical examination from a licensed physician within ninety days of the purchase of a hearing aid. In 1979, the federal Food and Drug Administration (FDA) adopted rules allowing persons eighteen years of age or older to waive the medical examination if they choose to do so. The FDA also extended the time period for which a medical examination is valid from ninety days to six months.

This administration bill proposes to amend Section 451A-14.1, Hawaii Revised Statutes, to provide the same option for waiver of medical examination as the FDA, provided the hearing aid dealer and fitter advises the purchaser of the importance of a medical examination and the purchaser is given the opportunity to sign a statement of waiver. This bill also proposes to extend the time period for which a medical examination is valid to six months, because the current ninety day provision is considered by the FDA to be too stringent.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2114-86, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as H.B. No. 2114-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Kawasaki, Kuroda, Young and Henderson.

SCRep. 650-86 Consumer Protection and Commerce on H.B. No. 2115-86

The purpose of this bill is to strengthen the laws regulating the nursing profession.

This bill:

- 1) Adds five additional grounds for disciplinary action of licensees under subsection 457-12(a),

Hawaii Revised Statutes, to better protect the public;

2) Deletes obsolete pleading requirements, practices and procedures for disciplinary proceedings against a licensee in subsections 457-12(b) and (c) because statutory provisions in chapter 91 clearly set forth administrative hearing procedures;

3) Authorizes the Board of Nursing to impose limitations on a licensee in addition to its power to deny, revoke, or suspend a license. This power provides the Board with more flexibility and discretion to impose sanctions that are appropriate to the violation committed and which may not require the denial, revocation or suspension of a license;

4) Authorizes the Board to impose administrative penalties on licensees; and

5) Provides that remedies and penalties under this chapter are cumulative.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2115-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Kawasaki, Young and Henderson.

SCRep. 651-86 Ways and Means on H.B. No. 2805-86

The purpose of this bill is to provide for a general excise tax on transient accommodations of 9 per cent, and to amend the provisions concerning the application of the general excise tax to reimbursements.

Your Committee agrees with the Committee on Finance of the House of Representatives that the time has come to impose a tax on transient accommodations; however, it does not agree that the rate should be as high as 9 per cent, nor that the vehicle for imposing the tax should be the general excise tax but instead should be a separate tax.

The reason for a separate tax on transient accommodations is to lessen the income loss of transient accommodation operators. Presently, under the general excise tax, if a person prices an item at \$100, the person generally charges \$104 in order to pass on the 4 per cent general excise tax. However, the general excise tax is on gross collections, which means the person must pay 4 per cent on \$104, or \$4.16. This means that for every \$100 transaction a person loses 16 cents. If the general excise tax itself was increased to 8 per cent, then on a \$100 price, the person would charge \$108, pay taxes on \$108 or \$8.64 in taxes, and lose 64 cents. By creating a new transient accommodations tax at a 4 per cent rate and providing that the general excise tax passed on and collected is not included in the gross proceeds which are taxed under this tax and similarly providing that the gross proceeds subject to the general excise tax do not include collections under the new tax, the amount of the loss is reduced to 32 cents per \$100—total tax paid of \$8.32 composed of the general excise tax of \$4.16 and the transient accommodations tax of \$4.16. The savings under the two tax system to the industry is appreciable for businesses making thousands of dollars a year. In this manner, the State is able to tax the industry for the benefit of the State, while at the same time minimizing the impact of the tax on the industry.

The distribution of the tax revenues provided by your Committee is fixed so that the first 2 per cent of the tax rate will go to the general fund and the other 2 per cent of the tax rate will be divided so that 10 per cent will be appropriated to the counties in equitable proportion to revenues generated and 90 per cent will go into the visitor industry assistance fund. The moneys in the visitor industry assistance fund will be appropriated so that 75 per cent will be used for the purchase, if necessary, and the design and construction of the convention center, and 25 per cent will be used to contract with the Hawaii Visitors Bureau. Such a distribution will assist the industry and the counties, while at the same time providing needed state revenues.

While the language in this bill is similar to that contained in Senate Bill No. 1886-86, S.D. 2, certain amendments have been made upon the joint recommendation of the Legislative Reference Bureau and the Office of the Attorney General, Department of Taxation, for the more orderly administration of this tax. These amendments for the most part incorporate present statutory language taken from chapters 237 and 238, Hawaii Revised Statutes which is commonly understood by both the Department and the private sector. In particular these amendments are as follows:

1. A new definition of transient has been added to clarify the application of the tax.

2. Section -3 has been rewritten to set forth the exemptions from this new tax. This amendment is necessary so that persons reading the new law are not required to refer over to the general excise tax law and so that there is no misunderstanding as to what type of accommodation is exempted.
3. Section -4 has been rewritten to track more closely the language contained in section 237-9, Hawaii Revised Statutes.
4. Section -5 has been deleted and rewritten to track section 237-10, Hawaii Revised Statutes.
5. Section -8 has been amended by adding a reference to section 237-30.5 which requires property managers to inform owners of the owners' liabilities for taxation. The second paragraph of section -8 has been deleted as covered by section -13(b) as rewritten.
6. Section -12 has been rewritten to track section 237-41, Hawaii Revised Statutes.
7. Section -13 has been rewritten to track section 237-34, Hawaii Revised Statutes.
8. Section -15 has been amended by adding a new subsection (b) to assist the Department in determining whether accommodations are furnished for a transient purpose. No matter how much time the legislature spends on writing the definition of transient and writing exemptions from this tax, the definitive determination must be made by the Department of Taxation by rule and on a case-by-case basis. In adopting its rules the Department is referred to the University of Hawaii and its rules and methods of determining residency which should assist the Department in determining when accommodation is being used for transient purposes.
9. Section -16 is deleted and rewritten to track section 238-13, Hawaii Revised Statutes, for the incorporation of certain significant aspects of chapter 237, Hawaii Revised Statutes, into this new chapter.
10. Section -17 has been reworded to track section 237-48, Hawaii Revised Statutes, to prevent tax evasion. Subsection (b) has been added to discourage false agreements or lettings to avoid this tax, such as entering a rental agreement for one year with no penalty for early termination. In such a case the persons involved may attempt to use such an agreement with the understanding that the renter will only use the accommodations for a one-month period in order to avoid the tax.
11. Other minor amendments have been made for style and clarity.

Your Committee has amended the provisions of the bill concerning reimbursements.

After hearing testimony on this bill, your Committee agrees with the Department of Taxation that the present provisions of section 237-20, Hawaii Revised Statutes, as amended by Act 303, Session Laws of Hawaii 1985, must be amended. The Department pointed out that a substantial loss of revenues will result if the provisions regarding reimbursement are not replaced as they read before Act 303. The Department has also made a telling statement regarding the possibility of fraud inherent in the provisions presuming that certain gross proceeds or gross income have not been received by a tour provider. Your Committee notes that Act 303 and this bill would not have become necessary if the Department of Taxation was correctly carrying out its administration of the general excise tax law and enacting necessary rules to aid the public in paying the appropriate taxes under that law. Proposed rules regarding reimbursement have been in existence since 1968 and yet they have never been adopted as required by chapters 91 and 237, Hawaii Revised Statutes. It is this failure to adopt appropriate rules which has led your Committee to add a section that requires the Department to submit properly adopted rules to the legislature before the 1987 regular session. These rules regard the operation of the reimbursement provisions of the general excise tax law and the taxation of tourism related services as provided by this bill.

In reviewing the provisions regarding the presumption against a provider receiving certain income commonly known as the gross up provisions, your Committee agrees with the Department regarding the possibility of abuse, tax evasion, or revenue loss resulting from that provision. Your Committee after reviewing the law in this area, with reservation, agrees that under the reasoning of the general excise tax law the need for a gross up provision or the ability to gross up is required. On the other hand, the use of gross up in the area of certain tourism related services does not serve the interests of the State in encouraging tourism. Therefore, your Committee has amended section 237-18, Hawaii Revised Statutes, to place these tourism related services in the position they are in under Act 303, but without its unhappy aspects. This amendment provides for a split of the gross proceeds from tourism related services between the travel agency or tour packager and the tour provider. For example, if the tour provider

furnished tickets to the travel agency for \$80 which normally sell for \$100, the tour provider will only be taxed at on the \$80 received. The travel agency or tour packager will be taxed on the commission it receives. Your Committee notes that it appears that the financial operations of the industry in this area of taxation could use some improvement.

Having restored the concept of gross up in this area to the general excise tax law, your Committee notes again the lack of rules under the general excise tax law and directs the Department of Taxation to develop and submit rules on this practice to the next session of the legislature. While such rules are being written the Department should not consider expanding the use of gross up past its present practice or apply it retroactively to any business until such rules have been adopted.

While your Committee has restored the law of reimbursement to its pre-Act 303 language, it finds that the amendment would have helped certain businesses or business practices in this State and finds that such businesses should not lose the benefits of Act 303 altogether. These businesses and business practices are particularly affected by the reimbursement provisions of the general excise tax law due to different provisions in the income tax law. In addition, in complying with the general excise tax law, businesses are operating inefficiently with resultant cost increases.

Therefore, your Committee has exempted common paymasters from the general excise tax on certain transactions to provide that such transactions are not affected by the repeal of Act 303. In a common paymaster situation, a group of corporations may share employees among themselves and choose one of the member corporations to pay employees as the most efficient method of doing business. The other corporations reimburse the paying member corporation for their share of the salaries, social security, and other payments made regarding such common employees. Similarly, in the case of a related group of corporations, one corporation may have a very efficient payroll system and be chosen to perform payroll functions for all members of the group, for which it is reimbursed. The federal and state income tax laws do not tax such reimbursements.

Your Committee has also exempted unincorporated merchant associations from the general excise tax as they were under Act 303. The exemption exempts the advertising media, promotional, and advertising costs of such associations. In 1968, the Department of Taxation advised the Ala Moana Center Association that dues contributed for these costs were considered by the Department as reimbursements and not subject to the general excise tax. Again, in 1973 the Department informed the Pearlridge Center Association of such exemption. In 1979, the Department of Taxation issued Tax Information Release 67-79 superseding these two prior opinions and made such dues contributions taxable.

Finally, your Committee has amended the effective date of this Act to provide that the repeal of the reimbursement and gross up amendments made by Act 303, Session Laws of Hawaii 1985, is retroactive to the effective date of Act 303.

In summary, your Committee finds that this bill as redrafted will avoid the blunderbuss approach of Act 303, Session Laws of Hawaii 1985, and its concomitant large revenue loss. This bill instead will substitute a precise solution to some of the more onerous problems presented business by the general excise tax while minimizing possible revenue loss.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2805-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2805-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 652-86 Ways and Means on H.B. No. 1898-86

The purpose of this bill is to provide for a study to recommend the proper direction for the State in developing a plan which ties together and coordinates statewide employment, human resource, and economic development policies and activities.

The bill provides an appropriation to the advisory commission on employment and human resources to study how best to (1) relate human resource development programs to economic development policies; (2) bring greater coordination and unified direction to human resource programming; (3) develop a more focused program of resource generation; and (4) support the development of innovative forms of human resource development programming in the State.

Your Committee finds that this bill will contribute to the furtherance of declared public goals in terms of human resource and economic development in the State, and is therefore in

the public interest.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1898-86, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 653-86 Ways and Means on H.B. No. 2102-86

The purpose of this bill is to consolidate the Department of Hawaiian Home Land's (DHHL's) funding structure, by reducing the number of funds from fifteen to seven.

This bill amends the Hawaiian Homes Commission Act to abolish certain funds, merge existing funds, and rename one fund to serve as a holding account. A diagram of the proposed change is attached.

Currently, DHHL is responsible for handling fifteen different funds which provide loans for the development and repair of home lands; assistance to farm land operations; operating moneys for the Department; trust funds for holding moneys received from other parcels; and assistance to native Hawaii rehabilitation activities.

Your Committee finds that this measure will facilitate more efficient financial administration within the Department.

Your Committee has made technical, nonsubstantive amendments to the bill for the sake of clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2102-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2102-86, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 654-86 Ways and Means on H.B. No. 1878-86

The purpose of this bill is to provide for an administrator to, and staff support for, the state fire council.

Your Committee finds that the statutory responsibilities of the council are such that the council requires an administrator who is experienced in fire prevention, fire codes, and building codes, and appropriate clerical support. This bill provides for an administrator to the council who shall be a member of the Honolulu fire department, requires the Honolulu fire department to provide necessary clerical, stenographic, or other support to the council, and provides for reimbursement for all costs to the city and county of Honolulu by annual appropriation from the State's general revenues. The bill further designates the Honolulu fire chief as the chairperson of the council.

Your Committee has amended this bill by specifying that the reimbursement to the city and county of Honolulu shall be for actual rather than all costs. Your Committee also made technical amendments for purposes of style.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1878-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1878-86, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator Solomon.

SCRep. 655-86 Ways and Means on H.B. No. 393

The purpose of this bill is to amend the criteria for the allotment of moneys and instructional resource augmentation positions in the school priority fund. Allotment of moneys are authorized for grades kindergarten through twelve, instead of separately for elementary schools and secondary schools. Allotment of positions are authorized to school districts based on enrollment in schools with grades kindergarten through six and grades kindergarten through eight, instead of only for elementary schools.

Your Committee finds that this bill provides an equitable criterion for the distribution of moneys in the school priority fund and allows schools with combined intermediate and elementary grades to benefit from instructional resource augmentation positions.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 393, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 656-86 Ways and Means on H.B. No. 1666-86

The purpose of this bill is to establish a Teacher Incentive Program at the University of Hawaii.

Your Committee finds that the State of Hawaii, as well as the rest of the nation, is beginning to feel the effects of a teacher shortage. This bill is an attempt to address that concern and to encourage qualified students to become teachers in Hawaii's public schools.

This bill provides a tuition loan program in the University of Hawaii to be administered by the Board of Regents. The bill also specifies qualifications of applicants; terms and conditions for loan repayment; and a waiver provision applicable in certain cases.

Your Committee has amended the bill to provide that any tuition pay backs which have not been completed at the time the Act is repealed shall continue to be paid back and to make stylistic changes which do not affect the substance of the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1666-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1666-86, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 657-86 Ways and Means on H.B. No. 2624-86

The purpose of this bill is to establish the Hawaii Industrial Development Corporation (HIDC), within the Department of Planning and Economic Development (DPED), for the purpose of providing investment capital and assistance to Hawaii businesses.

There is also established the Hawaii Venture Capital Revolving Fund into which all moneys shall be deposited, as directed by the Board of HIDC. The bill provides for two separate appropriations, for moneys into the revolving fund and to staff the corporation.

Your Committee finds that this measure is an important part of the State's responsibility to ensure a healthy economy for Hawaii's future.

Your Committee amended the bill by decreasing the appropriation from \$500,000 to \$400,000 for venture capital and from \$200,000 to \$100,000 for necessary staff to effectuate the purposes of this bill. Your Committee also made technical, nonsubstantive amendments to the bill.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2624-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2624-86, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 658-86 Ways and Means on H.B. No. 2023-86

The purpose of this bill is to increase the scope of the high technology research and development fund to enable the high technology development corporation to accumulate revenues and pursue 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 would authorize deposits into the fund of all lease rents, fees, grants, and monetary gifts received by the corporation.

Your Committee finds that this bill would facilitate the mission and enhance the effectiveness of the high technology development corporation and is therefore in the public interest.

Your Committee has made technical, nonsubstantive amendments for style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No.

2023-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2023-86, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 659-86 Ways and Means on H.B. No. 2013-86

The purpose of this bill is to increase the annual appropriation for the firefighter's contingency fund from \$200,000 to \$300,000.

Chapter 185, Hawaii Revised Statutes, places the responsibility for extinguishment of forest fires on state-owned or private lands within state reserves with the department of land and natural resources. Section 185-4, Hawaii Revised Statutes, provides for payment of the costs of fighting fires on such lands from the firefighter's contingency fund.

Your Committee finds that the requested increase for fire suppression is too high and has reduced the increase of the annual appropriation to \$250,000.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2013-86, H.D. 1, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2013-86, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 660-86 Ways and Means on H.B. No. 2495-86

The purpose of this bill is to provide for "lifeline telephone service" to be offered by telephone companies upon approval by the public utilities commission.

Lifeline telephone service would include a basic, residential local exchange access offered to eligible consumers identified as elderly and handicapped persons with limited income. The telephone companies providing this service would receive a tax credit equal to the subsidy, to be applied against their tax liability imposed under chapter 239, Hawaii Revised Statutes.

Your Committee finds that having telephone service is essential to many persons with low and limited incomes as they are significantly dependent on the telephone to maintain communication with public agencies and providers of medical care as well as to retain necessary social contacts in the community. Therefore, your Committee finds that the concept of lifeline telephone service is commendable and should be made available to persons with low and limited incomes in the face of rising telephone service costs. Your Committee intends that lifeline rates be made available to elderly persons with limited incomes, handicapped persons with limited incomes, and other persons with limited incomes, as designated by the public utilities commission.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2495-86, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 661-86 Ways and Means on H.B. No. 2273-86

The purpose of this bill is to transfer the functions relating to the administration of agricultural park leases from the department of land and natural resources to the department of agriculture.

The bill provides a clear expression of legislative intent regarding agricultural parks; confers broad authority to the department of agriculture to plan, develop, and manage agricultural parks; and requires the board of agriculture to adopt rules governing the agricultural park program. The bill also provides for the acquisition of agricultural park lands by the department of agriculture from the department of land and natural resources through the governor's powers to set aside lands for public purposes under section 171-11, Hawaii Revised Statutes.

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

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2273-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2273-86, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 662-86 Ways and Means on H.B. No. 1697-86

The purpose of this bill is to appropriate funds for sugar research and development, including research on alternate crops, provided that the Hawaiian Sugar Planters' Association provides a dollar-for-dollar match of funds.

Hawaii's sugar industry is a vital component of the State's economic base. Failure of this industry would have widespread detrimental effects on the economy of the State. Your Committee believes that continuing sugar research and development, including research on alternate crops and by-products, is important for the future of Hawaii's sugar industry.

Your Committee has amended this bill by decreasing the appropriation from \$2,500,000 to \$1 and by decreasing the amount earmarked for research and development of alternate crops and by-products from \$150,000 to 50 cents.

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

Signed by all members of the Committee.

SCRep. 663-86 Ways and Means on H.B. No. 2122-86

The purpose of this bill is to authorize the Hawaii Housing Authority to issue capital appreciation bonds under the Hula Mae Program.

A capital appreciation bond, which is similar in concept to a savings bond, is purchased at a discounted price and redeemed for its full face value at maturity. During the period between the bond's purchase and redemption, a capital appreciation bond accretes in value. The principal of accretion is important since capital appreciation bonds (1) are considered to bear no interest (they increase in principal value), and (2) have no regular payments of interest. These two technical deviations from the typical characteristics of bonds are addressed 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 per cent. The advantage or benefit of capital appreciation bonds to the Authority is lowered bond issuance costs.

Your Committee finds that the benefits derived by authorizing the HHA to issue capital appreciation bonds will accrue to both consumer and investor.

Your Committee has amended the bill to decrease the appropriation to the Hawaii Housing Authority from \$20 million to \$1 million.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2122-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2122-86, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 664-86 Ways and Means on H.B. No. 2501-86

The purpose of this bill is to authorize the Hawaii Housing Authority to establish a taxable mortgage securities program to finance housing loan programs of the Authority.

Congress is considering legislation which, if enacted, will severely restrict tax-exempt bond programs, such as the Authority's Hula Mae program. The Hula Mae program has been very successful in making housing affordable for many residents. This bill establishes a program which authorizes instruments alternative to tax-exempt bonds as the means of continuing subsidized housing financing for low- and moderate-income residents.

Your Committee has amended the bill by substituting "national" for "natural" on page 7, line 19. In addition, other technical, nonsubstantive amendments have been made.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2501-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2501-86, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 665-86 Ways and Means on H.B. No. 2024-86

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 state and county taxation, except transfer and estate taxes.

Presently, 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 specially benefit from the 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 up to twenty years. To provide financing for these property owners, HCDA is authorized under section 206E-6, Hawaii Revised Statutes, to issue improvement district assessment bonds.

The Authority's assessment bonds are not revenue bonds as defined in chapter 39, Hawaii Revised Statutes, and, therefore, are not entitled to an exemption from state and county taxes. Furthermore, chapter 206E, the Authority's enabling legislation, does not include specific language exempting these bonds from state and county taxation.

The proposed amendment would permit the assessment bonds to be exempt from state and county taxation and would place the Authority's bonds at parity with other revenue bonds of the State. Without this exemption, HCDA's assessment bonds would be at a competitive disadvantage to other comparable revenue bonds.

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

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

Signed by all members of the Committee.

SCRep. 666-86 Ways and Means on H.B. No. 1663-86

The purpose of this bill is to establish a child care center pilot project at the University of Hawaii.

Your Committee agrees that the establishment of child care centers by the university is a concern which should be addressed by the board of regents. The board, therefore, will be responsible for implementing a child care program which is responsive to the needs of the university's students, faculty, and staff. It is also your Committee's understanding that the board is fully accountable for whatever action it may take in this area.

As a matter of public policy, however, your Committee strongly encourages the board of regents to consider in the order named the following target groups to be served by child care centers: students; faculty and staff of the university; and other citizens.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1663-86, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 667-86 Ways and Means on H.B. No. 2138-86

The purpose of this bill is to authorize the transfer of the Hoomana School program from the University of Hawaii to the Department of Social Services and Housing.

At present, the administrative functions of the Hoomana School program are placed with the Department of Social Services and Housing while the operational functions rest with the University of Hawaii. This bill unifies the two functions in order to effectuate a more efficient and appropriate educational program at the Oahu Community Correctional Center.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2138-86, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 668-86 Ways and Means on H.B. No. 2219-86

The purpose of this bill is to change the definition of "criminal history record check" in statutes relating to child care facilities.

Under current law, individuals subject to criminal history record checks 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 (FBI) for a criminal history record check. This bill deletes the requirement of such annual fingerprinting and requires instead that the record checks include an initial fingerprint analysis and name inquiry into state and FBI criminal record files followed by subsequent fingerprint analyses for new hires and rehires and annual name inquiries only into the state criminal history record files. This bill also clarifies that the department of social services and housing is to conduct criminal history record checks of persons employed or seeking employment in child care facilities as part of the licensing process.

Your Committee has amended the bill to provide for the purchase of a vehicle for the Data Center instead of a van for the police.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2219-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2219-86, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 669-86 Ways and Means on H.B. No. 1815-86

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

This bill would fix live aboard fees at \$5.20 and \$7.80 per foot of vessel length a month for resident and nonresident permittees, respectively. The bill also sets future increases according to the annual cost-of-living index, provided that the increases do not exceed five per cent a year.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1815-86, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 670-86 Ways and Means on H.B. No. 2412-86

The purpose of this bill is to provide funds to allow the State of Hawaii to be represented by a Hawaiian voyaging canoe in the Tall Ship Celebration procession in New York Harbor in July, 1986, as part of the ceremonies commemorating the centennial restoration of the Statue of Liberty.

Your Committee finds that the E'Ala Resource Center, a nonprofit organization from Waianae involved in building and sailing Hawaiian voyaging canoes, was invited by Captain Harry Allendorfer, Tall Ships Chairman, and Mr. Lee Iacocca, Chairman of the Statue of Liberty Restoration Committee, to participate in the centennial celebrations with a Hawaiian voyaging canoe. Mr. Solomon Naone, president of the E'Ala Resource Center, confirmed that a written invitation had been sent by the Restoration Committee. The canoe will be the sole Hawaiian vessel present.

Your Committee has amended this bill to appropriate \$75,000 for expenses and would like to encourage the E'Ala Center to raise funds from other sources to supplement this appropriation.

Your Committee is in agreement that the participation of a canoe from Hawaii in the Tall Ship Celebration will be a valuable learning experience for the youth of Waianae who are involved in the E'Ala canoe project, as well as an opportunity to stimulate interest in Hawaii among the many visitors from all over the world who will be attending the Statue of Liberty celebration.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2412-86, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2412-86, H.D. 2, S.D. 1.

Signed by all members of the Committee.

SCRep. 671-86 Ways and Means 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 hazardous waste program, currently managed by the department of health, is continually called upon to address questions regarding the handling, shipping, and disposal of materials which may or may not be hazardous. This bill would provide the matching funds necessary to continue the State's Cooperative Agreement with Region IX of the U.S. Environmental Protection Agency and additional funds which are needed to implement the Resource Conservation and Recovery Act Program.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1706-86, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 672-86 Ways and Means on H.B. No. 2221-86

The purpose of this bill is to consolidate all of the statutory provisions designed to assure children a safe home environment, either with their natural families or in adoptive homes. The bill also adds specificity to existing statutory standards by providing clear guidelines for making the factual determinations that dictate placement decisions.

Your Committee has amended the bill with respect to the appointment of a guardian ad litem by deleting the provisions in section 587-34, Hawaii Revised Statutes, requiring the guardian ad litem to: investigate and ascertain all relevant facts in each case; ensure that all relevant facts are before the court; advocate for and protect the child's best interests; ensure that the court has before it all reasonably available options for the child's best interests; and monitor and ensure that court orders are carried out.

Your Committee has also made a technical amendment to correct a clerical error on page 18, line 18 of the bill as received.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2221-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2221-86, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 673-86 Ways and Means on H.B. No. 2752-86

The purpose of this bill is to appropriate funds to aid the Hawaii Bar Association in initiating a "Dial Law" information service.

Your Committee finds that the public's understanding of the areas of law that affect their daily lives can be enhanced by a "Dial Law" program. The program may also help individuals conform their conduct to relevant legal requirements and improve public access to the legal system.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2752-86, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 674-86 Ways and Means on H.B. No. 1691-86

The purpose of this bill is to establish the victim-witness assistance program in the department of the attorney general.

Currently, the victim-witness assistance program operates in association with the prosecuting attorney's office in each of the four counties. The continued availability of the program's services to the victims of and witnesses to crime in this State by permanently establishing the program under the department of the attorney general is necessary and accomplished by this bill. Bringing the victim-witness assistance program within the purview of the department of the attorney general will also facilitate the coordination of the statewide funding efforts and allow for uniformity of policies and procedures.

The department of the attorney general shall be responsible for developing program policy and allocating appropriated funds to the counties for the program. The county prosecutors shall continue to implement the program. Funding for the program has been provided for in the Appropriations Act of 1985.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1691-86, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 675-86 Ways and Means on H.B. No. 1990-86

The purpose of this bill is to appropriate funds to satisfy claims for legislative relief, judgments against the State, settlements, and miscellaneous claims.

The bill requires payment by warrants issued by the comptroller upon vouchers approved by the Director of Taxation for tax claims and by the Attorney General for all other claims.

Your Committee has amended the bill to include appropriations for three cases recently settled or resolved for \$16,500, \$4,000, and \$393,562.92, a total of \$414,062.92.

Your Committee, as requested by the department of the attorney general, has further amended the bill by moving a \$100 appropriation from the judgments and settlements section to the miscellaneous section.

Your Committee has also made a technical, nonsubstantive amendment for style and clarity.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1990-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1990-86, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 676-86 Ways and Means on H.B. No. 381

The purpose of this bill is to increase the compensation for jurors from \$20, to \$30, a day.

Your Committee finds that jury duty is one of the more important obligations of citizenship, and that the jurors should be adequately compensated for their time. Your Committee finds that this bill provides more adequate compensation for jurors and, additionally, is intended to promote more willing service on juries.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 381, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 677-86 Ways and Means on H.B. No. 1493

The purpose of this bill is to codify a bill of rights for victims and witnesses of crime.

Crime victims and witnesses have special needs and frustrations as participants in the criminal justice process. While they supply authorities with vital information, they are often not informed about the status and disposition of the cases in which they are involved. Existing laws require the courts to notify victims at certain stages of the legal process, but many criminal matters are disposed of without formal proceedings.

This bill requires victims to be notified, upon written request, of formal and informal developments in cases that involve them. The bill requires victims to be advised of the financial assistance and social services that may be available to them.

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

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1493, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1493, S.D. 3.

Signed by all members of the Committee.

SCRep. 678-86 Ways and Means on H.B. No. 1687-86

The purpose of this bill is to provide a \$5,000,000 appropriation to the rental assistance revolving fund established in section 356-303, Hawaii Revised Statutes.

Your Committee finds that additional funds to the rental assistance revolving fund will help stimulate additional development and rehabilitation of affordable rental housing units. Additionally, such funds are necessary because of 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 appropriate \$1,500,000 in an effort to alleviate the needs of low- and fixed-income persons for rental assistance.

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

Signed by all members of the Committee.

SCRep. 679-86 Ways and Means 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 inserted \$1 as the total amount of bonds authorized by this Act in order to allow flexibility in the budget-making process. Other amounts in the bill and the proper bill references have been left incomplete since the precise data or best estimates have not yet been established.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1856-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1856-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 680-86 Ways and Means on H.B. No. 2595-86

The purpose of this bill is to amend the definition of gross income in the public service company law to provide that gross income from tourism related services is divided between the travel agent or packager and the provider of the services.

This amendment addresses the gross up methodology used by the department of taxation and 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 other business related reason. The agent in turn markets the service, adding a charge or fee for a profit for the agent. If the gross up methodology is used by the department of taxation, the provider in this case would be responsible for the public service company tax on the gross receipts of the advertised price of the tourism related service even though the total advertised price of the service was not received by the provider.

Your Committee agrees with the position taken in this bill. Your Committee has amended this bill by deleting the words on lines 20 and 21 of page 2 of the bill as received stating "the sale or transfer of materials or supplies,". This deletion is being made to reduce the revenue loss resulting from the exemption of such transfers between affiliated public service company businesses. Other technical, nonsubstantive amendments have been made.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2595-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2595-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 681-86 Ways and Means on H.B. No. 526

The purpose of this bill is to provide State support for employee stock ownership and the administrative structure for the promotion and support of employee stock ownership programs (ESOPS).

Your Committee has amended the bill in the following respects which include the adoption of recommendations of the department of planning and economic development (DPED) in its favorable testimony before the Committee on this bill.

(1) The purpose of the bill was modified to implement the state policy reflected in the Hawaii State Plan which supports employee stock ownership.

(2) The definitions of "director" and "employee-ownership group" have been omitted.

(3) The definition "employee-ownership" has been substituted for the definition "employee-owned enterprise", and the definition of employee-ownership omits restrictions upon voting rights and board membership.

(4) The responsibility for the administration of the employee stock ownership program has been placed with the DPED rather than establishing an employee stock ownership advisory commission.

(5) The regulatory review requires a one-time review of rules, policies, and practices, a report to the legislature of the findings of this review, and an annual report to the legislature regarding the steps taken to encourage employee ownership and participation.

(6) The employee stock ownership loan program, Part III of the bill, is omitted as recommended by the DPED.

(7) The appropriation for the Act has been increased from \$1 to \$15,000.

(8) A new section was added to give DPED the authority to adopt rules to implement the Act.

(9) The effective date of the Act is changed so that the Act is repealed as of June 30, 1988, as recommended by the DPED.

Your Committee has also amended the bill to make technical changes which have no substantive effect.

The bill, as amended, authorizes the DPED to actively promote and support expanded employee ownership in Hawaiian businesses. The bill also provides for an Employee Ownership Program; periodic regulatory review; and DPED powers and duties with respect to employee stock ownership which include:

(1) Coordinating activities between participating public and private agencies;

(2) Providing educational and technical assistance;

(3) Appointing an employee ownership advisory committee; and

(4) Hiring necessary personnel and administering funds.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 526, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 526, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 682-86 Ways and Means on H.B. No. 2201-86

The purpose of this bill is to provide \$190,000 to begin the development and implementation of a groundwater protection program.

Pesticides and other chemicals in Hawaii's drinking water have been of considerable concern to health officials and the public in recent years. This concern is expected to grow as monitoring programs expand, new chemicals are introduced, methods of detection improve, and urban centers expand into areas previously used exclusively for agriculture.

The department of health is the appropriate public agency to assume leadership in establishing a groundwater protection program, including groundwater monitoring and enforcement and development and implementation of a risk assessment program, as a continuation and actualization of the recommendations and strategy currently being developed by the office of environmental quality control.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2201-86, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 683-86 Consumer Protection and Commerce on H.B. No. 2116-86

The purpose of this bill is to amend the definition of the practice of psychology under Section 465-1, Hawaii Revised Statutes.

Your Committee received favorable testimony from the Board of Psychology (Board). The Board testified that the present definition in Section 465-1, is outdated and does not provide a complete description of the practice of psychology. Also, the present definition makes reference to a specific diagnostic manual (DSM-III, published by the American Psychiatric Association). The Board testified that because diagnostic manuals are constantly changing and that there are other classification schemes which could better serve psychologists (e.g. ICD-9, published by the World Health Organization), it concluded that it would be preferable to delete reference to a specific diagnostic manual.

Your Committee has amended the bill by underscoring the word "or" on page 1, line 16 which is new statutory material and substituting "its" for the word "the" before the word "rules" on page 2, line 2.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2116-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2116-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Kawasaki and Young.

SCRep. 684-86 Consumer Protection and Commerce on H.B. No. 1869-86

The purpose of this bill is to provide for the regulation of alarm businesses in Hawaii.

In 1984, the Honolulu Police Department responded to about 25,000 false alarms, at great cost to the taxpayers and loss of valuable police work hours. This bill would address the problem by requiring alarm system dealers to maintain a surety bond of \$5,000 during their first five years of operation, in order to provide for payment to customers who sustain damages due to the business' misconduct, and to discourage unethical dealers from entering or continuing business. It also allows a police department to obtain false alarm information from alarm companies, requires each business to post its name, address, and telephone number with the system it is maintaining, servicing, or monitoring, and provides penalties for unlawful acts or practices.

The Director of the Office of Consumer Protection (OCP) voiced reservations regarding Section -6 of the bill which deals with devices to automatically terminate the signal within fifteen minutes of activation. The Director interprets this section to mean that anyone who has bought an alarm without an automatic termination device would be in violation of the law proposed in this bill.

In response to the Director's concern, your Committee notes that the bill provides for an effective date of one hundred eighty days after approval to allow ample time for owners of alarm systems to comply with Section -6. It is your Committee's understanding that automatic termination devices are readily available and relatively inexpensive and that, therefore, the requirement for such devices will not impose an undue hardship.

Your Committee received testimony in support of this bill from the Honolulu Police Department and the Hawaii Burglar and Fire Alarm Association, and finds that regulation of alarm businesses is necessary to protect the public from unscrupulous dealers and practices and will result in considerable savings of tax dollars and valuable time which the police department could better devote to more pressing and serious matters.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1869-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. 1869-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee Cayetano, Chang, Kawasaki, McMurdo and Young.

SCRep. 685-86 Consumer Protection and Commerce on H.B. No. 1905-86

The purpose of this bill is to extend the Motor Vehicle Industry Licensing Board for six years starting December 31, 1986 until December 31, 1992 under the Sunset law.

Your Committee agrees with the Legislative Auditor's Report on Motor Vehicle Industry Licensing, that continued licensing of motor vehicle dealers and auctions is necessary to ensure the safety of the public. Without regulation, the public would be exposed to potentially unscrupulous, fraudulent, and deceptive industry practices.

Your Committee received testimony from the Hawaii Automobile Dealers Association and the Motor Vehicle Industry Licensing Board in support of this bill.

Your Committee amended the bill by changing the effective date from January 1, 1987 to upon approval. Your Committee also made technical, non-substantive amendments on page 3, lines 18 and 20.

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, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Chang, Kawasaki, McMurdo and Young.

SCRep. 686-86 Consumer Protection and Commerce on H.B. No. 2044-86

The purpose of this bill is to clarify sanctions which may be imposed against persons who violate professional and vocational licensing laws.

Your Committee finds that under present statutes relating to professional and vocational licensing, administrative, civil and criminal penalties often are combined in one section or are unclear in defining disciplinary sanctions that may be imposed. To reduce problems in initiating disciplinary action against licensees, this administration bill proposes to amend sections relating to penalties and sanctions in several chapters of the Hawaii Revised Statutes (HRS).

Chapters 438 (Practice of Barbering), 460 (Osteopathy), 466 (Public Accountancy), and 468E (Speech Pathologists and Audiologists), HRS, have been amended to separate administrative, civil and criminal penalties into separate sections.

In addition, the chapters listed above and chapters 437B (Regulation of Motor Vehicle Repair), 457B (Nursing Home Administrators Act), and 459 (Optometry), HRS, have been amended to specify that all penalties are cumulative, to clarify that licensees can be pursued under any one or all of the provisions which provide for penalties.

Your Committee amended the bill to conform to current statute by adding a comma after the word "statements" on page 4, line 2 and changing "professional" to "unprofessional" on page 10, line 3.

Your Committee is in agreement with the Department of Commerce and Consumer Affairs that this bill is necessary to provide clear notice to all professional and vocational licensees of penalties and sanctions for violations of the law.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2044-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2044-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Chang, Kawasaki, McMurdo and Young.

SCRep. 687-86 Consumer Protection and Commerce on H.B. No. 2193-86

The purpose of this bill is to increase the amount of fees collectable under the Uniform Securities Act (Modified) to more properly reflect administrative costs, and to clarify the basis by which the Commissioner of Securities may deny licensure or registration, or discipline a licensee or registrant under the Chapter.

Your Committee received testimony from the Department of Commerce and Consumer Affairs in support of the bill, and finds that the fees provided by Chapter 485, Hawaii Revised

Statutes, have not been raised in nearly fifteen years and are much lower than the fees in most other states. The fees proposed in this bill would bring Hawaii's schedule closer to the average fees charged throughout the United States. Your Committee also finds that Hawaii's laws lack currency with contemporary trends and standards relating to the disciplining of broker-dealers, investment advisers, securities salesmen, or investment adviser representatives. In order to prevent any "void for vagueness" problems, this bill proposes precise grounds which the Commissioner of Securities may utilize in disciplinary situations.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2193-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2193-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Chang, Kawasaki, McMurdo and Young.

SCRep. 688-86 Consumer Protection and Commerce on H.B. No. 1907-86

The purpose of this bill is to extend the Hawaii State Boxing Commission (Commission) for an additional six years from December 31, 1986 to December 31, 1992.

Your Committee finds that there is sufficient reason to not only extend the Boxing Commission for another six years, but to also strengthen the laws regulating both the Commission and the sport of boxing.

Your Committee received favorable testimony from the Commission on this bill and several other bills affecting boxing, and agrees with its intent of improving the Commission by implementing recommendations made by the Legislative Auditor in his January 1986 report.

Your Committee concurs with the Auditor's findings that the primary purpose of chapter 440, Hawaii Revised Statutes, is the protection of the boxer. Therefore, your Committee has amended the bill by including the recommendations of the Auditor which appeared in S.B. No. 1691-86 and S.B. No. 1692-86 in this bill, and further amended the bill to address other concerns raised by the Auditor.

The bill as amended provides:

- 1) The Commission with powers to revoke or suspend a license for specific offenses;
- 2) That a manager or second may be responsible for the action of a boxer they handle;
- 3) The Commission with the authority to prohibit a licensee from all boxing activities if warranted;
- 4) A maximum penalty for each violation of chapter 440;
- 5) That remedies or penalties provided by chapter 440 are cumulative;
- 6) A definition of "boxing";
- 7) Additional powers and duties of the Commission, which include:
 - A) Authority to establish a trust/escrow system to insure proper payment by boxing promoters;
 - B) Responsibility for maintaining a public record accounting for the distribution of all tickets provided to the commission by promoters;
 - C) Providing an annual clinic or seminar on health and medical safety for boxers;
 - D) Requiring neurological and eye examinations of boxers in certain cases; and
 - E) An annual review of the Commission's rules and powers to insure compliance with chapter 91, Hawaii Revised Statutes;
- 8) The Commission with the responsibility to approve all boxing contests;

- 9) That boxing gloves shall be at least six ounces in weight;
- 10) That promoters provide proof of medical insurance for boxers before a license is granted thereto;
- 11) Provisions for promoters whose medical insurance or bond is cancelled or expires;
- 12) For written examinations in order to be licensed as a referee, judge, manager, or second;
- 13) That announcers need not to be licensed;
- 14) That the cost of examining a licensee who fails to report a boxing contest is the responsibility of the licensee;
- 15) That a promoter need only provide medical insurance and not "major" medical insurance; and
- 16) Technical changes which have no substantive effect.

Your Committee finds that this bill will serve to strengthen the laws authorizing boxing contests and will also serve to more fully protect boxers and the sport of boxing.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1907-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1907-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Chang, Kawasaki, Young and Henderson.

SCRep. 689-86 Consumer Protection and Commerce on H.B. No. 1908-86

The purpose of this bill was to extend the Pest Control Board until December 31, 1992.

The Legislative Auditor's report found that there is a significant potential for harm to the public's health, safety, and welfare from the activities of pest control operators and that these activities may cause serious property and financial loss to consumers. The Auditor recommended that the regulation of this occupation should continue but under the Department of Agriculture rather than the Pest Control Board.

Your Committee finds that the regulation of pest control operators should continue but that the regulatory program should be reviewed prior to 1992 and has, therefore, amended this bill to extend the Board until December 31, 1990. The Auditor made recommendations which your Committee believes the Board should adopt and implement and your Committee has further amended the bill to require the Board to report to the Legislature prior to the convening of the regular session of 1987 on its progress in implementing the Auditor's recommendations.

The Auditor also recommended that the Board abolish its moral character requirement; clarify the grounds for disciplinary action; abolish the two-year statute of limitations for disciplinary action; update its penalty provisions; eliminate the requirement for financial statements for license applications; require liability insurance verification for license renewals; and develop an enforcement information reporting system. Your Committee concurs with these recommendations and has amended the bill accordingly.

The Auditor also recommended that the Department of Commerce and Consumer Affairs (DCCA) develop greater expertise in licensing examinations, and work with the Department of Agriculture to develop valid examinations for pest control operators. Your Committee concurs with these recommendations, and recommends that the DCCA give serious consideration to its adoption.

Your Committee has further amended this bill by changing the effective date from January 1, 1987 to "upon its approval."

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

Signed by all members of the Committee except Senators Cayetano, Chang, Kawasaki, Young and Henderson.

SCRep. 690-86 Consumer Protection and Commerce on H.B. No. 2049-86

The purpose of this bill is to strengthen the statutes relating to the regulation of chiropractic in the State.

Specifically, the bill provides that submission of false information to the Department of Commerce and Consumer Affairs is grounds for disciplinary action; clarifies provisions relating to revocation of a license; provides fines as a method of discipline; increases the minimum fines for violations; and deletes gender references and indefinite modifiers in the language of the statutes.

Your Committee received testimony in support of this bill from the Board of Chiropractic Examiners and finds that these measures would improve the regulation of chiropractic and thereby enhance the State's efforts to provide for the public health and safety.

Your Committee has amended the bill on page 4, line 8 by substituting the word "or" for the word "to" to correct a typographical error.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2049-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2049-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Chang, Kawasaki, Young and Henderson.

SCRep. 691-86 Ways and Means on H.B. No. 2608-86

The purpose of this bill is to provide tuition waivers for the regular academic year for certain veterans who are enrolled in the University of Hawaii system. Under the bill, as amended, a veteran must meet the following requirements to qualify for a tuition waiver:

- (1) Have served in Vietnam, Cambodia, or Laos during the Vietnam era;
- (2) Have been discharged under conditions other than dishonorable;
- (3) Not be eligible for educational benefits under any federal veterans benefit program;
- (4) Be an undergraduate student working towards a degree on any campus of the University of Hawaii; and
- (5) Be a resident of the State.

The major amendments made by your Committee to the bill, as received, are the following.

A provision has been added to require a tuition waiver for a veteran to count as a financial aid unit in computing the maximum financial aid units which may be awarded by the university. Under current law, the maximum for each academic year is thirteen per cent of the full-time enrollment for the previous fall semester. Your Committee feels that the University of Hawaii can accommodate the tuition waivers provided under this bill within the maximum.

A provision has been added authorizing the Board of Regents to request the federal Veterans Administration to submit periodic reports on the impact and benefit of the waiver program. Your Committee recognizes that the State cannot mandate reports from a federal agency and thus, has made the provision discretionary. The Board, however, is authorized to cease the tuition waivers if no report is submitted or if the Board, based on a report submitted by the Veterans Administration, finds that the waivers have only a negligible impact or negative cost-benefit. Your Committee finds that this provision is necessary if the university desires to properly evaluate the program because the Veterans Administration should have the necessary data.

Provisions have been added to prohibit the grant of tuition waivers for any academic year beginning after September 1989, and to sunset the program on December 31, 1989. The sunset provision is similar to one which was attached to the national guard tuition waiver program. The national guard tuition waiver program is now permanent, having proven its worth. Your Committee intends that the veteran tuition waiver program prove itself prior to being made permanent, as the national guard program did.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2608-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form

attached hereto as H.B. No. 2608-86, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 692-86 Ways and Means on H.B. No. 2800-86

The purposes of this bill are to: (1) authorize the insurance commissioner to institute a contingency joint underwriting insurance plan when the commissioner determines that certain businesses or professions are unable to secure liability insurance; and (2) amend the no-fault law by eliminating the "take-all-comers" provision and allowing the use of age and length of driving as rating factors in determining no-fault insurance premiums.

Your Committee is aware that certain businesses and professions are experiencing difficulty in obtaining liability insurance as insurers are becoming more hesitant to underwrite businesses and professions that are considered high risk. The unavailability of liability insurance to certain businesses and professions has a profound impact on the State's economy and the public welfare as businesses may be forced to close or innocent victims may be deprived of financial recovery for damages. The first part of this bill addresses these concerns by making liability insurance available to any business or profession experiencing difficulty in securing liability insurance by permitting the establishment of a joint underwriting plan for such businesses or professions.

The second part of this bill would allow insurers to: (1) refuse to provide, cancel, and refuse to renew no-fault insurance policies at their discretion; and (2) use age and length of driving experience as rating factors in determining premiums. Your Committee heard testimony from the Hawaii Insurers Council that the "take-all-comers" provision together with the prohibition against rating based on age and length of driving experience discourages insurance carriers from operating in Hawaii and the elimination of those provisions would provide for fairer rates and avert a capacity problem in automobile insurance.

The department of commerce and consumer affairs, on the other hand, testified that removal of the "take-all-comers" provision could result in allowing insurers to only insure the good risks. This would result in more insureds under the joint underwriting plan and the rates of the joint underwriting plan could then become significantly higher than the voluntary market. Moreover, it was noted that the current insurance unavailability crisis has not affected the automobile insurance industry in Hawaii primarily because of the "take-all-comers" requirement. The department also testified that allowing the use of age and driving experience as rating factors would probably make rates unaffordable, especially for young drivers.

Your Committee agrees with the concerns raised by the department of commerce and consumer affairs, but believes that U-drive businesses are currently facing an insurance unavailability crisis that would be appropriately addressed by this bill. Your Committee has, therefore, amended the bill by deleting all the sections relating to automobile insurance and adding provisions to the no-fault law to allow insurance carriers to offer no-fault insurance policies exclusively for U-drive motor vehicles and to exempt such insurers, as well as insurers dealing exclusively in insurance for vehicles with less than four wheels, from participation in the joint underwriting plan. Other technical, nonsubstantive amendments were made for purposes of clarity and style.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2800-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2800-86, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 693-86 Ways and Means on H.B. No. 82

The purpose of this bill is to authorize \$60,000 for a study on the feasibility of establishing seawater, freshwater, and brackish water aquaculture parks in the State; the sum appropriated is to be expended by the department of land and natural resources.

In light of the fact that a bill currently under consideration would establish an aquaculture advisory council among whose functions would be the direction and coordination for the development of aquaculture industries in the State, your Committee has amended the bill to provide civil service status for certain employees of the aquaculture development program in the department of land and natural resources.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 82, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 82, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 694-86 Ways and Means on H.B. No. 2580-86

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, and to provide for an income tax credit for long-term care insurance premiums.

Your Committee finds that Public Law 99-198, which takes effect on October 1, 1986, bars participation in the food stamp program to states in which the Secretary of Agriculture determines that state or local sales taxes are collected on food stamp purchases. Although Hawaii does not have a sales tax per se, the general excise tax is passed on to the consumer, and thus may be construed to be a "sales tax". The department of social services and housing is waiting for an official response on whether Hawaii's excise tax is a "sales tax". For this reason, a proviso is included in the amendment to section 237-24, Hawaii Revised Statutes, to exempt food stamp purchases only if the Secretary of Agriculture determines that Hawaii's general excise tax is a "sales tax" that disqualifies the State from participating in the federal food stamp program.

Your Committee has amended this bill by deleting the credit for long-term care insurance premiums and added provisions for an increase in the excise tax credit and adjustment of corporate income tax rates, and to provide the following amendments to the general excise tax law: (1) phase-in the exemption of purchases of capital goods, and exempt prescription drugs and prosthetic devices, exempt exports including computer software and storage media, and exempt federal contract work, (2) expand the shipbuilding and ship repair exemption and revise the scientific work exemption, (3) phase-in the reduction of the tax rate on real property sublessors to the wholesale level, and (4) repeal the exemption of manufacturers of pulp and paper.

Income Tax Amendments

The income tax amendments proposed by your Committee will reduce the income tax burden on individuals, add equity to and expand the present system of excise tax credits, and modernize and make more equitable the corporate income tax.

The income brackets and credits allowed under the excise tax credit are adjusted. The new brackets and credits address the effect of inflation and increase the number of people who are eligible to claim the credit by extending the brackets to those between \$20,000 and \$29,000. At the same time the use of modified adjusted gross income is being adopted to determine eligibility. Modified adjusted gross income was used in the income tax law for the predecessor of the excise tax credit. With the increase in credits, it is only proper that modified adjusted gross income be used to determine eligibility so that only the deserving may claim these credits based on disposable income and not on taxable income. By adding to adjusted gross income nonreported but disposable income such as pension and exempt interest income and deductions from gross income such as individual retirement account deductions, only those actually in need of these credits due to actual low income will be allowed to claim them.

The income brackets and tax rates for corporations suggested by the Tax Review Commission are being adopted. The present corporate rates have been in effect since 1965 and the \$25,000 cut off for small corporations has been in effect since 1958. The time for adjustment is long overdue. Although at the highest income level for corporations—\$100,000 and over—there is a slight income tax increase of .565 per cent, income tax deductions created since 1965 and other amendments provided by this bill more than offset this slight tax increase.

The credit allowed for the sale of dangerous items is being repealed. The credit for dangerous drugs apparently has never been claimed since its enactment in 1970 and should be repealed.

General Excise and Use Tax Amendments

The general excise tax amendments proposed by your Committee will assist business and industry in Hawaii by encouraging the expansion of business, and by exempting certain transactions and purchases. These amendments will result in increased revenues to the State through business activity and in a lowering of the pyramiding tendencies of the general excise tax, thereby reducing costs to the final purchaser.

The effective dates for all general excise tax amendments, except for the exemption of prescription drugs and prosthetic devices after June 30, 1986, have been made January 1, 1987. This effective date will allow the Department sufficient time to change its forms and to

educate the affected taxpayers.

Exemption of Capital Goods. The imposition of the general excise tax on the sales of capital goods adds to the cost of doing business in this State and in turn adds to the cost of consumer and other products. The same may be said for the imposition of the use tax on the importation of such capital goods into the State. Both of these taxes, imposed largely at the four per cent rate, make it just that much harder to start a business in Hawaii and to continue such a business. This reduction and exemption is necessary to stimulate business in Hawaii. Although tax revenues will be reduced by adopting this bill, the economic activity generated by the exemption will provide additional income and payroll taxes and increased general excise taxes from the increased sales of goods due to lower prices.

In order to reduce the revenue impact of this exemption it is being phased in over a three-year period by reducing the general excise tax and use tax by one per cent a year.

Exemption of Exports. When goods are sold by a retailer for delivery outside the State there is no tax since the seller is placing the goods into interstate commerce. On the other hand, if the retailer conveys the goods to an out-of-state buyer who takes delivery in the State, the retailer will pay the four per cent general excise tax even though the buyer will be immediately transporting the goods out-of-state. Another inconsistency occurs with respect to the export of manufactured goods. Section 237-13(1) and (2), Hawaii Revised Statutes, provides that the 0.5 per cent tax is imposed on the goods (whether sold or not) prior to entry into interstate or foreign commerce. As a result, all goods sold by the manufacturers and producers have a tax of 0.5 per cent imposed on such sales while retail goods shipped out-of-state are totally exempt.

This exemption corrects these inconsistencies by exempting all tangible personal property exported out of the State, regardless of the condition that the property is in, and whether or not the property is sold before or after it enters interstate or foreign commerce.

This exemption will have a small impact on state tax revenues if it is accepted that an increase in the volume of exported goods will represent an inflow of new economic wealth, i.e., money coming into the State to pay for new goods sold. The new economic wealth will mean an increase in revenues to the State via payroll and property taxes that are included in the cost of tangible personal property exported.

This exemption will allow Hawaii to be more price competitive in the world market. This is particularly true of property which is taxed in Hawaii and then taxed again in another state when sold at retail. Since in most instances the cost of goods sold reflects all prior costs and taxes, goods sold in another state from Hawaii will cost more than goods produced in that state assuming both types of goods have equal costs of manufacture, other than the general excise tax.

Such increased costs are highlighted in the case of customized computer software specifically exempted by this amendment. Since such software represent services according to the Department of Taxation, the tax on such software in Hawaii is at the four per cent rate. When such software is sold, for example, in California the price of such software includes the four per cent tax and incurs a six per cent sales tax in California. The accumulation of taxes makes it most difficult for Hawaii software to compete in the California market.

Exemption of Sales to the Federal Government. The exclusion from the general excise tax provided for federal cost-plus contractors is repealed and instead the amounts received by contractors with respect to sales to the federal government are exempted from the general excise tax.

This amendment will permit the local contractor who bids on federal government contracts to be more competitive with out-of-state contractors. Currently, local contractors are at a disadvantage in bidding for federal work because mainland contractors do not include the general excise tax in their bids, nor pay this tax to the state tax office. Because the local contractor must include the general excise tax in the contractor's bid, the local contractor in most cases is not able to receive federal work. In 1983, the federal government offered \$171,469,000 in work and local contractors received \$68,587,000 of that amount.

Exemption of Prescription Drugs and Prosthetic Devices. The sale of prescription drugs and prosthetic devices is exempted from the general excise tax. This exemption will assist our lower income and elderly populations which must purchase prescription drugs and prosthetic devices. It will be of particular assistance to those who are chronically ill and will alleviate the high cost of living in Hawaii.

Tax on Sublessors. The general excise tax on sublessors is reduced to one-half of one per cent, except for the final sublessor who pays the four per cent rate. This reduction will result

in an overall reduction in the cost of doing business and will result in lower prices charged to the consumer in many cases. When there is a series of leases, presently each lessor pays four per cent. In a series of three leases, the tax passed on to the final lessee may be twelve per cent or more due to the pyramiding of taxes. This pyramiding has an onerous effect on all businesses in Hawaii, and the time is long overdue to address this problem by reducing the tax on intermediate lessors. This reduction is phased in over a three-year period.

Scientific Contracts. The definition of scientific facilities is reordered and updated to reflect present day activity. This updating will encourage research activities in this State and result in more clean industry developing in Hawaii.

Shipbuilding and Ship Repair. The exemption for shipbuilding and ship repair is expanded to all surface vessels operated for commercial purposes out of any harbor in this State. This expansion will encourage the present industry to expand and will allow it to compete with such areas as California which does not have a tax on this service similar to Hawaii. With its unique position in the middle of the Pacific, Hawaii should be able to attract many of the fishing vessels operating in this area. Extending this exemption will also assist Hawaii's ailing fishing industry by reducing repair costs to that industry.

Manufacturer of Pulp and Paper. The exemption for the manufacturer of pulp and paper is repealed as obsolete.

In conclusion, your Committee feels that because there is a state surplus once again for the eleventh year in a row, a reordering of the tax structure as provided in this bill is long overdue. In addition, your Committee feels that the people of this State are the ultimate beneficiaries since a reduction in taxes helps all of us. The enactment of this bill, however, over a period of time will not result in less revenues. Due to the economic enhancing measures included in this bill the revenues to the State will increase far above the revenues the State is able to project under the present tax system. The final results of this bill are increased revenues to the State, less taxes paid by our people, and a better business climate.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2580-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2580-86, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 695-86 Energy on H.B. No. 2108-86

The purpose of this bill is to provide the Governor or his authorized representative the authority to adopt rules to insure that petroleum products are made available to the public in an orderly, efficient, and safe manner.

Presently, Section 125C-4, Hawaii Revised Statutes, requires the existence of a fuel shortage before such rules can be adopted. The Director of the Department of Planning and Economic Development testified that due to the continual fluctuations in the international oil markets, prudent action must be taken now to adopt rules before another energy emergency arises. This will insure the public an opportunity to comment on the rules without the pressure of a crisis situation. This also provides the State time to test the efficiency of the adopted rules before an actual shortage is declared.

This bill also allows the Governor or his authorized representative to adopt additional rules without prior notice or hearings if additional or unforeseen measures are required. Any of the rules adopted during the declared shortage period would be effective for a period of not longer than one hundred twenty days without renewal.

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

Your Committee on Energy is in accord with the intent and purpose of H.B. No. 2108-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2108-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 696-86 Labor and Employment on H.B. No. 2427-86

The purpose of this bill is to convert to permanent civil service status an exempt employee who was transferred 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.

Your Committee received supporting testimony from the Department of Transportation and finds that today the Statewide Transportation Planning Office is a permanent unit within the Department of Transportation, comprised of the Department's civil service employees together with the one exempt employee who was originally transferred from the Office of the Governor. Your Committee further finds that there is no apparent rationale for the mixture of exempt and civil service employees in the Transportation Planning Office and that continuation of such a situation could be detrimental to morale and operational efficiency.

Your Committee has amended the bill by changing the effective date to July 1, 1986, and by making technical changes which have no substantive effect.

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 2427-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2427-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 697-86 Labor and Employment on H.B. No. 2280-86

The purpose of this bill is to provide a definition for "handicapped individual" in the Employment Practices Law and to make employment-related discrimination against such individuals illegal.

Specifically this bill defines a "handicapped individual" as a person who has a physical or mental impairment which substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such an impairment. Alcoholics or drug users are not included under the definition.

Your Committee heard testimony by the Director of Labor and Industrial Relations, the Director of Health, the Commission on the Handicapped, and the Hawaii Psychological Association, and finds that the definition provided in this bill is inappropriate to the style and language of Section 378-2, Hawaii Revised Statutes. Your Committee believes that a definition of "handicapped status" will accomplish the intent and purpose of this legislation and therefore has amended the bill by deleting the definition of "handicapped individual" and references thereto throughout the bill and substituting therefore a definition of "handicapped status." Because this definition is similar to the definition of "handicapped individual" minus the material relating to alcoholism and drug use, and includes both mental and physical handicaps, your Committee has also amended the bill by deleting the definition of "physical handicap" from Section 378-1, Hawaii Revised Statutes. Your Committee believes that such changes are in keeping with the purpose and intent of this legislation which is to allow mentally or physically handicapped persons the opportunity to gain or retain employment in situations in which their skills would merit their selection or retention.

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 2280-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2280-86, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 698-86 Labor and Employment on H.B. No. 2011-86

The purpose of this bill is to eliminate the "reach back" provision of the unemployment compensation law.

Under current law, benefits paid are charged on a pro rata basis against the accounts of base period employers, regardless of the reason for separation. This bill would charge only those base period employers from whom the claimant was separated for non-disqualifying reasons. The bill would also raise the maximum employer rate of contribution to the fund from 5.4 percent to 5.8 percent if the fund falls below the adequate level as a result of non-charging produced by this bill or other factors.

Your Committee heard testimony by the Department of Labor and Industrial Relations, the Hawaii Business League, the National Federation of Independent Business, the Small Business Council, and others and finds that the reach back provision in unemployment compensation law is inequitable and injurious to many businesses who have to subsidize all or part of a claimant's benefits even though the claimant might have quit without good cause or been discharged for misconduct connected with work. This measure would correct this situation and provide a

measure of relief to many of Hawaii's employers which in turn would have positive impact on the efforts of the State, the legislature, and the public sector to stimulate Hawaii's economy and create additional employment opportunities for Hawaii's people.

Your Committee, upon further consideration, has amended the bill by deleting the proposed increase in the maximum employer contribution to the fund. Your Committee finds that the fund is in a healthy condition and that such action is not warranted at this time.

The bill has been further amended by replacing the pronouns "he" and "his" where they appear in Section 383-65, Hawaii Revised Statutes, with gender neutral terms.

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 2011-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2011-86, H.D. 1, S.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 699-86 Labor and Employment on H.B. No. 2010-86

The purpose of this bill is to change references to the name of the Commission on Manpower and Full Employment to the Advisory Commission on Employment and Human Resources in sections 222-2 and 305A-4, Hawaii Revised Statutes, which were inadvertently omitted from Act 252, Session Laws of Hawaii, 1985.

Your Committee heard testimony from the Advisory Commission on Employment and Human Resources and the Department of Labor and Industrial Relations and finds that this measure is strictly for housekeeping purposes to change the Commission's title in every section in which it appears throughout the Hawaii Revised Statutes, as intended by Act 252.

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

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 2010-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2010-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 700-86 Labor and Employment on H.B. No. 2009-86

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

Part III of Chapter 378, Hawaii Revised Statutes, prohibits employers from discharging or suspending employees for certain specified reasons. Procedures are established for filing complaints with the Department of Labor and Industrial Relations for unlawful suspension or discharge and the Department is mandated to conduct hearings on any complaint and if an unlawful discharge or suspension is found, to issue an appropriate order for reinstatement and/or payment of back pay.

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.

Your Committee heard supporting testimony by the Director of Labor and Industrial Relations and finds that this bill would streamline the procedure by permitting the Department or the affected employee to obtain a 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 because the requirement of transcribing the tape or tapes of the hearing and transmitting and copying the entire record of the proceedings would be eliminated.

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 2009-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 701-86 Consumer Protection and Commerce on S.C.R. No. 51

The purpose of this concurrent resolution is to urge bankruptcy trustees in the execution of their authority to void transfers of funds from failed financial institutions by depositors within the 90-day period preceding failure, to focus upon "insiders" as defined in the Bankruptcy Code rather than upon innocent depositors.

In its consideration of this concurrent resolution, your Committee received testimony indicating that depositors who had withdrawn funds during the 90-day period preceding the failure of a financial institution had been required by bankruptcy trustees, acting under the provisions of Section 547 of the Bankruptcy Code, to remit funds characterized as "preferential payments," or those which give one depositor an advantage over another, i.e., he has his money in hand whereas the depositor who made no such withdrawal does not. Such action was said to be taken "for the benefit and equal treatment of all depositors and creditors" of the failed institution.

Your Committee also heard testimony that depositors whose certificates of deposit had matured during the critical 90-day period had automatically received the matured funds from the institutions in accordance with the basic contract. As in the case of depositors who had innocently withdrawn funds during that period, the certificate of deposit holders were required to return their funds at the direction of the bankruptcy trustee. Your Committee is of the view that this class of depositor also is worthy of special consideration by bankruptcy trustees when they administer Section 547 of the Bankruptcy Code.

Your Committee finds that such special consideration by bankruptcy trustees is warranted in the interest of equity for depositors who innocently and trustingly manage their affairs and yet technically and unwittingly are placed within the range of optional corrective action by such trustees.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 51 and recommends its adoption.

Signed by all members of the Committee except Senators Cayetano, Chang, Kawasaki, Matsuura and Young.

SCRep. 702-86 Consumer Protection and Commerce on S.R. No. 75

The purpose of this resolution is to urge bankruptcy trustees in the execution of their authority to void transfers of funds from failed financial institutions by depositors within the 90-day period preceding failure, to focus upon "insiders" as defined in the Bankruptcy Code rather than upon innocent depositors.

In its consideration of this resolution, your Committee received testimony indicating that depositors who had withdrawn funds during the 90-day period preceding the failure of a financial institution had been required by bankruptcy trustees, acting under the provisions of Section 547 of the Bankruptcy Code, to remit funds characterized as "preferential payments," or those which give one depositor an advantage over another, i.e., he has his money in hand whereas the depositor who made no such withdrawal does not. Such action was said to be taken "for the benefit and equal treatment of all depositors and creditors" of the failed institution.

Your Committee also heard testimony that depositors whose certificates of deposit had matured during the critical 90-day period had automatically received the matured funds from the institutions in accordance with the basic contract. As in the case of depositors who had innocently withdrawn funds during that period, the certificate of deposit holders were required to return their funds at the direction of the bankruptcy trustee. Your Committee is of the view that this class of depositor also is worthy of special consideration by bankruptcy trustees when they administer Section 547 of the Bankruptcy Code.

Your Committee finds that such special consideration by bankruptcy trustees is warranted in the interest of equity for depositors who innocently and trustingly manage their affairs and yet technically and unwittingly are placed within the range of optional corrective action by such trustees.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 75 and recommends its adoption.

Signed by all members of the Committee except Senators Cayetano, Chang, Kawasaki, Young and Henderson.

SCRep. 703-86 Energy on H.B. No. 2202-86

The purpose of this bill is to provide mandatory pre-hearing settlement conferences for contested geothermal resource subzone cases and, at the discretion of the Board, assign a Special Master for mediation purposes.

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."

This bill provides the Board the opportunity to pursue other means to negotiate settlements to geothermal subzone disputes through pre-hearing settlement conferences and mediation.

Upon the consideration of the testimony submitted on this measure, your Committee has amended the bill to provide that the Board may require parties to participate in settlement conferences rather than making it mandatory. In some cases a settlement conference might not be appropriate.

Your Committee has also amended the bill to provide that the Special Master or his designee shall not be a member of the Board of Land and Natural Resources or its staff. Because the Board is the ultimate decision maker if a settlement is not reached, having a person connected with the Board conducting settlement conferences may have a chilling effect on the negotiations.

Your Committee has further amended the bill to provide that the conferences and mediation shall not extend beyond thirty days after the parties are determined, except upon mutual agreement of all parties. Your Committee believes this is an adequate time period to resolve any differences and the process should not be unnecessarily prolonged.

Your Committee on Energy is in accord with the intent and purpose of H.B. No. 2202-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2202-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 704-86 Health on H.B. No. 1951-86

The purpose of this bill is to require that unlicensed, unsupervised, independent living arrangements, which are shared by three or more unrelated persons who have been served in the prior twelve months by any mental health or substance abuse treatment program, receive certain supervision and monitoring by the Department of Health.

Complaints have been received by various agencies, including the Department of Health, about the behavior of individuals in unsupervised living arrangements, and certain practices of the operators of such facilities. This bill would bring those unlicensed, unsupervised, independent living arrangements within the jurisdiction of the Department if the operator applies for state funding.

Your Committee received testimony from the Director of Health which indicates that this measure would not resolve the problems because it would apply only to situations in which the operator of a facility has applied for state funding, and not to those who do not apply. Your Committee agrees with this position and has therefore amended the bill to provide that the Department's responsibility for monitoring and supervision extends to all applicants for license or accreditation to operate a program element, not just to applicants for funding.

Your Committee has also amended the bill by granting to the Department the flexibility to oversee or not oversee the operational, fiscal, and residential policies of each living arrangement, as deemed appropriate, and by deleting the requirement that an unsupervised living arrangement must be designed so as to allow residents to be fully released into the community within twelve months. Your Committee believes that the added flexibility of these amendments adequately addresses the concerns expressed by the Department while at the same time retaining the intent and purpose of this legislation.

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

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1951-86, H.D.

1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1951-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 705-86 Health 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 Section 342-7(d) and (e), Hawaii Revised Statutes, from ten years to five years.

The purpose of a variance is to allow a pollution source a temporary period of relief from compliance with state pollution control requirements during which a permanent pollution control is developed which complies with Department rules and standards.

Your Committee heard supporting testimony by the Department of Health and finds that shortening the maximum allowable term of variance would encourage pollution sources to more actively search for means to attain levels which conform to State standards. Your Committee further finds that a five year variance term would allow the Department flexibility to apply informed judgment to specific situations and is consonant with its authority over air pollution sources and solid waste facilities.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2285-86, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 706-86 Health on H.B. No. 2730-86

The purpose of this bill is to provide specific enforcement actions for recurring violations of Chapter 342, Hawaii Revised Statutes, relating to environmental quality, and to rules adopted thereunder.

Under current law, the Director of Health has discretionary powers to enforce provisions of Chapter 342, such as obtaining voluntary compliance by warning, conference, or other means; serving written notices on alleged violations; prescribing timetables for actions to be taken in preventing, abating, or controlling a violation or discharge; and imposing penalties and instituting civil actions under certain circumstances.

Your Committee received testimony on this bill from the Department of Health and others and finds that enforcement of environmental pollution laws and rules should be predictable and consistent, and that this bill would clarify the law for both violators and enforcement personnel. Your Committee further finds that this measure will provide an incentive for violators to upgrade maintenance and improve pollution abatement technology.

However, your Committee also finds that the provision requiring a repeat violator to submit a "plan" of correction could be interpreted to mean either a program of action or a design of a program of action. This would present serious problems if the Department accepted a plan but, upon implementation, the problem is not resolved. Under such circumstances it could be argued that since the Department accepted the plan, the violator is relieved of further obligation to correct the violation, leaving the Department with the responsibility for carrying through with corrective measures. Therefore, your Committee, upon the advice of the Department, has amended the bill by deleting reference to a "plan" and substituting therefore the word "schedule." Your Committee believes that this change will resolve the ambiguity because "schedule" signifies a specific timetable for corrective action that the violator would have to take.

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

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2730-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2730-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 707-86 Health on H.B. No. 1999-86

The purpose of this bill is to clarify the term "medical records" and to establish a retention

period for preserving basic medical information.

Currently, medical records may be destroyed after seven years but certain basic information must be retained indefinitely. This bill would permit their disposal after twenty-five years and clarifies the types of documents that are exempt from the term "medical records".

Your Committee heard supporting testimony by the Department of Health, the Hospital Association of Hawaii, and the Hawaii Medical Record Association, and finds that this measure will help to alleviate the burden and cost of maintaining and storing medical records and will thus contribute to the efforts of the State, the Legislature, and the health care profession to contain the rising cost of health care in the State of Hawaii.

Your Committee has amended the bill by providing that x-rays, E.E.G. tracings, and similar imaging records shall be retained for at least seven years and then may be given to the patient or destroyed, provided that the basic information from them is retained for the mandatory twenty-five year record period. Your Committee has further amended the bill by making clarifying language changes which have no substantive effect.

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

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 708-86 Transportation on H.B. No. 2348-86

The purpose of this bill is to clarify current provisions relating to enforcement of Department of Transportation (DOT) motor carrier safety rules.

Your Committee finds that presently, Section 286-203, Hawaii Revised Statutes, provides only that the Director of DOT may delegate enforcement of safety rules.

This bill proposes to clarify the present Section by repealing existing language and substituting provisions specifying that the Director shall have necessary powers of enforcement, may delegate enforcement to county executive officers, and may (1) inspect lands, building, freight and equipment of motor carriers; (2) stop and inspect motor carriers on public highways; and (3) inspect shipping documents of motor carriers.

Your Committee heard testimony on S.B. 1967-86, a bill of similar substance and content, on February 13, 1986. The Hawaii Transportation Association stated then that the bill of lading accompanying shipments would provide adequate information on items being shipped.

Upon consideration, your Committee has amended this bill to incorporate the Committee's concerns on S.B. 1967-86. To further clarify the inspection powers of the Director or designated delegates, items (1), (2), and (3) on page 2 have been deleted, and replaced with language specifying that the Director or designated delegates may enter lands and buildings of motor carriers to inspect freight and equipment; that inspection and copying of written documents is limited only to the bill or bills of lading, as long as the bill or bills of lading contain sufficient information about the cargo; that if the material being transported is hazardous, the bill of lading shall state that fact; and that all state and county law enforcement officers shall assist in enforcement of DOT safety rules.

Your Committee has also made technical, non-substantive changes.

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

Signed by all members of the Committee.

SCRep. 709-86 Consumer Protection and Commerce on H.B. No. 1695-86

The purpose of this bill was to allow the formation of groups or associations to obtain general casualty insurance, thus providing such groups or associations an opportunity to enjoy the potential savings in reduced insurance premiums, or to make available to them previously unavailable coverage.

During its consideration of this bill your Committee received the testimony of the Insurance Commissioner supporting the goals and concepts of the bill, but noting that it contained a

serious statutory conflict and presented other technical difficulties. As an alternative approach the Commissioner proposed the provisions of Section 431-751 to 431-766, Hawaii Revised Statutes, Mass Merchandising of Motor Vehicle Insurance, utilizing language developed in 1981 at the request of the Chairman of your Committee by an interim study group led by the then Insurance Commissioner.

Similar views were expressed by spokesmen for the Hawaii Independent Insurance Agents Association and the Hawaii Insurers Council.

Your Committee also received testimony reflecting the insurance problems currently being experienced by rental car operators in Hawaii, who have seen their premium rates for no-fault vehicle coverage rise sharply and who are having difficulty obtaining suitable coverage. While representatives of the rental car industry acknowledged the goals and concepts of this bill, they indicated that their immediate problem could not readily be accommodated through the formation of groups or associations as provided in the bill because their financial situation would not permit it, and, in their view early legislative assistance was required. This would include authorization of specialty insurance carriers to do business with rental car operators in the State of Hawaii without having to offer all lines of casualty insurance to all potential customers and without participating in the Hawaii Joint Underwriting Plan and accepting assigned risks, as is presently the case. Mainland insurance carriers were said to be interested in doing business with the rental car operators if appropriate waivers could be authorized.

Your Committee, aware of the magnitude of the problem facing rental car operators, and appreciating the potential savings offered by the mass merchandising of insurance, concluded that substantial amendment of the bill is necessary. Accordingly, it deleted the substance of the bill as referred, adapted the language proposed by the Insurance Commissioner dealing with Sections 431-751 through 431-766, and further amended the bill by:

(1) Expanding the scope of the bill to clearly include nonprofit organizations among those businesses which may take advantage of property and casualty insurance on a group basis,

(2) Adding a new section authorizing specialty insurers to offer no-fault insurance policies for only U-drive motor vehicles; and

(3) Adding a new section exempting such insurers from participating in the Joint Underwriting Plan.

Your Committee highlights the urgency of the problem faced by the rental car operators, whose operation is integral both to the all-important tourist industry and to local residents who rely upon them for domestic, commercial and recreational transportation. Noting that the time required for mainland insurance carriers to obtain authorization to do business in Hawaii is sometimes extremely protracted, your Committee urges that every reasonable effort be made to authorize as soon as practicable specialty insurance carriers to do business in the State of Hawaii in a manner consistent with the amended bill which this report recommends.

With these amendments, your Committee is satisfied that the bill speaks authoritatively to the problems envisioned by the House of Representatives in adopting House Standing Committee Report No. 416-86 which transmitted the instant bill, with the finding 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 as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1695-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Cayetano, Kawasaki, Kuroda, McMurdo and Young.

SCRep. 710-86 Consumer Protection and Commerce on H.B. No. 1906-86

The purpose of this bill was to extend the Motor Vehicle Repair Industry Board from December 31, 1986 to December 31, 1992 under the sunset law and to require the Board to contract with the University of Hawaii to develop and administer a certification program for motor vehicle mechanics.

Your Committee has reviewed the Legislative Auditor's sunset evaluation report, "Regulation of Motor Vehicle Repairs, Chapter 437B, Hawaii Revised Statutes," and has considered all of the recommendations by the Auditor.

One of the Auditor's recommendations was to sunset the Motor Vehicle Repair Industry Board because the Board's primary duty of developing a certification program has been completed, and its remaining duties may be assumed by the Department of Commerce and Consumer Affairs. Your Committee upon due consideration as to which agency would effectively regulate the motor vehicle repair industry has decided that the Motor Vehicle Repair Industry Board would be the proper agency to regulate this industry and concurs with extending the Board's existence to 1992.

Your Committee concurs with the Auditor's recommendation to amend section 286-48, Hawaii Revised Statutes, 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. The present law allows a registered dealer to certify a rebuilt vehicle even though that dealer may not have performed the actual work. Although the present law provides some regulation of rebuilt motor vehicles, your Committee finds that the public would be better served if accountability was placed with the person actually performing the work. Therefore, your Committee has amended the bill by allowing registered or licensed repair dealers and mechanics to certify only those vehicles which they personally rebuilt.

Your Committee has further amended the bill by changing the effective date from January 1, 1987 to "upon its approval."

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

Signed by all members of the Committee except Senator Cayetano, Kawasaki, Kuroda, McMurdo and Young.

SCRep. 711-86 Consumer Protection and Commerce on H.B. No. 2142-86

The purpose of this bill was to amend Section 486-1, Hawaii Revised Statutes, by expanding the definition of "misbranding" to ensure that coffee sold as "Kona coffee" or "Kona coffee blend" contain a specified percentage of Kona coffee.

This bill specifies that coffee labeled "Kona Coffee" must be one hundred percent Kona coffee; that coffee labeled "Kona Coffee Blend" contain at least ten percent Kona coffee; and further, that if a blend of coffee offered for sale contains less than ten percent of Kona coffee, "the name Kona cannot appear on the package." This bill also gives the State Director of Measurement Standards the rule-making authority to establish record keeping requirements to facilitate enforcement.

In its review of this bill, your Committee received testimony from the College of Tropical Agriculture and Human Resources, University of Hawaii, the Chairman of the State Board of Agriculture, and the Kona Coffee Council, each in support of the intent of this bill, with suggestions of amendments for refinement.

A spokesman for the Superior Coffee & Foods Company - Hawaii testified in opposition to the requirement of including the percentage of Kona coffee on package labels on the basis that blending is done by taste, not by weight or amount, and may vary from time to time.

Your Committee, upon the consideration of all the testimony received, endorses the concept that the consumer should be aware of the percentage of Kona coffee contained in the product and that it should be expressed in terms of weight rather than volume, and has amended the bill accordingly.

Your Committee upon further consideration of the bill, finds that the bill may cause confusion as drafted and has therefore amended it in its entirety, by placing all of the new substantive provisions into a single new section to be appropriately designated under Chapter 486, Hawaii Revised Statutes. The bill as amended also expands the rule-making authority of the Director of Measurement Standards to effectuate the purpose of the measure. Your Committee believes that the amendments preserve the purpose and intent of the bill as received while adding clarity and conforming it with recommended drafting style.

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

Signed by all members of the Committee except Senator Cayetano, Kawasaki, Kuroda, McMurdo and Young.

SCRep. 712-86 Consumer Protection and Commerce on H.B. No. 2192-86

The purpose of this bill is to require an insurer to issue a proof of insurance card to an owner of an insured motorcycle or motor scooter.

The bill also provides that the card be in the possession of the operator at all times or in the insured motorcycle or motor scooter and exhibited to a law enforcement officer upon request.

In December 1985, your Committee received a communication from the Office of the Ombudsman conveying its finding that there appears to be little or no enforcement by the finance departments of the respective counties of motorcycle or motor scooter insurance requirements.

Act 231, Session Laws of Hawaii 1985, amended Chapter 294, Hawaii Revised Statutes (HRS), to exempt motorcycles and motor scooters from the no-fault insurance requirements of the chapter but requires that motorcycles or motor scooters be covered by a liability insurance policy. However, despite the existing requirements in section 286-26(h), HRS, that motor vehicle owners produce and display a no-fault insurance identification card as part of the inspection process, the HRS was not amended to provide the same requirement for motorcycle or motor scooter owners.

As a result of this deficiency in the existing law, safety inspection stations and police officers are unable to determine if motorcycles or motor scooters have valid insurance. This bill remedies this deficiency by requiring the issuance of liability insurance cards to the owners of insured motorcycles or motor scooters, and by requiring the card to be made available upon request by a law enforcement officer.

Your Committee heard testimony in support of S.B. No. 1530-86, S.D. 1 which is the companion to this bill from the City and County of Honolulu Department of Finance, the Honolulu Police Department, and the Department of Commerce and Consumer Affairs. Additionally, your Committee heard testimony from the Hawaii Business League that it is not opposed to the issuance of motorcycle or motor scooter liability insurance cards.

Your Committee has amended the bill by adding a requirement that the liability insurance card show the year of the motorcycle or motor scooter.

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

Signed by all members of the Committee except Senators Cayetano, Kawasaki, Kuroda, McMurdo and Young.

SCRep. 713-86 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 relating to the adjustment and settlement of total loss motor vehicle insurance claims.

Your Committee received favorable testimony from the Insurance 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" values, while other claims may be settled based on price quotations from newspapers and car dealers. Therefore, depending on the insurer's own claims procedures, the method of establishing the fair market value for a given loss may vary. This bill provides that an insurer may offer a replacement vehicle or a cash settlement, based on the standards set forth in this section.

Your Committee finds that the proposed amendments will benefit both the insurer and policyholder in providing uniform standards in settling total loss claims.

Your Committee has amended this bill by changing chapter "432" to chapter "437" on page 2, line 6, to correct a drafting error.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2424-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2424-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Cayetano, Kawasaki, Kuroda, McMurdo and Young.

SCRep. 714-86 Consumer Protection and Commerce on H.B. No. 2425-86

The purpose of this bill is to clarify and strengthen consumer laws relating to the purchase of defective or "lemon" automobiles.

This bill specifies the collateral charges to be paid to a consumer when the consumer receives a refund for a defective automobile; requires a dealer to provide a consumer with a written notice in plain language explaining the informal dispute settlement procedures and a consumer's rights under the "lemon law" provision; provides possible remedies under the informal dispute settlement procedure; and requires the performance and completion of all awarded remedies to be completed by a specified date pursuant to any decision resolving the dispute.

Your Committee has amended the bill to:

- (1) Delete the phrase "one or more of" from page 3, line 9, in the sentence which lists three possible remedies available to consumers. This amendment clarifies the intent of the law to mean the consumer is allowed a choice of the remedies listed; and
- (2) Add the word "or" after paragraphs (1) and (2) on page 3, lines 10 and 12, to further clarify the above amendment.

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

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

Signed by all members of the Committee except Senators Cayetano, Kawasaki, Kuroda, McMurdo and Young.

SCRep. 715-86 Consumer Protection and Commerce on H.B. No. 2586-86

The purpose of this bill is to allow insurers to deposit their funds in state-chartered credit unions or federally-chartered credit unions.

Under present law, insurers may only deposit funds in banks, trust companies, and savings and loan associations. Your Committee finds that credit unions offer financial stability comparable to those institutions and that deposits in credit unions should be allowed.

Your Committee received favorable testimony on this bill from the Department of Commerce and Consumer Affairs, 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 Credit Union League.

Your Committee made technical nonsubstantive changes to the title of the section to conform the bill with the existing statute.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2586-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2586-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Kawasaki, Kuroda, McMurdo and Young.

SCRep. 716-86 Consumer Protection and Commerce on H.B. No. 2756-86

The purpose of this bill was to add a new section to Chapter 467, Hawaii Revised Statutes, to clarify the type of license a real estate broker or salesperson may apply for after their license has been revoked or automatically terminated.

Your Committee received testimony from the Hawaii Association of Realtors and the Real Estate Commission supporting the intent of this bill. The Commission stated there is a need for persons whose licenses have been revoked to be re-educated on the principles, practices, and ethical standards of real estate prior to re-entering the profession. Your Committee finds that occurrences of licensee fraud, misrepresentation, or deceit, have caused recovery fund payments to aggrieved persons to increase steadily.

The Commission also recommended amending the bill to require new applicants to repay the real estate recovery fund, if applicable, prior to applying for a license. They further requested language be inserted to deny hearings to a person refused licensure as a broker pursuant to this bill.

Your Committee concurs with the testimony and recommendations of the Commission and has amended this bill as follows:

- 1) Insert the phrase "and, if applicable" on page 1, line 8. The sentence now reads:

"A person whose license has been revoked, or automatically terminated in accordance with section 467-18(e), may apply for a license as a new applicant after the revocation period and, if applicable, after repayment to the real estate recovery fund."

- 2) Insert a new sentence on page 1, line 11 to read:

"A new applicant refused licensure as a broker pursuant to this section shall not be entitled to a hearing on that refusal."

Your Committee has also made a non-substantive change for the purpose of clarity by and deleting the word "previous" before the word "education" on page 1, line 12.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2756-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2756-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Kawasaki, Kuroda, McMurdo and Young.

SCRep. 717-86 Consumer Protection and Commerce on H.B. No. 2844-86

The purpose of this bill is to amend Chapter 449, Hawaii Revised Statutes (HRS), to require that all checks and drafts deposited in an escrow depository clear the institution from which they were drawn prior to release by an escrow depository of any funds involving the checks or drafts.

The present practice among mortgage companies is to present to escrow depositories checks, drafts or other items drawn on institutions outside Hawaii. In addition, parties to escrow are making deposits by personal or corporate checks. These items take several days to clear after they are deposited, yet the parties to the transactions expect escrow to close as soon as the items are tendered. These situations cause escrow depositories 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. This causes a great risk should the items fail to clear.

This bill bars an escrow depository from disbursing until cash or items have been received and final settlement has been made or the escrow depository has verified with the financial institution upon which the item was drawn that there are sufficient funds in the drawer's account to cover the item.

Further, this bill adds definitions for an "escrow account," "financial institution," and "item," and provides 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.

Your Committee, upon consideration of testimony submitted by the Legislative Committee of the Escrow Association of Hawaii, has amended the bill as follows:

- 1) Amended Section 449-4, HRS, to provide that no licensee shall be subject to this penalty for a violation of Subsections 449-16(b) or (c) if the violation was not intentional or resulted from a bona fide error, notwithstanding the maintenance procedures reasonably adopted to avoid that error. This amendment clarifies that the "bona fide error" exception applies to statutory penalties and does not provide immunity from civil liability.
- 2) On line 8, page 4 changed the word "subsection" to "paragraphs" to reflect the proper Ramseyer format.
- 3) Amended Section 449-16 (c) to read "deliver any money, consideration or instrument

affecting the title to real property" to follow the language contained in the definition of an escrow in Section 449-1. This amendment allows licensees to deliver money, consideration, or title prior to funds becoming available, if written consent is obtained from all parties to the transaction.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2844-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2844-86, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Kawasaki, Kuroda, McMurdo and Young.

SCRep. 718-86 Consumer Protection and Commerce on H.B. No. 1316

The purpose of this bill was to amend Section 481B-5, Hawaii Revised Statutes, to allow any person in the business of offering goods for sale at retail to maintain a policy to: (1) accept the return of goods for refund and allow for the exchange of goods; (2) allow for the exchange of goods only; or (3) neither accept the return of goods for refund nor allow for the exchange of goods.

Your Committee received testimony from the Office of Consumer Protection which did not oppose the intent of the bill to allow retail merchants greater flexibility in adopting a refund or exchange policy. It noted, however, that the bill proposed a significant departure from the legislative policy currently codified in Section 481B-5, which was to insure that customers are not obliged to make unwanted purchases in event the merchant had adopted an exchange only policy. Concern was expressed over the provision which called for full refund if a suitable substitution of goods could not be arranged within thirty days, because the determination of what constituted a suitable substitution appeared likely to lead to disputes. The Office of Consumer Protection offered several amendments to the bill.

A spokesperson for Retail Merchants of Hawaii supported the bill as presented but had reservations about one of the amendments proposed by the Office of Consumer Protection.

The Hawaii Food Industry Association testified in support of the bill.

Acknowledging the several concerns expressed by witnesses, your Committee requested the parties in interest to seek consensus with respect to the amending language. This was accomplished, and your Committee moved to adopt amended language which provides that a retailer shall either (1) accept the return of goods for refund; (2) accept the return of goods for refund or exchange; (3) accept the return of goods for exchange only; or (4) not accept the return of goods for refund or exchange.

Your Committee believes that these changes adequately address and resolve the problems which necessitated the introduction of this legislation.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1316, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1316, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Chang, Kawasaki, Kuroda and Young.

SCRep. 719-86 Higher Education on H.B. No. 2786-86

The purpose of this bill is to authorize the display of outdoor advertising devices on the scoreboard of any stadium owned by the University of Hawaii and, only until September 1, 1986, authorize the display of temporary outdoor advertising devices on the structure of such stadium.

The version of this bill which was transmitted to the Senate from the House of Representatives exempted stadiums owned by the university from the jurisdiction of the outdoor advertising device and billboard regulation law. As stated in Senate Standing Committee Report No. 620-86, your Committee felt that the exemption was too broad. For

example, under the original version of the bill, the university could have placed advertisements on the outside of stadiums, with the intention of making the advertisements viewable by the passing public. The Outdoor Circle had serious objections to the original version of the bill.

Thus, the bill was reported out of your Committee with amendments which allow the university to authorize outdoor advertising devices on stadiums, but within limitations intended to be consistent with the State's policy regarding the control of unsightly outdoor advertising and billboards and to meet the objections of the Outdoor Circle. The bill, as amended, has met the objections of the Outdoor Circle, for supportive testimony was received from that organization as well as the Hawaii Islanders Baseball Club and University of Hawaii.

The current law regulating outdoor advertising devices and billboards is ambiguous with respect to university-owned stadiums which are not totally enclosed. Thus, your Committee finds that legislative authorization is needed for the university to allow the display of outdoor advertising devices on its stadiums.

Your Committee notes that this bill, as amended, authorizes the display of advertisements at the University of Hawaii at Manoa's baseball stadium. Under this bill, as amended, the Hawaii Islanders will be able to display temporary outdoor advertising devices during the club's regular season games on the structure of the university's stadium. After September 1, 1986, that authorization expires. If the university or any other organization or person desires a reauthorization for temporary outdoor advertising devices, legislation will have to be enacted again.

Your Committee emphasizes that any advertisements on the structure of the stadium must comply with this bill and other existing laws, ordinances, and rules, including applicable provisions of the outdoor advertising device and billboard regulation law. This bill, as amended, includes a provision requiring the University of Hawaii to report on the display of outdoor advertising devices on stadiums. The report is intended to monitor the university's compliance with the spirit and intent of this bill and the outdoor advertising device and billboard regulation law.

Your Committee has amended this bill to include a provision requiring outdoor advertising devices displayed on scoreboards to be on the front and face the interior of the stadium. This amendment is intended to ensure that scoreboard advertising does not face outside a stadium. At the public hearing at which the amendment was proposed, the Outdoor Circle had no objections.

Your Committee on Higher Education is in accord with the intent and purpose of H.B. No. 2786-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2786-86, S.D. 2.

Signed by all members of the Committee.

SCRep. 720-86 Labor and Employment on H.B. No. 2714-86

The purpose of this bill is to provide that tips paid to an employee and reported to the employer for income and payroll tax deduction purposes be included in calculating the employee's wages to determine unemployment compensation benefits.

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 tax reporting purposes are excluded in computing the individual's entitlement to benefits.

Your Committee finds that this bill is in accord with the basic objective of the unemployment insurance program to provide benefits to qualified unemployed individuals based on all remuneration for services rendered.

Your Committee has amended the bill by providing for an effective date of January 1, 1987 to conform to the Federal Unemployment Tax Act (FUTA), and by making technical changes which have no substantive effect.

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 2714-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2714-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 721-86 Labor and Employment on H.B. No. 2618-86

The purpose of this bill is to grant civil service status to the Branch Chief of the International Service Branch of the Department of Planning and Economic Development.

Your Committee heard supporting testimony by the Director of Planning and Economic Development and the Director of Personnel Services, and finds that this Branch Chief position is the only non-civil service position among the six branches in the Business and Industry Development Division of the Department of Planning and Economic Development. This bill would provide continuity of the incumbent's service and contribute to the efficient operation of the Branch.

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 2618-86, H.D. 2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 722-86 Labor and Employment on H.B. No. 2008-86

The purpose of this bill is to require employers to submit detailed wage data on a quarterly basis to the Unemployment Insurance (UI) Division starting July, 1988.

Currently, employers are required to report only total wages for all employees on a quarterly basis and detailed wage data for each employee only upon the job separation of an employee. At the present time, Hawaii is one of only nine states that does not have a quarterly wage record system in operation.

Under this bill, five sections of the Hawaii Employment Security Law are amended to:

- 1) Permit the UI Division to require employers to submit wage data on a quarterly basis, together with contributions, effective July 1, 1988, and eliminate the current mandatory separation reports effective the same date.
- 2) Substitute wages earned for weeks of employment for monetary qualification and requalification purposes to relieve employers of the burden of providing additional information on the quarterly wage reports. The current law provides that an individual must be employed for at least fourteen weeks to establish a valid UI claim, and be reemployed for five consecutive weeks to requalify for benefits following a disqualification. This bill would eliminate the qualifying requirement that the claimant have fourteen weeks of employment in the base period and instead require the claimant to have earned at least fourteen times his weekly benefit amount and worked in at least two different quarters of the base period. To requalify after a disqualification, a claimant would have to earn at least five times his benefit amount instead of working for five consecutive weeks, as is required now.
- 3) Change the base period from the last four completed quarters to the first four of the last five completed quarters. The collection and processing of quarterly wage reports during the succeeding quarter renders it administratively impossible to make wage data available to accommodate the existing base period.
- 4) Establish the filing requirement and penalty for failure to submit the quarterly wage reports.

Your Committee received supporting testimony from the Department of Labor and Industrial Relations and finds that Public Law 98-369, the Deficit Reduction Act of 1984, mandated all states to establish an income and eligibility verification system under which all employers are required to report employee wages on a quarterly basis effective September 30, 1988. The uniform wage reporting system is intended to facilitate easy interstate exchange of information and to allow interstate exchange of information when necessary.

Your Committee further finds that unless this bill is passed during the current legislative session, the Department will be unable to make necessary preparations to design, test, and fully implement the quarterly wage record system by 1988. Failure to comply with the requirements of Public Law 98-369 is serious in that Hawaii will face federal decertification of its UI program. This would entail loss of the offset credit against the tax imposed by the Federal Unemployment Tax Act and would ultimately translate into higher unemployment tax rates for all employers.

Your Committee on Labor and Employment is in accord with the intent and purpose of H.B. No. 2008-86, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 723-86 Labor and Employment on H.B. No. 1672-86

The purpose of this bill is to allow payment of unemployment benefits to an owner-employee of a corporation upon showing of good cause for dissolution of the business, and to allow transfer of employer reserves in situations where both the acquiring and the acquired organizations so agree.

Your Committee heard testimony on this bill by the department of Labor and Industrial Relations, the Small Business Council, Small Business Hawaii, and others, and finds that the provisions relating to the eligibility of an owner-employee currently exist in the Labor Department's Administrative Rules, and that this bill would ensure that owner-employees receive the unemployment benefits to which they are entitled under certain, non-disqualifying conditions.

However, your Committee has reservations about the provision which would allow employers to transfer their reserves. As written, the language appears to permit an employer to transfer a portion of his reserve account to that of another consenting employer in order to take advantage of lower tax rates. Your Committee finds that this was not intended by this legislation and therefore has amended the bill by deleting that provision.

Your Committee has also amended the bill by making technical changes which have no effect. However, your Committee has reservations about the provision which would allow employers to transfer their reserves. As written, the language appears to permit an employer to transfer a portion of his reserve account to that of another consenting employer in order to take advantage of lower tax rates. Your Committee finds that this was not intended by this legislation and therefore has amended the bill by deleting that provision.

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

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

Signed by all members of the Committee.

SCRep. 724-86 Transportation on H.B. No. 2060-86

The purpose of this bill is to amend Section 291-11.6, Hawaii Revised Statutes, (HRS), to resolve two problems with the state seat belt law and to allow the use of federally approved seat belt assemblies instead of original replacements, if original replacements are not readily available.

Your Committee has heard S.B. No. 2248-86, on February 13, 1986, a bill of similar substance and content and has incorporated the Committee's concerns into H.B. No. 2060-86, H.D. 1.

The first problem is that the law creates hazards for taxicab drivers. These drivers are a target for criminal acts committed by their passengers. The Oahu Taxi Owners Association (OTOA) testified that in 1984, their members were the victims of eighty violent crimes, including seventeen assaults, thirty-six robberies, two rapes, and four murders. According to OTOA, the Honolulu police department recommended that a driver leave the cab quickly if threatened. However, a seat belt both hinders escape and can be used as a weapon against the driver. The bill addresses this problem by exempting taxi drivers from wearing seat belts while carrying a paying passenger.

Your Committee has amended the bill by placing the proposed exemption for taxicab drivers in subsection (c) rather than (b) of Section 292-11.6, HRS, as subsection (c) is the more appropriate location for the provision.

The second problem the bill resolves is with subsection (c) of Section 291-11.6, HRS, which is meant to exempt seat belt use for those with medical reasons. However, the present language of the statute applies only to those with a physical disability. The bill expands this section to include all those with legitimate medical reasons for the exemption.

This bill also contains a provision that allows for the use of replacement seat belt assemblies that are of federally approved materials with similar protective characteristics, if original replacements are not readily available.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2060-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2060-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 725-86 Ways and Means on H.B. No. 1741-86

The purpose of this Supplemental Appropriations Bill of 1986 is to amend the General Appropriations Act of 1985, which appropriates funds for the 1985-87 fiscal biennium.

FINANCIAL AND BUDGETARY OVERVIEW

After several consecutive years of uncertainty, the State's fiscal health can be regarded as stable and improving. Among the vital signs are the latest revenue projections which indicate that the State's general fund tax revenues will be higher than the estimates which underlie the financial plan for the current fiscal year. According to the March 14, 1986 report of the Council on Revenues, the growth rate of general fund tax revenues can be revised upward to 6.3 per cent, which in dollar terms, means an increase of \$20 million from the previous, official estimate of 4.8 per cent. This, in turn, increases the base for calculating the revenues for fiscal year 1986-87.

There is substantial basis for the Council's latest revenue projections. The actual performance of general fund tax revenues thus far in the current fiscal year has been fairly strong. In the first eight months from July 1, 1985 to February 28, 1986, the Department of Taxation reports that general fund tax collections ran \$64.8 million, or over 7.5 per cent, ahead of collections for the corresponding period a year ago. Thus, it is fairly well assured that the State's fund balance—perhaps the most important vital sign of the State's fiscal health—for this fiscal year and the next will be somewhat higher than has been previously projected.

Nationally, the falling interest rates in the credit markets have had a direct effect on the State's budget. The latest general obligation bond issue, the \$75 million issue of March 1, 1986, bore coupon rates ranging from 6.25 per cent to 6.60 per cent for the various maturities. Not since the 1970's has the State been able to market its general obligation bonds at such favorable rates. As a result of recent issues being sold at lower than anticipated interest rates, the Department of Budget and Finance has been able to revise its debt service budget downward by a very significant amount. For fiscal year 1986-87 alone, Budget & Finance has reduced its interest expense estimates by \$6.6 million, and there should be still additional general fund savings as a result of the interest savings obtained in the March 1 issue.

Over the short term, this means that the State will be able to finance the authorized capital improvement projects without the threat of being crowded out of the municipal bond market or being forced to pay inordinately high interest rates. However, the favorable financing prospects do not mean that the Legislature can authorize a significantly larger pool of CIP projects. The authorized but unissued general obligation bonds of the State now total over \$491 million. This amount represents a backlog of hundreds of CIP projects, and the amount of this backlog must be taken into account, under the provisions of the State Constitution, in the authorization of any additional projects requiring general obligation bond financing.

When these and other factors are considered, including the Governor's Executive Supplemental Budget and his subsequent messages for supplemental projects, the effective margin for additional legislative authorizations amounted to a mere \$1.5 million. Consequently, lower priority projects will need to be deferred, and the supplemental CIP authorizations limited to the most essential projects. Beyond this particular budget, your Committee expects the CIP expending agencies to scrutinize their backlog of projects more closely and identify clearly obsolete projects for lapsing. The combination of more aggressive lapsing and the good fortune of an uninterrupted schedule of bond issuance should result in greater flexibility and latitude for the consideration of new CIP authorizations for the 1985-87 fiscal biennium.

While the revenues and long term financing for the State's operating and capital investment costs should safely meet current expenditure levels, the future is more foreboding. The threat to the State's fiscal health comes from the expenditure side of the ledger and because its origins are in the policies of the federal government, it lies beyond the immediate control of the State. After Round 1 of the deficit reduction provisions of the Gramm-Rudman-Hollings Act, Round 2, which involves automatic, across-the-board spending cuts, has been temporarily side-tracked by a special three-judge federal panel which held a key provision of the act to be unconstitutional. The uncertainty over the status of the law will continue at least until after the U.S. Supreme Court hears arguments on April 23 and rules on the issue.

Meanwhile, the Gramm-Rudman-Hollings Act, even though its key provision is clouded by questions of constitutionality, has exerted an enormous influence in President Reagan's fiscal 1987 budget proposal and deliberations in Congress. The President's spending plan calls for a reduction of \$9.7 billion in direct federal grants to state and local governments in the next fiscal year. While Congress is expected to modify the President's budget proposals, the cuts falling on the states are still expected to be severe. Either as a result of direct budget cuts or through the untracking of Gramm-Rudman-Hollings, Hawaii, as with other states, is certain to face a harsh test of its capacity to fund federally supported programs.

Your Committee believes that Hawaii can meet that test, thereby protecting its citizens from the loss of millions of dollars of assistance and services, if the Legislature has the foresight and resolve to enact new revenue enhancement measures. For the first time, the Senate and House of Representatives appear to be converging toward agreement on the necessity and desirability of the two revenue measures long supported by your Committee: the state lottery and the tax on transient accommodations. These two measures would provide the basis for financing those programs which would otherwise have to be financed by existing tax sources.

With the forthcoming slash in federal funds, the time for enactment of these measures could not be more propitious, and your Committee is confident that agreement will be reached with the House of Representatives on all aspects necessary to ensure the passage of these two vital measures. In addition, the application of the general excise tax to long distance telecommunications and the change in the liquor tax from an *ad valorem* to a gallonage basis recommended by the industry and supported by your Committee—the immediate effect of which would be the freeing of liquor tax collections held in escrow—should also contribute to the State's capacity to absorb federal shortfalls.

Also important to the strengthening of the State's fiscal position is the long term building of a stronger economy and an improved economic climate. Several Senate measures will ultimately be economically beneficial in various ways. These include the authorization of a convention center, the establishment of a State fund for workers' compensation insurance to be financed initially with a \$5 million appropriation for fiscal year 1986-87, tax exemptions in several areas which would have the effect of generating economic activity and providing jobs, reducing the onerous burden on taxpayers and providing some relief to low income residents through adjustments in the tax credit program, and improvements to the tort liability system.

In considering the supplemental appropriations bill and related measures, your Committee has again given special attention to prevention services and those programs designed to curb child abuse and neglect. Your Committee continues to believe that early prevention and early treatment are the best approaches for preventing deviant behavior and criminality. In addition, adequate provision has been made in this bill for the funding of those programs conducted by private agencies which are governed by the funding process of Chapter 42, Hawaii Revised Statutes.

The remainder of this report highlights a number—but not all—of the program decisions made by your Committee. These appropriations, in the context of the appropriations which have already been made in the 1985 General Appropriations Act and in other measures, provide a substantial basis for the achievement of state program goals and objectives in the remainder of the fiscal biennium.

ECONOMIC DEVELOPMENT

Hawaii Ocean Awareness Center. The establishment of an ocean awareness center is the culmination of many years of exploration and review of the subject. Your Committee supports the concept, but it believes that there is a better alternative to the construction of a major facility at Kewalo Basin, which the State administration has proposed. The Kewalo site is small and narrowly circumscribed, its use as a tourist attraction would impact negatively on the adjacent Ala Moana Beach Park, and being closer to Waikiki, it would very likely cause the decline and demise of Sea Life Park. The alternative which your Committee proposes is a combined Hawaii Ocean Awareness Center—Sea Life Park facility, which would provide a potential for exhibition and research far greater than what each facility could singly provide. Appropriate language has been included to direct the State administration to enter into negotiations with Sea Life Park officials to reach agreement on the financial, management, and operating arrangements for a combined facility.

Tourism. Your Committee reaffirms its commitment to the marketing and promotion of our tourism industry. Additional flexibility has been provided to the Hawaii Visitors Bureau to meet the operational demands of promoting Hawaii in Japan. The Japanese tourist market continues to be Hawaii's most important international market, and as such, far from being taken for granted, it needs to be continuously nurtured and cultivated.

Business Development. A constraining factor in both the start-up and growth phases of small businesses in Hawaii is capital. Your Committee recognizes the need for and scarcity of capital in Hawaii and has provided additional funding for the Hawaii Capital Loan Program revolving fund, which makes loans for plant construction, conversion, or expansion; acquisition of land for expansion; acquisition of equipment or machinery; and working capital. Funding has also been provided for the automation of the loan processing function to increase the operating efficiency of all the loan programs. Your Committee also recognizes the need for information and assistance in starting and managing a small business and has appropriated additional funding for the Small Business Information Service.

High Technology. Your Committee continues to support the research efforts conducted through the Pacific International Center for High Technology Research. Additional funding is being provided to undertake research aimed towards energy independence and economic growth.

Alternate Energy. Your Committee continues to support the goal of increased energy self-sufficiency. Towards this commitment, additional funding has been provided for the operations of the Natural Energy Laboratory of Hawaii, including the Puna geothermal and Keahole Point research facilities.

In addition, flexibility is being provided to the Natural Energy Laboratory in its use of repair and maintenance funds for its Keahole facility. The intent is to enable timely repairs to be made, and of special concern is the prevention of damage to pipes and the uninterrupted flow of ocean thermal water.

Development Projects. Your Committee recognizes the importance of developing technology to further the economic future of our State. Start-up funding for an irradiation facility; a filming facility; and an innovation center has been provided. Additional funding to the HOST park and deep water cable program is being provided to ensure continued growth in high-technology and energy development.

EMPLOYMENT

Office of Community Service. Your Committee supports efforts to facilitate and enhance the development, delivery, and coordination of effective programs for those in need. Your Committee has provided funds to the Office of Community Service to support all efforts towards these goals, including funding for a bilingual access line.

TRANSPORTATION

Highways. Your Committee continues to monitor the financial condition of the state highway fund and its capacity to meet the repairs and maintenance needs of the highways program. To provide for the long-term stability of the fund, your Committee has thoroughly examined the highway division's program expenditures in an effort to efficiently allocate resources where they are most needed and reduce expenditures in lower priority areas that unnecessarily deplete the highway fund.

General Support for Transportation. Your Committee provided funding for equipment to implement the distributive information processing and information resource management system, enhance the engineering and design functions, and improve the fiscal and administrative services in the department.

Construction of Facilities. Your Committee has also provided additional funding to several existing transportation projects deemed to be of a high priority. Among these are: Honolulu International terminal modifications; construction for a new fireboat; improvements to Kewalo Basin; container facilities at Hilo Harbor; an interchange at Likelike highway and Kahekili highway; construction for Sand Island Access Road; and replacement of bridges throughout the State.

ENVIRONMENTAL PROTECTION

Pesticides. Your Committee continues to recognize that the need by agricultural producers to use pesticides must be balanced by the desire to maintain a safe and healthy environment. Additional funding is provided to support the field inspections necessary to monitor and regulate pesticide use.

HEALTH

AIDS. Increased local and national media attention has forced greater public awareness and concern over the AIDS disease. New cases are continually being reported and no known cure is apparent at this time. The most recent data reveal the growing severity of the problem.

According to the Department of Health, there have been 62 AIDS cases and 33 deaths in Hawaii since 1983, and over half of the cases (36) and nearly half of the deaths (15) occurred in 1985.

Your Committee recognizes that at present, the key to prevention is through education. Funds have been provided for this purpose and an AIDS Health Educator position has been established to coordinate and disseminate information on the latest developments concerning the disease to high risk groups and others of the public. Additionally, your Committee has provided funds for alternate testing sites for those individuals who suspect they have been exposed to the disease. These sites allow for confidential testing and ensure that blood supplies at the Blood Bank remain free of the AIDS virus.

Sex Abuse and Child Abuse and Neglect (CAN). Your Committee has in the past recognized that Sex Abuse and Child Abuse and Neglect (CAN) cases are major areas of concern, and it has provided funds to allay the suffering of its victims. Unfortunately, incidence in both areas, instead of decreasing, are actually on the rise, and your Committee once again has provided funds and positions where necessary to meet the greater caseload.

Deinstitutionalization. As part of the nationwide trend to deinstitutionalize clients from institutions for the developmentally disabled, your Committee has funded services to help facilitate these individuals' transition from Waimano training school and hospital back into the community. This process is a continuum of several levels, with the individual progressing from one level to the next, and gradually returning to the community. Funds have been provided for services designed to teach the skills necessary for these persons to return to society.

LOWER EDUCATION

Your Committee remains firmly committed to the goal of providing every student in Hawaii's public education system with those fundamental academic and social skills necessary to meet the demands of our increasingly complex society. In carrying out this commitment, your Committee has sought to strike a balance between basic education, which serves as the cornerstone of our educational system, and special program augmentation tailored to meet the needs of some of our students.

Early Provisions for School Success (EPSS). The EPSS program exemplifies the theory that early identification and intervention, rather than later remediation, is more educationally effective and financially efficient. The major emphasis of this program is to concentrate on and provide direct services to students who are identified as having learning difficulties in kindergarten classes. Funds have been provided to continue this program.

Special Education. Your Committee recognizes the need to provide quality instruction and resources for special education. It is your Committee's intent to assure that exceptional children have the opportunity to achieve according to their potential by providing special education programs and services that meet their unique needs. In a specific area, your Committee is in support of providing adequate transportation for special education students and complying with the federal requirements for school bus aides.

Repair and Maintenance of School Facilities. Your Committee is fully committed in maintaining our schools' facilities. Recognizing the need for the State to insure that existing facilities are safe and functional and that schools should be a source of pride for students, teachers and the community, a total of \$31 million has been authorized for the purpose of repair, maintenance, and renovation of school facilities.

Improvements and Renovation of School Facilities. Your Committee recognizes the need to improve the educational facilities of our public schools. To meet the increasing enrollment at certain schools, additional funds are being provided for portable classrooms. Due to the necessity to comply with the 1973 Rehabilitation Act or risk the loss of federal funds, additional appropriations are being provided to accelerate the removal of architectural barriers to allow increased accessibility to school facilities by handicapped persons. Funds for land and construction of the new Kahuku Elementary School are being appropriated. Renovations of fire damaged buildings at Baldwin and Nanakuli High Schools are deemed to be of high priority and necessary to restore educational opportunities.

HIGHER EDUCATION

Some of the more important decisions made by your Committee and the Committee on Higher Education have not involved appropriations but are nonetheless far reaching in their impact on the University of Hawaii system. These are the measures which are designed to provide autonomy or flexibility in various areas of administration, including the crucial function of budget execution. Your Committee views these measures as being as important as the appropriation decisions which have been made.

PLATO. In reviewing the University's request for implementation of a PLATO computer based education system, your Committee finds that it would be inappropriate to approve this request at the present time.

Your Committee's decision was guided in large part by the general consensus which was reached between the Legislature and the University regarding academic computing support during the 1985 session of the Legislature. Your Committee at that time concurred with the University's academic computing support mission which was described as follows:

- "a. Provide access to modern computing facilities and services to students to enable them to acquire understanding and proficiency in the use of computers, to achieve their academic goals, and to fulfill their roles in an information processing society; and
- b. Provide modern essential computing and data communication facilities to the faculty, staff, and administrators to enhance their capabilities in the performance of their duties, and thus improve the quality of delivered instruction, research, public service and efficiency in administration."

Your Committee also agreed with the University that:

"The current trend in universities for improving access capabilities is to provide training on and use of personal computers for a major portion of its course assignments. This is consistent with the fact that the real world outside of academia has integrated the use of personal computers in business and industry. The University desires to follow such a direction and to establish personal computer laboratories which will be able to solve much of the access problems and also provide hands-on use of personal computers that will ensure adequate computer literacy training for students."

In adopting the findings and recommendations of the University, the Legislature provided a total of \$1.5 million for the 1985-87 biennium at the request of the University, to achieve two primary goals. One of the goals was to improve and enhance student access to computers and the other was to allow the University to balance its computer resources by providing distributed computing facilities initially in the form of personal microcomputer networks.

Your Committee finds that the priority direction of the 1985 Legislature with regard to the instructional use of computers is still appropriate. More specifically, your Committee feels that first priority should be accorded to the teaching about computers as a subject for instruction and the use of computers to solve problems. The major strength of computer-based education systems such as PLATO lie in its applications for computer assisted instruction and computer managed instruction. This being the case, your Committee finds that PLATO is of secondary importance to the instructional core.

In keeping with these principles, your Committee has approved additional funds to improve instructional programs at the University of Hawaii at Manoa, through information technology as requested by the Board of Regents' supplemental budget request for fiscal year 1986-87.

Asian/Pacific Focus. An emphasis has been placed on the Asian and Pacific areas. Your Committee has provided funds to establish a foreign Interpretation/Translation Center to enhance future job opportunities for the students.

Also, your Committee has provided funds to support the Asian, Pacific and Hawaiian Library Collection.

Technological Advancement. An emphasis has been placed on state-of-the-art technological systems to enhance higher education. Throughout the years, your Committee has continuously provided funds for the implementation of the computerized student registration and records system which is not yet on-line. Your Committee has again provided funds to implement the computerized system, and it expresses the expectation for the University to have the system on-line by the most current projected completion date.

Reorganization of the University. The reorganization of the University of Hawaii system is viewed as a process of evolution through which the University can strengthen internal as well as external communications, organizational arrangement, and relationships. The reorganization is more than new positions and titles. It is the opportunity to make significant improvements to university management and operations. Your Committee has recognized the reorganization currently underway and has provided funds to accommodate the additional costs and new positions required for the organizational changes.

Facility Improvement Projects. Your Committee recognizes the need for instructional and educational facilities to further facilitate the reorganization of the University. Funding for

needed improvements and renovations to old structures such as Bilger Hall, George Hall, Castle Memorial Annex Building, and Kennedy Theatre have been accommodated. Also, to provide for more accessibility and improved safety to the Mauna Kea Observatory, funds for the first phase of the access road have been authorized.

For the Kapiolani Community College, additional funds have been appropriated to continue the design and construction of the new Diamond Head campus. For Maui Community College, additional funding to expedite the construction of the Nursing and Learning Skills Laboratory has been provided.

SOCIAL SERVICES

Child Abuse and Neglect. Increased public awareness and concern of child abuse and neglect cases have resulted in substantial additional state support for the child protective service units in the 1985-87 biennium. The Department of Social Services and Housing (DSSH), reports that it is encountering some difficulty in recruiting and filling the new positions, but it is considering all possible alternatives to fill the new social worker positions. In spite of this temporary setback, the department is continuing its efforts to provide the much needed child protective services. In these efforts, the shortage of adequate emergency bed spaces has become apparent. To alleviate this shortage, your Committee has provided funds for additional emergency shelter beds on Oahu and Hawaii.

In addition, your Committee has provided continued funding for the Child Protective Services Computer Tracking System for a software contract and hardware purchases. This automated referral and tracking system will better identify and monitor child abuse and neglect cases.

It is your Committee's belief that prevention of child abuse and neglect should be emphasized, and accordingly supplemental funds have been included for the purchase of several child abuse and neglect prevention services. These purchases of service from private agencies focus on preventive educational and awareness programs which your Committee believes are worthy of additional support.

Financial Assistance. It has been a concern of your Committee that the DSSH budget projections for the various money payment programs have not accurately reflected the actual requirements of the programs. Your Committee has reviewed the various funding levels and has reduced the payment appropriations to reflect more realistic estimates.

Your Committee also recognizes the need for additional manpower to manage the caseloads, reduce error rates, and comply with timely federal requirements for eligibility determination for the various payment programs. Therefore, funds are provided for income maintenance workers to address this immediate temporary need. In the same area, your Committee recognizes the need for an automated welfare information system to ensure that eligibility standards are upheld and to reduce determination errors to meet the required acceptable federal standards. To this end, your Committee has provided funds for a Hawaii Automated Welfare Information System, scheduled for completion in 1988.

Health Care Payments. Your Committee has been concerned with the soaring costs of the Hawaii Medicaid program. The DSSH's efforts for cost containment are reflected in the recent implementation of the prospective payment system (PPS) for long-term care and hospital in-patient services and the cash basis payment system. Due to these measures and decreasing caseloads, your Committee has reduced the payment appropriation to reflect a more realistic estimate.

PUBLIC SAFETY

Consent Decree. In September 1984, the National Prison Project (NPP), and the American Civil Liberties Union (ACLU) of Hawaii, filed suit in U.S. District Court over the alleged unconstitutional conditions at the Oahu Community Correctional Center (OCCC) and the Hawaii Women's Correctional Facility (HWCF). Due primarily to severe overcrowding the suit cited deficiencies in the following areas:

- Medical/Mental health staff and services;
- Environmental (living) conditions;
- Security staffing and staff training; and Classification and inmate activity.

On June 12, 1985, the ACLU and the State of Hawaii entered into an agreement (Consent Decree) to correct the identified deficiencies. The decree set population capacities for OCCC and HWCF, and mandated the creation of three panels to review and make recommendations to correct the deficiencies in the specific areas of concern. The three panels formulated their recommendations which were legally accepted by the court, with an implementation date for

each plan set at August 1, 1986. The Corrections Division is therefore requesting the necessary resources to implement all of the required actions. To meet the required population capacities, inmates from OCCC have been transferred statewide to all correctional facilities. This has placed a burden on the resources of all facilities, which are presently at maximum or over-populated levels. Your Committee recognizes the legal requirement and adverse situation the prison system is currently facing and accordingly, has provided all resources required to alleviate the over-crowding and correct all deficient conditions cited by the three panels.

In addition, the Waiawa Correctional Facility is required by the State's Quitclaim Deed agreement with the U.S. Department of Education to establish a fully operational education-agriculture program by April 25, 1988. Further, the facility must be developed and expanded to house an on-site inmate population of 66 by the end of fiscal year 1986-87. Your Committee also recognizes these requirements and has provided all resources requested to implement these proposed actions.

GOVERNMENT-WIDE SUPPORT

Legal Services. Funding for additional attorneys, clerical support, and administrative staff have been provided. In addition, appropriations for additional current expenses and equipment have provided to modernize and upgrade the Department of the Attorney General.

Funds have been provided for litigation expenses to assist in the increasing amount of complex and technical cases brought against the State. Your Committee recommends that the Department maintain and submit more accurate records and billings of litigation expenses to ensure that efficient and effective litigation services are being obtained for all cases.

Distributed Information Processing and Information Resource Management (DIPIRM). Your Committee has provided additional funds for the continued support and implementation of decentralized electronic data processing being developed to support the programs and operations of state agencies.

Additional Medicare Contributions. Due to pending federal legislation, your Committee has provided monies to fund employer Medicare contributions for all state employees who are not currently covered by Social Security.

Comprehensive Net Income Tax (CNIT) System. Your Committee recognizes the need to upgrade the effectiveness of our tax system. Additional funds and positions were appropriated to fully modernize the processing and auditing of tax returns.

RECOMMENDATION

In conclusion, your Committee has thoroughly reviewed the competing demands and concerns of our State and strongly believes that this budget bill has addressed these major concerns.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1741-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1741-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 726-86 Ways and Means on H.B. No. 1961-86

The purpose of this judiciary supplemental appropriations bill is to amend the Judiciary Appropriations Act of 1985, which appropriates funds to the Judiciary for the 1985-87 fiscal biennium.

In reviewing the approved biennial budget and the supplemental budget request of the Judiciary, your Committee has applied the same standards and procedures in determining the appropriation levels of the Judiciary's programs as it has applied to the programs of the executive branch. These standards and procedures include: (1) the factoring of turnover savings into the Judiciary budget; (2) the calculation and budgeting of salaries at the entry level for those positions which are to be filled; and (3) the deletion of previously authorized positions where the positions have been vacant for more than 24 months.

Careful consideration has been given to both the purposes and the amounts of the proposed additional appropriations requested by the Judiciary, and your Committee has funded those requests which it found to be the most urgent. The result is an amended Judiciary supplemental budget for the biennium which is neither excessive by any standard nor so austere as to cause a hardship on critical court operations and related programs.

Among additional appropriations included in the bill are those for increased costs of providing services to children, the rise in workload of the community service sentencing program, the repair and maintenance and telephone costs being assumed by the Judiciary from the Department of Accounting and General Services, and the rental costs of temporary office space required during the second floor renovation of Ali'iolani Hale. Funds have also been included for the continued support of the Neighborhood Justice Center, Office of the Public Guardian, and statewide counseling of abusers and victims of family violence.

Your Committee takes cognizance of the important—and in some cases, far reaching—recommendations which the Citizens' Panel on Judicial Administration in the State of Hawaii has made to the Chief Justice. Your Committee also recognizes the timely response of the Chief Justice who has announced that he will "make every effort to pursue recommendations contained in the report" and his intention "to restore full public confidence in the State Judiciary." The Chief Justice has also shared with the public and the Legislature a chronology and summary of the various actions which he has taken regarding Judiciary policy and procedures from August 1985 to February 1986. Your Committee believes that the Legislature should continue to be informed as to the changes made, directed, or recommended by the Chief Justice so that adequate preparation can be made for those matters requiring legislative consideration and action.

Therefore, your Committee requests that at the time the next biennial budget is submitted for consideration by the 1987 regular session, a pre-session report be submitted by the Chief Justice to the Legislature which outlines the further actions he has taken on Judiciary policies and procedures and which presents his recommendations on such changes as may require legislation.

A promising recent development in the Judiciary is the establishment by the Chief Justice of a new arbitration program. There is growing recognition, nationally as well as here in Hawaii, that in a litigation prone society, alternatives need to be sought for the speedier, less costly, and more effective settlement of disputes. If all cases were to go through litigation and the formal court system, the heavily burdened calendars of Hawaii's courts will be strained even further, court costs will mount, justice will be delayed, the emotional and economic costs to those seeking justice will be heavy, and individual rights will suffer.

The Judiciary's arbitration program was initiated in February of this year as a pilot project in the First Circuit. As a pilot project, it is currently being served by *pro bono* arbitrators, and its application is limited at the present time to personal injury cases where the probable jury award, if the case were to go to trial, is estimated to be less than \$50,000. While these conditions initially restrict the application of arbitration, it is probable that the program can eventually be expanded to cases other than personal injury cases and with higher thresholds. Your Committee believes that the arbitration project has potential and merits attention. It would be appropriate for the Chief Justice to recommend as part of the next budget submission whether the project should continue on limited pilot status or whether the experience and results justify moving the pilot project to regular program status.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1961-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1961-86, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 727-86 Ways and Means on H.B. No. 1764-86

The purpose of this bill is to exempt from the general excise tax amounts received for the sale of prescription drugs and prosthetic devices.

Your Committee has amended this bill by deleting the provisions relating to the exemptions from the general excise tax and instead provided for the taxation of the gross income from the business of selling interstate common carrier telecommunications services.

Historically, the Bell Telephone system was the sole provider of interstate common carrier telecommunication service. Recent federal regulatory and judicial rulings have caused a restructuring of the telecommunications industry and have opened this service to competition among a number of companies. At the present time, several common carrier providers of such service compete and constitute a new industry in this State. Although the Bell Telephone system did not pay a general excise tax on its revenues from long-distance telephone calls billed in the State, your Committee is informed that the Department of Taxation is proposing to impose the general excise tax on the gross income of the new providers of such service.

Your Committee believes that these new providers should be made to pay the general excise

tax, and that any apportionment of gross income made by the department in determining the measure of tax should be the same for each provider of such service. Your Committee recognizes that, without such a provision, each company may argue for a different apportionment formula making it difficult to administer the tax. Also, to the extent that different formulas are used, some companies may be disadvantaged as compared to other companies and customers will be confused by billings at different effective tax rates.

Since the general excise tax is a separately stated tax which is customarily passed on to consumers, the Committee concluded that it was appropriate to commence collecting the tax upon the effective date of the Act and not to seek taxes for the period prior to that date. Your Committee believes that the apportionment formula should be developed before the taxation of these companies occurs. Therefore, the bill is effective on July 1, 1986, if an apportionment formula is developed sixty days before that date. If no formula has been developed by that date, then the bill is effective on the first day of the third month after the month in which the department has determined the formula.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1764-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1764-86, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 728-86 Ways and Means on H.B. No. 2549-86

The purpose of this bill is to authorize the establishment of workers' compensation self-insurance groups, under which employers engaged in the same or similar type of business may pool their workers' compensation liabilities. The bill is based on the model legislation developed by the National Association of Insurance Commissioners.

This bill authorizes a new arrangement by which employers, particularly small business employers, may meet and fund their workers' compensation obligations. Self-insurance gives employers greater discretion in controlling expenditures for administration, job safety, and other costs and, thus, may result in savings. Under current administrative rules, only large employers are able to qualify as workers' compensation self-insurers. This bill allows employers who cannot meet the self-insurance requirements by themselves to form groups to administer and share the risks of workers' compensation coverage. Testimonies submitted on this bill have been entirely favorable.

Your Committee has amended the bill by requiring a group to have an estimated annual standard premium of \$250,000, instead of \$100,000, as one condition of receiving a certificate of approval to operate. The change is made on page 7, line 19, and follows the recommendation of the Insurance Commissioner. Your Committee feels that the amendment is necessary to assure the viability of an approved group.

Your Committee has also amended the bill to appropriate \$5 million to make the Hawaii Workers' Compensation State Fund operational.

In addition, your Committee has made other technical, nonsubstantive amendments.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2549-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2549-86, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 729-86 Ways and Means on H.B. No. 1665-86

The purposes of this bill are to increase the percentage of indirect overhead funds generated by the University of Hawaii which are deposited into the research and training revolving fund and to delete the requirement that the Governor or Director of Finance approve expenditures from the revolving fund.

Your Committee has amended the bill by substituting the provisions of S.B. No. 1773-86, S.D. 2. Under the bill, as amended, fifty per cent of the first \$7 million of indirect overhead funds generated by the university and one hundred per cent of funds in excess of \$7 million are to be deposited into the research and training revolving fund. The bill, as amended, also retains the requirement that the Governor or, if delegated, the Director of Finance approve expenditures by the university from the revolving fund.

The amendments, in effect, increase the amount for the research and training revolving fund,

while maintaining the executive check to ensure proper expenditures.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1665-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1665-86, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 730-86 Ways and Means on H.B. No. 2284-86

The purpose of this bill is to establish state standards for underground storage tanks which contain substances that may pose a danger to the public health and the environment if released into the environment. The bill also appropriates \$25,000 to provide the State's matching requirement to receive federal funds.

The Federal Hazardous and Solid Waste Amendments of 1984 created a new federal program for the regulation of underground storage tanks under which states may adopt their own regulatory programs by establishing state standards that at least meet the minimum federal standards. Beginning in May 1987, states may apply to the Environmental Protection Agency for authorization to operate an underground storage tank regulatory program. This bill would allow the department of health to develop rules in a timely manner to apply for such authorization.

Your Committee has amended the bill by deleting from the section on corrective action, the requirement that the owner of the leaking underground storage tank repair the damage caused by the release. Moreover, as a result of concerns raised as to what constituted evidence of financial responsibility, your Committee amended the section on financial responsibility by adding language specifying what types of evidence may be considered by the department of health as evidence of financial responsibility and authorizing the department of health to specify policy or other contractual terms, conditions, or defenses that are necessary or acceptable to establish evidence.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2284-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2284-86, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 731-86 Tourism and Recreation on H.B. No. 2173-86

The purpose of this bill is to designate outrigger canoe paddling as the official team sport of the State of Hawaii.

Your Committee finds that the sport of outrigger canoe paddling has significant historical and cultural importance for the State of Hawaii. The survival and growth of this sport through the years is a credit to the people who have inspired its continuance in succeeding generations.

However, your Committee amended the bill to emphasize that this measure is merely a symbolic act and it is not intended to have a binding effect on the budget and operations of State government. For example, this bill does not create funding requirements for the Department of Education and does not require the Department of Transportation to amend existing rules and regulations to accommodate the sport.

Your Committee on Tourism and Recreation is in accord with the intent and purpose of H.B. No. 2173-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2173-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator George.

SCRep. 732-86 Tourism and Recreation on H.B. No. 832

The purpose of this bill is to clarify limits on the taking of sand and other marine materials from public beaches.

Your Committee finds that many of Hawaii's beaches are subject to sand erosion, which has adverse effects on the integrity of the beach. Presently, Section 205-33, Hawaii Revised Statutes (HRS), does not set specific limits on the taking of sand from public beaches, and

restricts the State and county to mining sand only for replenishing four beaches: those at Hilo Bay, Waikiki, Ala Moana, and Kailua.

Your Committee heard testimony from the Departments of Land and Natural Resources and Transportation, the Department of Parks and Recreation of the City and County of Honolulu, and the Environmental Center of the University of Hawaii at Manoa. Your Committee finds that the present statute allows large scale taking of sand for personal use, and prevents the State and county from mining sand for replenishment of eroded beaches other than the four specified.

This bill proposes to set a limit on sand taken for personal, non-commercial use to one gallon, and to remove the reference allowing mining for replenishment of only four beaches. This bill also specifically prohibits State or county mining of Kualoa Beach Park, to protect the Molii fishpond which is thought to be the last fully functioning fishpond in the State.

Upon consideration, your Committee amended the bill by deleting the reference to Kualoa Beach Park on page 1, line 14, and adding a new subsection (b) prohibiting all mining activities at Hakipu'u Sandbar offshore of Molii fishpond. This would exempt the area from all mining, not just State and county activities.

Your Committee also amended the bill by specifying that the exception for clearing sand from drainage pipes, canals, and stream mouths shall apply only for State or county maintenance purposes, and shall not require an environmental impact statement (EIS) under Chapter 343, HRS. This would allow routine state and county maintenance without the lengthy and costly process of developing an EIS for such activities.

The DLNR testified that the Attorney General recommended amending the bill to clarify the jurisdiction of shoreline setbacks and conservation districts. Your Committee accordingly amended the bill by adding a new subsection (e) on page 4, line 11, to clarify that the DLNR shall retain jurisdiction over lands seaward of the shoreline, and may grant variances in the public interest.

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

Your Committee on Tourism and Recreation is in accord with the intent and purpose of H.B. No. 832, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 832, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator George.

SCRep. 733-86 Economic Development on H.B. No. 1870-86

The purpose of this bill is to transfer the shoreline setback provisions from Chapter 205 to Chapter 205A, and assign to the Board of Land and Natural Resources the responsibility to determine the shoreline setback lines.

Chapter 205, Part I, Hawaii Revised Statutes, outlines general provisions relating to the State Land Use Commission and its responsibilities for land use designation. Part II of this chapter provides general provisions relating to the determination of the shoreline setback lines. As provided in Section 205-31, Hawaii Revised Statutes, "shoreline setback line" means the line established by the State Land Use Commission or the county running inland from and parallel to the shoreline at a horizontal plane.

Your Committee received testimony from the Department of Planning and Economic Development, and the City and County of Honolulu which indicated that this bill is necessary to address statutory conflicts in the administration of the coastal zone management program. This bill transfers the responsibilities for shoreline setback from the State Land Use Commission to the Board of Land and Natural Resources. Further, the Board would be responsible for establishing shoreline setbacks, and be required to adopt rules to enforce these provisions.

Your Committee finds that this Bill provides for uniform administration of the coastal zone management program.

Your Committee has amended this bill by:

1. Deleting Sections 3 through 9 of the bill which repeals Sections 205-31 through -37 inclusive. Since these sections comprise Part II, Chapter 205, your Committee has repealed Part II, Chapter 205 in Section 3 of the amended bill instead of repealing each section individually.

2. Deleting Section 12 of the bill, which provides the same rule making authority provided under Section 1; and
3. Deleting the provision in Section 13 which provides that section 12 shall take effect upon the adoption of rules by affected agencies.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1870-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1870-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 734-86 Economic Development on H.B. No. 167

The purpose of this bill is to correct deficiencies in the environmental impact statement (EIS) process, relating to the preparation, review, and approval of the EIS.

Chapter 343, Hawaii Revised Statutes, (HRS) provides definitions, rule-making authority, and general procedures relating to environmental impact statements. This bill proposes the following changes to Chapter 343, for updating and clarifying the EIS:

1. Provides a distinction between a "draft" environmental impact statement and a "final" environmental impact statement in the definition of "environmental impact statement", in Section 343-2, HRS.
2. Additionally requires an environmental assessment, as specified in Section 343-5(a)(2), HRS, for reclassification of any lands classified as conservation districts, pursuant to a Hawaii Supreme Court decision requiring the preparation of an environmental assessment whenever conservation lands are involved.
3. Renames the 1967 City and County of Honolulu General Plan Development Plan, Waikiki-Diamond Head Section A, in Section 343-5(a)(5) HRS, to Waikiki Special Design District.
4. Requires an environmental assessment for any proposed amendment to existing City and County of Honolulu development plans which reclassify land designations, except actions proposing any new development plan or amendments to the existing development plans initiated by the City and County of Honolulu.
5. Designates a 45-day public review period for public and private actions referenced in Section 343-5(b), HRS. A period of 45 days allows time for distribution of the draft EIS document and also makes the State EIS review period consistent with Federal EIS review period.
6. Changes the "acceptance" timetable, specified in Section 343-5(c), HRS, to begin with the filing of "final" EIS, in order to reduce confusion as to when an applicant must be notified of the acceptance or nonacceptance of an Environmental Impact Statement. Reduces the time period for acceptance from 60 days to 30 days and the applicant's requested extension period from 30 days to 15 days, to accommodate this change.
7. Allows the council to adopt rules to prescribe the procedures for preparation of an environmental assessment and withdrawal of a statement, as provided in Section 343-6, HRS.

Your Committee received testimony from the Office of Environmental Quality Control and the Environmental Council requesting support for these amendments to improve and streamline the EIS process. Your Committee also heard testimony from the City and County of Honolulu, expressing concerns with the new section 343-5(a)(7), and also the current language of 343-5(a)(6). The City and County of Honolulu objected to the language, as the City and County of Honolulu's general plan is a statement of objectives and policies and not a land use plan to which an EIS would apply.

Your Committee concurs with the testimony of the City and County of Honolulu, and finds that the intent of this bill is to assist the EIS process, and should address only the problem areas necessary to improve the process. Your Committee further finds that H.B. 2281-86, H.D. 1 relating to the EIS process includes the appropriate language to address the concerns of the City and County of Honolulu.

Your Committee therefore has amended this bill to delete the language in section 343-5(a)(6)

and (7) and replaces it with the following:

- (6) Propose an applicant initiated amendment of a county plan where the amendment would result in land use designations other than agriculture, conservation, or preservation, provided that a county council may determine by ordinance that "approval" of the amendment for purposes of section 343-5(c) occurs with a change to a county zoning map or the approval of a development agreement as authorized by Act 48, Session Laws of Hawaii 1985.
- (7) Propose any reclassification of any land classified as conservation district by the state land use commission under chapter 205."

Your Committee further amended the bill by removing the additional requirement in Section 343-5(a)(2), HRS, for assessments on conservation lands as this requirement is now specified in 343-5(a)(7), as noted above.

Your Committee also amended the bill by inserting the words "draft" and "final" in the appropriate places in subsections 343-5(b) and (c), to clarify the use of "draft" and "final" statements. Your Committee has also made non-substantive amendments for the purposes of clarity and style.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 167, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 167, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 735-86 Economic Development on H.B. No. 2014-86

The purpose of this bill is to recognize the vulnerability of aquaculture farmers and their crops to destructive birds and mammals, and that aquaculture farmers should be equally protected under the law, as are agriculture farmers.

According to testimony by the Department of Land and Natural Resources (DLNR), aquafarms in Hawaii have long been plagued by predatory birds, such as the black-crowned night heron (auku'u). The problem of aquacultural crop loss has reached catastrophic proportions, such as the loss experienced by Hawaii's largest prawn farm which has been conservatively estimated between \$70,000 and \$100,000 a year. This loss has significantly contributed to the recent closing of the pond production portion of that farm for economic reasons.

Your Committee is in agreement that this bill will assist aquaculturists in controlling the destruction of their crops by various species of wild birds, game birds, and game mammals. However, the purpose of this bill is not to be construed as permission to indiscriminately destroy species that are considered rare, threatened, or endangered, even though some aquaculturists consider them pests. Protection of these rare, threatened, or endangered species is statutorily mandated, and their presence in and around aquafarms should not be reason in itself for the Department of Land and Natural Resources to authorize destruction of these species.

Your Committee has amended the bill to add for clarification a definition of "aquaculture", consistent with the definition in Chapter 187A, Aquatic Resources, Hawaii Revised Statutes. Your Committee has further amended the bill by making clarifying language changes which have no substantive effect.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2014-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2014-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 736-86 Economic Development on H.B. No. 2015-86

The purpose of this bill is to eliminate the required public hearings on all applications for proposed commercial uses within conservation districts, unless the Board of Natural Resources determines that the proposed commercial use substantially affects the current uses within the district; and to make nonsubstantive changes to conform the language within the statutes.

Section 183-41, Hawaii Revised Statutes, presently establishes forest and water reserve zones

in the counties, and provides restrictions on uses within these zones. Any changes in the permitted uses within these districts must be proposed by rule and heard by the Department of Land and Natural Resources (DLNR), at public hearings.

This bill requires that public hearings must be held only upon determination by the Board that the proposed commercial use would substantially affect the current permitted uses. Under other circumstances not deemed by the Board to substantially affect current uses, public notice of the proposed uses published in a newspaper not less than ten days before a regular Board meeting would suffice.

Your Committee received testimony from the Department of Land and Natural Resources supporting this bill because many of the required hearings are held only to consider applications for uses which are accessory to existing commercial uses. Your Committee finds that with the added flexibility provided by the bill, the Department would be better able to utilize its time and resources for evaluating and ruling upon proposed uses which would substantially alter or affect uses within conservation districts.

The bill also changes the term "forest and water reserve zone" to "conservation district" in order to be consistent with Section 205-2, Hawaii Revised Statutes.

Your Committee amended the bill by making clarifying language changes which have no substantive effect.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2015-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2015-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 737-86 Economic Development on H.B. No. 2027-86

The purpose of this bill is to amend Section 269-7.5, Hawaii Revised Statutes, to authorize the Public Utilities Commission to determine the reasonableness of rates, charges, and tariff rules and regulations to be imposed by a newly authorized public utility.

Your Committee received testimony from the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs indicating that under the present law, the initial rate structure of a public utility applying for certification is not required to be justified as reasonable as determined by the Public Utilities Commission. Thus, an applicant public utility upon receiving their certification, may charge rates substantially in excess of what the Commission may later determine to be just and reasonable. This situation has occurred in the past, when developers turn over their development's rights-of-way to counties, and the water mains and waste mains and wastewater lines which are situated in public rights-of-way become public utility facilities. Further, there have also been situations where consumers of such newly authorized water and wastewater utility services have been charged very high initial rates, which were later found by the Commission to be excessive.

Your Committee finds that the inability of the Commission to investigate the reasonableness of the proposed initial rates has led to adverse consumer impacts and considerable consumer confusion. Your Committee further finds that this measure is necessary to protect the consumers from excessive rates charged by a newly certified utility.

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

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2027-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2027-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 738-86 Economic Development on H.B. No. 2105-86

The purpose of this bill is to remove the State as a guarantor when its interests in lands are subject to a security interest.

Under the present statutes, a lessee is authorized, with the consent of the Chairperson of the Board of Land and Natural Resources, to mortgage the lessee's leasehold interest. If the lessee commits any breach or default under the lease, the statute provides for notification to the

lessee and gives the lessee sixty days, or such additional time as the Board may allow for good cause, to cure the breach or default. Protection is provided to the security interest holder by the additional requirement that the holder also be notified of the breach of default. This gives the security interest holder the opportunity to cure or remedy the breach or default if the holder so desires.

If the security interest holder decides to cure or remedy the breach or default, well and good. However, in the event the holder decides not to, and 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.

The effect of the law is that the State acts as an insurer or guarantor to any lender. Your Committee finds that the State should not be placed in a position of an insurer or guarantor. This bill would delete the language which makes the State guarantor of the mortgage loan and allow the State to redispense of the land free and clear of the mortgage if the default has not been cured. 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. This bill does not preclude a mortgagee from protecting its mortgage by foreclosing upon a lease pursuant to Section 171-22, Hawaii Revised Statutes, prior to the Board's redispense of the land.

Your Committee has amended the bill by making nonsubstantive language changes for the purposes of clarity and style.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2105-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2105-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 739-86 Economic Development on H.B. No. 2109-86

The purpose of this bill is to amend the Hawaii State Planning Act to reflect the changes proposed by the State Plan Policy Council.

Sections 226-54 and 226-56, Hawaii Revised Statutes, require the 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. The amendments contained in this bill have been prepared in accordance with these requirements, and are based on the findings of the Policy Council as presented in its report on the Hawaii State Plan Revisions.

These proposed amendments to the State Plan are the result of an intensive two-year review program conducted by the Policy Council. The program involved the preparation of detailed base studies and issue papers to identify current trends, analyze significant changes that have occurred since the adoption of the State Plan, and determine the major problems and opportunities in areas of statewide concern. Statewide resident surveys were also conducted to garner essential information regarding public attitudes and preferences on a range of issues and concerns relevant to the State Plan. The Council's preliminary findings and recommendations derived from these studies were widely publicized and distributed. They were revised and refined through an extensive public participation process which included: statewide public informational meetings; a State Conference on revisions to the Hawaii State Plan; formal public hearings; and review and input from State Functional Plan Advisory Committees.

Your Committee received testimony from the Department of Planning and Economic Development indicating that the major revisions made by this bill to the Hawaii State Planning Act are as follows:

Amendments to Section 226-6, HRS (Objectives and Policies for the Economy-In-General) and Section 226-103, HRS (Economic Priority Guidelines), would result in greater policy emphasis being placed on efforts to diversify and broaden Hawaii's economic base to reduce the potential of economic instability and provide for expanded employment opportunities. Proposed new policies are aimed at fostering a business climate that is more conducive to the expansion of existing businesses and the creation and attraction of new industries.

A new subsection was added to deal exclusively with telecommunication, an area of emerging importance to Hawaii's future economic growth. New policies are aimed at stimulating the development of telecommunication systems and resources through planning, management, education and training.

Specific policies which no longer appear feasible or desirable were deleted; and new policies dealing with major problems not currently addressed by the State Plan were added. For example, proposed amendments in the health section address such contemporary concerns as the need to contain health care costs and the need to reduce risks of contamination from pesticides and other toxic substances.

Major reorganization of certain sections have been made to the Act. In certain instances the changes are intended to: 1) draw distinctions between separate policy areas or 2) consolidate highly-related policies into a single section. Additionally, the bill also provides for incorporating Priority Guidelines currently found in Section 226-105, Hawaii Revised Statutes (Hawaii's Land Resources) into Section 226-104, Hawaii Revised Statutes to form a single section on population distribution and land resource management. Both sections presently have statements which directly affect how and where growth should occur. Consolidation of the two sections would result in a more integrated guide for land use decisions. Resource protection and preservation needs are still highlighted, but the amended guidelines would also recognize the need to provide adequate land to accommodate projected population and economic growth requirements.

Finally, one of the most significant changes being made involves the addition of three new sections to the priority guidelines. They include 1) crime and criminal justice, 2) affordable housing, and 3) quality education. These areas have consistently ranked among the top concerns of Hawaii's residents in state plan surveys conducted to date and merit priority attention. In meetings and hearings conducted by the Policy Council, public response to these amendments has been highly supportive.

Your Committee finds that these revisions to the Hawaii State Plan are necessary to reflect current social, economic, and physical conditions and to allow for the State to be responsive to the changing needs and desires of Hawaii's people.

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

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2109-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2109-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 740-86 Economic Development on H.B. No. 2129-86

The purpose of this bill is to allow state agencies to dispose of abandoned or seized property on lands managed or controlled by the State.

Presently, state agencies have no statutory authority to dispose of property abandoned or seized on state lands. This bill would allow a state agency to dispose of property under the following conditions:

- 1) Send notice to the owner by certified mail at least thirty days prior to the disposition, indicating the location of the property and intent of disposal; and if the owner's location is unknown the notice shall be posted on the premises.
- 2) Advertise the disposition in a newspaper of general circulation at least five days prior to the disposition.
- 3) Conduct the sale at public auction in the county where the property was abandoned or seized and if no bids are received the property may be sold by negotiation, donated, kept by the department, or sold as junk.
- 4) Proceeds from the sale shall be used to pay the State's costs, and after thirty days, the balance shall go to the general fund or appropriate special fund.

Your Committee received testimony from the Department of Land and Natural Resources indicating that when a tenant on public lands is evicted and their personal property is abandoned, the Department has no authority to dispose of property and so the property remains at the abandoned site. In these instances, the State is denied both income and use of the space occupied by the former tenants' personal property. Similarly, property seized because of unauthorized use on state lands also remains in storage.

Your Committee finds that this measure will allow state agencies to dispose of abandoned

and seized property in an orderly fashion and promote efficient and prompt disposition of such property.

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

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2129-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2129-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 741-86 Economic Development on H.B. No. 2168-86

The purpose of this bill is to improve and streamline Hawaii's environmental impact statement system, by providing a definition of the term "negative declaration" and clarifying the rule-making authority of the Environmental Council.

Section 343-6, Hawaii Revised Statutes, contains definitions and rule-making provisions related to the development of environmental impact statements. Your Committee received testimony from the Environmental Council, which is responsible for implementing Chapter 343, indicating that the term "negative declaration" needs to be formally defined in the statutes, and that the Environmental Council must be given more flexibility in its rulemaking powers in order to effectively administer the laws relating to environmental impact statements.

Your Committee has amended the bill at page 5, line 3 to substitute "an" for "a" before the word "environmental."

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2168-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2168-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 742-86 Economic Development on H.B. No. 2695-86

The purpose of this bill is to insure that goods sold and marketed as "made in Hawaii" are manufactured, assembled, or fabricated within the State.

Chapter 486, Hawaii Revised Statutes, provides general provisions and restrictions relating to the packaging and labeling of goods sold within the State. This bill provides that goods which are labeled "made in Hawaii" must have at least twenty-five percent of their wholesale value added by manufacture, assembly, or fabrication within the State.

Testimony submitted by the City and County of Honolulu supports this measure to identify and protect legitimate items representing Hawaii from foreign imitation items.

Your Committee finds that this measure is necessary to maintain the integrity of "made in Hawaii" products, and insure that customers are not buying imitation products represented as "made in Hawaii."

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

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

Signed by all members of the Committee.

SCRep. 743-86 Economic Development on H.B. No. 2700-86

The purpose of this bill is to provide 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.

Currently, any person who is aggrieved by an agency decision or preliminary ruling in a

contested case may institute proceedings in the circuit court for judicial review of the decision. This bill would exclude the circuit court review of a contested case decision relating to SMA permits under the coastal zone management program, and provide that these appeals be sent directly to the Hawaii Supreme Court with priority over all other civil cases.

Your Committee received testimony from the Office of the Lieutenant Governor, the Department of Planning and Economic Development, and Hawaii Resort Developers Conference in support of the bill. The Department of Planning and Economic Development indicated that conflict resolution in these types of cases is costly and time-consuming because of the backlog of cases in the circuit courts. Because of this the process for conflict resolution may take as long as four years.

Your Committee also received testimony from the Sierra Club, indicating their opposition to the bill as restricting the rights of citizens to question the actions of state and county governments related to land use decisions.

Your Committee has considered the testimony presented and finds that this bill will expedite decision-making, while still affording the right to appeal by an aggrieved party. Your Committee further finds that this process would prevent lengthy and costly delays, and, therefore, be of benefit to all parties involved in a dispute.

Your Committee has amended the bill by removing the capitalization in the word "chapter" on page 2, line 5.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2700-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2700-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 744-86 Consumer Protection and Commerce on H.B. No. 1322

The purpose of this bill is to require any employer whose principal place of business is outside the State to register with the Director of Labor and Industrial Relations prior to commencing employment within the State.

According to the Department of Labor and Industrial Relations (DLIR), some out-of-state employers are contractors engaged in federal public works projects on United States military bases in Hawaii. Although federal contracts for such projects require the contractor to maintain workers' compensation coverage for the entire period of the contract, at times the DLIR is unable to determine whether the contractor has complied because some insurance carriers are not based in Hawaii. This bill would require out-of-state contractors to prove to the Director that they are covered for workers' compensation pursuant to Hawaii Law.

Your Committee received supporting testimony from the DLIR, the Hawaii Business League, and the Chamber of Commerce of Hawaii, and finds that out-of-state contractors have an unfair bidding advantage over local contractors because their expenditures are substantially less if they do not obtain workers' compensation coverage for their employees. This bill would resolve any inequity in this area so that equal opportunity would be available to all parties seeking to do business in the State.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1322, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senator B. Kobayashi, Kawasaki, Kuroda and McMurdo.

SCRep. 745-86 Consumer Protection and Commerce on H.B. No. 1941-86

The purpose of this bill was to increase the amount of a bank's loans to its directors, officers, employees and agents in respect of which prior approval must be obtained by the bank's Board of Directors (or advisory, discount or executive committees).

The present limit of \$5,000 for such loans was set fourteen years ago during the 1972 Legislative Session. This bill increases the loan amount to \$25,000 to make the state requirement more compatible with the federal requirement which requires prior board approval of loans to "insiders" only if the loan exceeds \$25,000.

Upon consideration, your Committee has amended this bill to provide a limit of \$10,000.

Your Committee finds that although the present \$5,000 limit is unrealistic in light of current economic conditions, "insider" loans should be carefully scrutinized and a \$10,000 limit is reasonable and prudent.

Your Committee has further amended the bill to include amendments to Chapter 443A, Hawaii Revised Statutes, relating to debt collection agencies. The proposed amendments would expand the scope of the chapter to bring banks, as well as other debt collectors, within the ambit of chapter 443A.

Currently, the standards of reasonableness imposed by Chapter 443A apply only to third party collectors, that is, collection agencies. Your Committee has amended this Chapter to provide greater protection to consumers by requiring that all debt collectors, including banks, and not merely collection agencies, abide by standards of reasonableness in debt collection activities.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1941-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1941-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Kawasaki, Kuroda and McMurdo.

SCRep. 746-86 Consumer Protection and Commerce on H.B. No. 2032-86

The purpose of this bill is to strengthen the laws regulating the examination of electricians and plumbers.

Specifically, this bill sets forth new provisions relating to disciplinary sanctions that may be imposed by the Board of Electricians and Plumbers, and gives the Board the authority to examine applicants, with the option of contracting with a testing agency for examination services.

Your Committee finds that presently Chapter 448E, Hawaii Revised Statutes (HRS), does not contain provisions for disciplinary sanctions, or grounds for sanctions, which may be imposed by the Board. This bill amends Chapter 448E, HRS, to provide for sanctions, grounds for sanctions, right to hearings, and fines, that are consistent with provisions for all boards and commissions.

Your Committee also finds that the Board's authority regarding licensing examinations is unclear. This bill adds a new section to Chapter 448E, HRS, specifying that the Board may contract with a testing association for examination services, in the interest of standardizing and improving the examination program.

Your Committee has amended the bill on page 2, line 12, to clarify the authority of the Board to impose fines and by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2032-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2032-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator B. Kobayashi, Chang, Kawasaki, Kuroda and McMurdo.

SCRep. 747-86 Consumer Protection and Commerce on H.B. No. 2039-86

The purpose of this bill is to clarify and strengthen certain provisions of Chapter 437B, Hawaii Revised Statutes (HRS), relating to regulation of the motor vehicle repair industry.

Specifically, the bill would do the following:

- (1) Clarify that government officers and employees are exempt from registration or certification as motor vehicle repair dealers or mechanics under Section 437B-2, HRS, only when they are carrying out the functions of their government employment.
- (2) Allow a licensee to place his registration on inactive status.
- (3) Provide for the automatic suspension of a registrant's registration immediately upon the expiration or cancellation of his bond, with the possibility of termination of the registration should the registrant fail to reactivate the bond to a current and valid status.

- (4) Make it unlawful for a registered repair dealer or mechanic to aid or abet an unregistered dealer or mechanic with the intent of evading the motor vehicle repair law.
- (5) Repeal Sections 437B-6 and 437B-18, HRS, to bring Chapter 437B into conformance with the meaning and intent of Act 204, Session Laws of Hawaii 1982 which requires boards and commissions to delegate their authority to receive, arbitrate, and investigate complaints to the Department of Commerce and Consumer Affairs.

Your Committee received supporting testimony from the Motor Vehicle Repair Industry Board and finds that these proposals are necessary to strengthen and improve the regulation of the motor vehicle repair industry and are therefore in the public interest.

Your Committee has amended the bill to correct the last line of page 3 to read "be not less than..." instead of "not be less than..." to conform to the wording of the statute; and by amending page 3 line 16 to conform the section title to the proposed use of the word "salvaged" instead of "salvage" in the section; and by deleting the word "the" after "with respect to" on page 4 line 6 to conform to the wording of the statute.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2039-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2039-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Kawasaki, Kuroda and McMurdo.

SCRep. 748-86 Consumer Protection and Commerce on H.B. No. 2035-86

The purpose of this bill is to set forth the passing scores required for licensure and to make numerous housekeeping amendments to Chapter 461, Hawaii Revised Statutes (HRS).

Presently, Section 461-6, HRS, provides that applicants for licensure shall pass an examination covering subjects relating to the practice of pharmacy, with a general average score of not less than seventy percent. The Board of Pharmacy (Board) administers three separate examinations, the National Association of Boards of Pharmacy Licensure Examination (NABPLEX), the Federal Drug Law Examination (FDLE), and the State Jurisprudence Examination with the scores for all three examinations combined together and averaged to determine the applicant's performance.

Your Committee heard testimony that the Board has long been concerned with the statutory requirement that a general average be used as a passing score since it has observed applicants passing the licensure examination by using a high score on one of the examinations to offset lower scores received on the other examinations. Further, the National Association of Boards of Pharmacy (NABP) has recently advised the Board that starting in June 1986 the applicant's performance for the NABPLEX will be one that cannot be added to the scores of the other two examinations to arrive at a general average score.

This bill specifies that a minimum passing score of seventy-five percent is required on all three examinations. Further, to accommodate applicants unable to pass all three examinations at one sitting, provisions have been set forth in Section 461-6, HRS, to require the applicant to retake only the examination or examinations for which they failed to receive a passing score.

Presently, Section 461-4, HRS, is a long and involved section containing three substantive matters relating to board meetings, powers and duties of the board, and grounds for disciplinary action by the board. Provisions relating to board meetings have been left intact in Section 461-4, HRS, Provisions relating to the other two subject matters have been set forth in new sections.

The new section on disciplinary action incorporates language formerly contained in Section 461-4, HRS, and also provides the following: (1) empowers the board to fine a licensee, as well as to revoke or suspend a license; (2) sets forth additional causes for which disciplinary sanctions may be imposed; and (3) provides that disciplinary proceedings shall be in accordance with Chapter 91, HRS.

Your Committee finds that expanding the causes for disciplinary action is for the purpose of further protecting the public from what is considered to be unsafe or improper actions by a pharmacist or pharmacy.

A new section relating to cumulative remedies has been added to clearly set forth to

licensees that they can be pursued under any one or all of the penalty provisions for violations of Chapter 461, HRS.

Several sections in Chapter 461, HRS, have been restated without substantive change to set forth sections in proper format; to divide long and involved sections into subsections; to provide clarity; and to remove gender references, indefinite modifiers and obsolete provisions.

Your Committee made technical, non-substantive amendments to pages 14 and 16 of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2035-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2035-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Kawasaki, Kuroda and McMurdo.

SCRep. 749-86 Consumer Protection and Commerce on H.B. No. 2047-86

The purpose of this bill was to strengthen the penalty provisions contained in Chapter 487, Hawaii Revised Statutes, which deals with consumer protection.

Although your Committee is in agreement with the intent of the bill as received, it concludes that the measure will be better utilized to satisfy a compelling need to provide consumer protection related to the posting of gasoline prices. Your Committee, therefore, has amended this bill to remove the original content and replace it with new language which would require gasoline dealers to post the retail price of gasoline per gallon. This new language requires gasoline dealers to post the price per gallon on each gas pump in conspicuous numbers comparable to other prices posted, and also indicate this price on any outside sign which states the price per liter.

Your Committee finds that posting of gasoline prices by liter does not give meaningful information to many consumers who are unfamiliar with the metric system and makes it especially difficult to compare the price of gasoline in Hawaii with other states, all of which price gasoline by the gallon. Your Committee further finds that the importance of informed consumers justifies this amendment, which brings the State into conformity with the practice in all the other states with respect to posting of gasoline prices.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2047-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2047-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Kawasaki, Kuroda and McMurdo.

SCRep. 750-86 Consumer Protection and Commerce on H.B. No. 2054-86

The purpose of this bill is to clarify and strengthen statutes relating to penalties for violations of motor vehicle industry licensing provisions.

Presently, under Chapter 437, Hawaii Revised Statutes (HRS), administrative, civil and criminal penalties for violations of the Chapter are all contained in Section 437-35, HRS.

This bill proposes to clarify present statutes by separating the types of penalties that could be imposed into separate sections. Section 437-35, HRS, has been amended to address only administrative penalties. Provisions for criminal penalties formerly incorporated in Section 437-35, HRS, have been set forth in a new section. A new section has been added to specify that all penalties provided for in Chapter 437 and other laws are cumulative.

Your Committee is in agreement with the Motor Vehicle Industry Licensing Board that the changes proposed by this bill will aid in reducing possible confusion and facilitate enforcement of the motor vehicle industry licensing law.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2054-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2054-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Kawasaki, Kuroda and McMurdo.

SCRep. 751-86 Consumer Protection and Commerce on H.B. No. 2074-86

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

Presently, the incorrect abbreviation for the alveolar pressure of oxygen under Sections 291-51 is "PO₂". This bill corrects this error so the abbreviation reads "PaO₂".

Your Committee has amended this bill by making a technical change on page 1, line 8, replacing the colon with a period, to correct a drafting error.

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

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Kawasaki, Kuroda and McMurdo.

SCRep. 752-86 Consumer Protection and Commerce on H.B. No. 2191-86

The purpose of this bill was to amend Section 514A-82, Hawaii Revised Statutes (HRS), to specify the method by which elections to the board of directors of an association of apartment owners shall be conducted, to provide more explicit statutory directions for the removal of directors of condominium associations than the law presently contains, to expand upon the procedures for amendment of the bylaws of condominium associations, and to prohibit members of boards of directors of horizontal property regimes, who use association funds to solicit proxy votes, from casting proxy votes for their own reelection.

In its consideration of this bill, your Committee heard opposing testimony reflecting, on the one hand, the interest of condominium residents and owners, and on the other, the view that increasingly detailed statutory requirements tend toward overregulation and intrusion into the role and responsibilities of boards of directors of condominium associations.

Your Committee, upon consideration of the various testimonies, has amended the bill by deleting the new material which specifies the method of conducting elections to the board of directors. Your Committee believes each condominium should be allowed to adopt election procedures that incorporate each of their special circumstances.

Your Committee has further amended the bill by moderating and expanding the proposals for the use of proxy votes in elections of boards of directors.

More specifically, your Committee has amended the bill by adding a provision that no member of a board of directors who uses association funds to solicit proxies shall cast any proxy votes for the election or reelection of board directors unless the board first posts notice of its intent to solicit proxies at least thirty days prior to its solicitation and fails to receive within seven days a request by any owner for use of association funds to solicit proxies accompanied by an explanatory statement. If notice is received within seven days the board shall mail to all owners a proxy form or statement containing the list of names of all owners who have requested the use of association funds for soliciting proxies.

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

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Kawasaki, Kuroda and McMurdo.

SCRep. 753-86 Consumer Protection and Commerce on H.B. No. 2189-86

The purpose of this bill was to provide that changes in control of any savings and loan association which is subject to examination and supervision by the State shall be subject to approval by the Commissioner of Financial Institutions.

Currently, there is no state law which addresses this area. This bill fills the gap by providing that the parties acquiring control shall be reviewed and approved by the Commissioner as being

qualified to deserve the confidence of the community they plan to serve. Such approval and review would apply to all savings and loan associations, regardless of whether or not they have 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, including foreign associations or corporations and foreign holding companies doing business in the State, and would encompass acquisitions resulting from issuance of stock or securities or friendly or unfriendly takeovers.

Your Committee received testimony in support of this bill from the Department of Commerce and Consumer Affairs and finds that all regulated financial institutions doing business in Hawaii have fiduciary obligations to depositors, and that there is a compelling State interest in regulating changes in control which may affect such depositors. Your Committee further finds that changes in control of such institutions should be subject to public notice and disclosure, as provided by this bill, so that the public may be informed and depositors or potential depositors may be adequately protected from illegal or unscrupulous activities.

Your Committee has amended the bill by inserting the word "not" between the words "are" and "such" on page 10, line 6; by deleting the word "to" on line 7 and inserting the words "do not"; and by inserting the word "not" between the words "would" and "be" on page 11, line 12, in order to clarify that the paragraphs in which these changes are being made refer to criteria by which the Commissioner may disapprove a proposed acquisition. Your Committee has also amended the bill by deleting Section 2 because the authority to adopt rules relating to Chapter 407, Hawaii Revised Statutes, is already granted under Section 407-97, Hawaii Revised Statutes, as amended by Section 28 of Act 269, Session Laws of Hawaii 1985.

Your Committee has further amended the bill to provide greater protection to consumers by requiring that all debt collectors, including savings and loan associations, abide by standards of reasonableness in debt collection activities.

Currently, the standards of reasonableness apply only to third party collectors, that is, collection agencies. This bill would extend the standards of reasonableness to persons and firms, including savings and loan associations, collecting their own consumer debts as well.

In previous consideration of this amendment as S.B. No. 1518-86, your Committee heard testimony from members of the Advisory Committee to the Commissioner of Financial Institutions expressing a real need for improvement in the collection agency laws, citing cases in which regulated lenders have demanded and collected charges for which borrowers were not obligated, sometimes taking advantage of borrowers who speak little English and are unsophisticated in business matters. Other cases involved a health spa and a video retailer that have frequently engaged in high pressure collection efforts. According to the Advisory Committee, Hawaii Lawyers Care (a pro bono legal services referral project) has received complaints from "hysterical" people who have received harassing calls, sometimes at night, from creditors trying to collect debts. These calls are from the creditors themselves, not from collection agencies, and they tend to be from the same companies.

The Hawaii Bankers Association and the Hawaii Financial Services Association expressed philosophical opposition to the inclusion of regulated lenders under this bill; however, given the specific evidence of abuses in debt collection practices by creditors, including regulated lenders, your Committee concludes that there is no reason to exclude any business or person collecting a debt from standards of reasonableness in collection activities.

Your Committee has further amended the bill by making numerous non-substantive technical changes for the purposes of clarity and style and to conform to recommended drafting style.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2189-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2189-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Kawasaki, Kuroda and McMurdo.

SCRep. 754-86 Consumer Protection and Commerce on H.B. No. 2194-86

The purpose of this bill is to simplify the language and style of Horizontal Property Regime public reports so that a lay person can understand the statutory disclosure requirements.

Presently, condominium public reports issued by the Real Estate Commission are intended to help those who buy condominium apartments from a developer, by providing material and pertinent information about the condominium project. The public reports, for the most part,

however, exemplify a well drafted legal document understood principally by attorneys. This bill implements the findings of the Real Estate Commission's report submitted in response to Senate Resolution No. 156, S.D. 1 (1985), "Requesting That Condominium Public Reports Issued By The Real Estate Commission Be Written in Plain Language."

Your Committee heard testimony from the Hawaii Association of Realtors and the Real Estate Commission, in support of this bill. Your Committee finds that condominium public reports issued by the Real Estate Commission that are intended to help the public purchase condominium apartments should be written in plain language.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2194-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2194-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Kawasaki, Kuroda and McMurdo.

SCRep. 755-86 Consumer Protection and Commerce on H.B. No. 2216-86

The purpose of this bill is to strengthen the laws regulating the veterinary profession.

This bill would:

1) Add a new section relating to "criminal penalties" which includes language presently contained in Section 471-13, Hawaii Revised Statutes, to clarify the type of penal sanctions which may be imposed and to separate criminal penalties and administrative penalties into two sections;

2) Amend Section 471-13 to delete the language referred to above so that the section only deals with administrative penalties, set the maximum administrative penalty provided for in the section at \$5000, and establish separate violations for each day a violation continues;

3) Add a new section relating to cumulative penalties to clarify that both criminal and administrative penalties, as provided in Chapter 471, Hawaii Revised Statutes, as well as other penalties which may be available under other laws, may be imposed on a licensee;

4) Deletes the "reinstatement or restoration of license" provision from Section 471-10(a), Hawaii Revised Statutes, because it is already provided in Section 92-17;

5) Conform Section 471-10(b) to section 92-17, Hawaii Revised Statutes, which authorizes state boards to impose fines on licensees;

6) Add six additional grounds for disciplinary action of licensees under Section 471-10, Hawaii Revised Statutes, to better protect the public; and

7) Delete the provision in Section 471-10, Hawaii Revised Statutes, that a license cannot be suspended for longer than two years because the provision is also contained in Section 92-17, Hawaii Revised Statutes;

Your Committee has amended the bill by including the language presently in Section 471-13 regarding disposition of professional equipment owned by a person convicted of practicing without a license, in the new section of the bill on criminal penalties. Your Committee finds that the criminal penalties section rather than the administrative penalties section of the bill is the more appropriate place for provisions which require court action. Your Committee has also amended the bill by making technical changes which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2216-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2216-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Kawasaki, Kuroda and McMurdo.

SCRep. 756-86 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, (HRS), which have been affected by Act 204, Session Laws of Hawaii (SLH) 1982 and to delete gender references and indefinite modifiers.

Act 204, SLH 1982, requires all boards and commissions to delegate their authority to receive, arbitrate, investigate, and prosecute complaints to the Department of Commerce and Consumer Affairs. This delegation of authority will be implemented by deleting provisions contained in Sections 437-6, 437-28, and 437-30, HRS, which refer to the Board's power to investigate, compel the attendance of witnesses, administer oaths, issue subpoenas and maintain records of proceedings.

The bill also amends the abovementioned sections to provide a more definitive description of the powers and duties of the Board; and to delete gender references and indefinite modifiers.

Your Committee finds that this bill will effectuate the purposes of Act 204, SLH 1982.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2217-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2217-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Kawasaki, Kuroda and McMurdo.

SCRep. 757-86 Consumer Protection and Commerce on H.B. No. 2722-86

The purpose of this bill was to strengthen the licensing requirements relating to the financial integrity of contractors.

Specifically, the bill does the following:

- (1) Deletes the provision that an applicant for licensing must possess a good reputation for honesty, truthfulness, financial integrity, and fair dealing;
- (2) Denies licensing to anyone who, for a period of up to six years prior to the date of application, has failed to pay a debt incurred while operating as a contractor;
- (3) Clarifies that the provisions of Section 444-11, Hawaii Revises Statutes, shall not apply to public works projects;
- (4) Increases the minimum bond for specialty contractors from \$2,500 to \$5,000 if so required by the Contractors License Board;
- (5) Clarifies that the amount of a bond shall take into consideration the size and the price of construction projects to be undertaken;
- (6) Allows other persons or entities, other than employees of the contractor, who are entitled to wages, to bring action against the bond; and
- (7) Provides that a license may be revoked, suspended, or not renewed for wilful failure on the part of the licensee to pay an undisputed debt incurred for services or materials related to his operations as a contractor.

Your Committee has amended the bill as follows:

- (1) Restored the provision that lack of a good reputation for honesty, truthfulness, financial integrity, and fair dealing is grounds for denial of a license under the chapter, and added that failure to satisfy a judgment, as well as an undisputed debt, relating to services or materials shall constitute evidence of lack of good reputation for financial integrity;
- (2) Provided that no license issued under the chapter shall be renewed if the licensee no longer meets any one of the licensing requirements;
- (3) Deleted the provision authorizing the revocation, suspension, and renewal of licenses for failure to pay an undisputed debt; and
- (4) Made technical changes which have no substantive effect.

Your Committee received testimony on this bill from the Contractors License Board and David T. Fujikawa and finds that this measure, as amended, will strengthen and clarify the licensing and regulation of contractors in the State, thereby extending an additional measure of protection to consumers and the general public.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2722-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2722-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Kawasaki, Kuroda and McMurdo.

SCRep. 758-86 Consumer Protection and Commerce on H.B. No. 2715-86

The purpose of this bill was to amend specific sections of Chapter 452, Hawaii Revised Statutes, to require special licenses for those who practice disciplines of massage involving nerve points.

Your Committee received testimony from the Chairman of the Board of Massage and representatives of the Department of Commerce and Consumer Affairs, the Hawaiian Telephone Company, the Shiatsu Therapeutic Association of America, and the Windward Shiatsu Therapy Center, Inc. Your Committee finds that the bill as received raised the following concerns:

1. If each of the specialties are separately tested and licensed, the administrative impact would require the allocation of additional financial resources;
2. The Hawaiian Telephone Company expressed concern with the expansion of the liability of directory advertisers which would result from the bill; and
3. The present licensure process may be satisfactory as there have been no complaints filed relating to massage.

Upon review of the testimony, your Committee found no clear and present need to mandate the early licensing of each of the massage specialties. Nonetheless, it concluded that the Board of Massage should be strongly encouraged to begin the development of examinations for those specialties, doing so on a "pay-as-you-go" basis at no cost to the State.

Your Committee has therefore amended the bill by authorizing the contracting of professional testing services for the development of examinations at no expense to the State; retaining language in the bill to provide for the discipline of licensees who misrepresent their qualification to perform any massage technique in which they have not been trained; adding a provision exempting publishers and producers who accept massage advertising in good faith from criminal or civil liability; and deleting the remainder of this bill to further its conclusion that there is no immediate need to require the separate licensure of each of the several massage specialties.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2715-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2715-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Kawasaki, Kuroda and McMurdo.

SCRep. 759-86 Transportation on H.B. No. 2599-86

The purpose of this bill is to amend section 286-172, Hawaii Revised Statutes, relating to the furnishing of information in the statewide traffic records system.

Presently, there are statutory criteria for the release of information in the statewide traffic records system. These criteria were established to ensure that such release would not compromise individual privacy and that the information given would not be meant for commercial solicitation or other unauthorized use.

However, your Committee has been informed by R.L. Polk and Company, a firm which

gathers vehicle ownership information on behalf of motor vehicle manufacturers, that these criteria can prevent motor vehicle owners from being promptly notified about vehicle defects and recalls. According to R.L. Polk and Company, since January 1985, R.L. Polk has sent the State Department of Transportation ninety-two letters regarding 116 separate recall campaigns. Due to the restrictions on release of motor vehicle information, R.L. Polk was unable to obtain the information for these recall campaigns.

R.L. Polk also explained to your Committee that the bill's requirement of a \$90,000 surety bond for release of information would be difficult to meet.

Your Committee finds that prompt notification of vehicle defects or recalls is a legitimate safety concern; however, your Committee also upholds the protection of privacy intended under present statute. Therefore, your Committee has amended this bill to allow those gathering information to inform motor vehicle owners of defects or recalls access to the statewide traffic records system. Your Committee also lowered the surety bond requirement to \$70,000.

Your Committee also made technical amendments to conform the bill to standard drafting style. These technical amendments have no substantive effect.

Your Committee has learned that both the State Department of Transportation and R.L. Polk and Company support this bill with your Committee's amendments.

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

Signed by all members of the Committee except Senator George.

SCRep. 760-86 Transportation on H.B. No. 2444-86

The purpose of this bill is to amend section 291-21.3, Hawaii Revised Statutes (HRS), to delete the definition of "luminous reflection". In addition, this bill amends section 291-21.5, subsection (d) (7) and (8), HRS, 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.

Your Committee finds that the present section is difficult to enforce due to lack of a reliable device for measuring luminous reflectance. Also testing luminous reflectance under the present law is ambiguous due to the lack of a specified angle of incidence. Your Committee has received testimony from the Department of Finance, City and County of Honolulu, that high luminous reflection material utilized as a sun screening device will not meet the 35 per cent light transmittance requirement and, therefore, luminous reflectance will not affect the safety of the driving public.

Your Committee has received testimony in support of the bill from the Department of Transportation, Honolulu Police Department, and the Department of Finance, City and County of Honolulu.

Your Committee has amended section 291-21.5, HRS, to allow exemption from safety inspection (1) sun screening devices for front side wing vents and windows which have a light transmittance of no less than twenty-five per cent plus or minus three per cent, and (2) sun screening devices for rear windows which have a light transmittance of no less than fifteen per cent plus or minus three per cent.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 2444-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2444-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator George.

SCRep. 761-86 Transportation on H.B. No. 1998-86

The purpose of this bill is to amend section 291C-131, Hawaii Revised Statutes (HRS), requiring that specific types of materials or loads being carried on any vehicle on a highway be covered with some suitable material.

Your Committee heard S.B. No. 1659-86 on February 13, 1986, a bill of similar substance and content, and has incorporated the Committee's concern into H.B. No. 1998-86, H.D. 1.

Your Committee heard testimony regarding the tragic and senseless loss of lives resulting from loads spilled from vehicles while moving on the highways of this State. The Department of the Prosecuting Attorney, City and County of Honolulu, testified with regard to three recent cases in which motorists died as a result of loads dropping from commercial trucks or truck-trailers, onto or into the vehicles of private citizens.

The Department of the Prosecuting Attorney also testified that convictions for violations of the spilling load law result in fines ranging from \$25 to \$50. Your Committee finds that such a penalty is merely construed as a cost of doing business for commercial enterprises utilizing trucks. It is more cost efficient to haul one large load than two smaller, safer loads.

Angela Avicolli, a private citizen, testified strongly in favor of clarifying the language of the law and increasing the penalties under the present law, so that no one else would have to endure the loss that she has suffered. Mrs. Avicolli's husband died on April 14, 1985, as a result of a twelve and a half pound rock falling from an uncovered load of dirt and rock, directly from the top of the load, through the left windshield of the station wagon he was driving.

It was suggested by the Department of the Prosecuting Attorney that a six month suspension of driver's license be imposed for violations of section 291C-131, HRS. However your Committee heard concerns that such a penalty would place too much of the burden on drivers while leaving vehicle owners unaffected. Moreover your Committee finds that such a penalty might not motivate vehicle owners to take measures to prevent spilling loads. In light of this concern your Committee has inserted a subsection on penalties which includes the suspension of motor vehicle registration and fines for violations of 291C-131, HRS. The new subsection (d) provides as follows:

- (1) First conviction - suspension of motor vehicle registration for 5 working days and a fine of not less than \$100 and not more than \$500;
- (2) Conviction of a second offense committed within one year after the date of the first offense - suspension of motor vehicle registration for ten working days and a fine of not less than \$250 and not more than \$500; and
- (3) Conviction of a third or subsequent offense committed within one year of the date of the first offense - suspension of motor vehicle registration for thirty calendar days and a fine of not less than \$500 and not more than \$1000.

These penalties are mandatory, without the possibility of probation or suspension of sentence.

Your Committee has also amended the bill by changing the effective date from upon approval to October 1, 1986. This amendment gives truck owners additional time to equip their vehicles with proper devices to meet the requirements of this law.

Testimony was also heard by your Committee from the Honolulu Police Department concerning the potential traffic hazard caused by loads susceptible to being blown by the wind. Even sand blown on a windshield can temporarily blind the driver's view.

Your Committee finds that it is the current practice of the Honolulu Police Department to issue citations only upon witnessing the actual spilling of a load or part of a load on a highway. This has led to limited enforcement of section 291C-131, HRS. Your Committee further finds that the purpose of this law is to prevent loads from spilling. To wait until a load is spilled is to needlessly endanger the lives of the public. Your Committee has therefore amended the language of the bill to make it crystal clear that all loads must be secured to prevent spilling, shifting, or being blown by the wind.

During testimony heard by your Committee, concerns were raised that the requirement that loads be entirely covered would inconvenience passengers riding in the back of trucks. To address these concerns, your Committee amended the bill to allow loads to be physically secured by passengers of the vehicle.

Your Committee has deleted the exemption of vehicles carrying agricultural produce from the requirements in section 291C-131, HRS. Your Committee finds that the spilling of such loads also create hazardous conditions on the highways.

Finally, your Committee has made technical, non-substantive amendments to the bill for clarification and conformity. Your Committee strongly believes that the amendments it has made will make the highways safer for the people of Hawaii.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 1998-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form

attached hereto as H.B. No. 1998-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator George.

SCRep. 762-86 Human Services on H.B. No. 2000-86

The purpose of this bill is to clarify the definition of child abuse and neglect prevention and to change the name and composition of the Child Abuse and Neglect Secondary Prevention Advisory Council.

Your Committee finds that current statutes on child abuse and neglect prevention programs refer to the technical term "secondary prevention." The removal of the specific references to "secondary" as proposed by this bill will allow a focus on prevention in general, and will facilitate coordination and planning efforts by the Department of Health in the area of child abuse and neglect prevention.

This bill also increases the membership of the Child Abuse and Neglect Prevention Advisory Council from seven to eleven members. The composition of the Council will also be changed to include representatives from the Departments of Health, Social Services and Housing, and Education, along with members from the Office of Children and Youth, the Judiciary, private agencies and the community.

Upon consideration, your Committee has amended the bill to delete the increase in the number of members of Child Abuse and Neglect Prevention Advisory Committee, and to delete the requirement for representatives on the Advisory Committee from specific state departments and agencies. Your Committee has amended the bill to specify that four members shall represent public and private agencies which provide child abuse and neglect intervention services, and three shall be members of the public. These amendments are for the purpose of broadening the representation on the Advisory Committee while maintaining public input.

Your Committee also made technical, non-substantive amendments.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2000-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2000-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 763-86 Human Services on H.B. No. 2001-86

The purpose of this bill is to allow mentally ill persons to live in group living facilities or care homes as provided under Sections 46-4 and 321-15.6, Hawaii Revised Statutes.

Presently, Section 46-4 and Section 321-15.6 allows the elderly, the handicapped, the developmentally disabled, and the totally disabled to live in residentially zoned areas in group living facilities or care homes. These homes provide a feasible alternative to hospital or institutional care and provide participants the right to live independently in the community in the least restrictive environment possible.

Your Committee finds that, although mentally ill persons are not included in Sections 46-4 or 321-15.6, they are currently residing in care homes. This bill would conform the law to present care home practices, and also provide the same rights to mentally ill persons as are presently provided to elderly, handicapped or disabled persons.

The bill also deletes the phrase "areas zoned for residential use.." from Sections 46-4 and 321-15.6 which authorizes care homes to operate in areas zoned for residential use. The deletion will allow domiciliary care facilities meeting the requirements of Section 321-15.6 to operate in areas zoned for any use, such as land zoned for agricultural use.

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

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

Signed by all members of the Committee.

SCRep. 764-86 Human Services on H.B. No. 2002-86

The purpose of this bill is to amend Act 272, Session Laws of Hawaii (SLH) 1985, by transferring independent group residences from adult residential care home statutes to Section 321-11, Hawaii Revised Statutes (HRS), under general regulations of the Department of Health.

Act 272, SLH 1985, provides that responsibility for the licensure of all adult residential care homes, including independent group residences (IGRs), shall be transferred from the Department of Social Services and Housing to the Department of Health, effective July 1, 1986.

Your Committee agrees with the Department of Health that IGRs should be removed from licensing requirement statutes. IGRs are intended for self-determining individuals who are mentally and intellectually capable of making their own living arrangements. Although they may have physical disabilities, they neither want nor require the close, twenty-four-hour supervision and other restrictions which adult residential care home licensing rules would impose upon them.

However, according to written testimony from the federal Department of Housing and Urban Development, removal of licensing by the State would result in the IGRs losing federal rent subsidy funds under the Section 8 Housing Assistance Payments Program.

This bill proposes to include IGRs under general regulations of the Department of Health, to allow IGRs to continue to qualify for federal rent subsidy funds.

Your Committee has amended the bill by changing Section 2 of the bill to amend Act 292, Session Laws of Hawaii, 1985 instead of Section 321-11, Hawaii Revised Statutes. Although Act 272 does not take effect until July 1, 1986, this Act contains Section 321-11 in its most current form. Therefore, to properly amend Section 321-11, Act 272 and the effective date of the bill were amended to insure the amendments in this bill are properly codified.

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

Signed by all members of the Committee.

SCRep. 765-86 Human Services on H.B. No. 2069-86

The purpose of this bill is to clarify and strengthen present statutes relating to elderly abuse or neglect, to improve and increase reporting of incidents of elderly abuse or neglect.

Your Committee recognizes that elderly abuse or neglect is a growing problem and concern, as the size of the elderly population increases. A major factor in improving the protection of the elderly population is increasing incident reporting by professionals who provide treatment and services to the elderly.

Currently, Section 349C-2, Hawaii Revised Statutes (HRS), requires that social workers, police officers, medical examiners, and coroners orally report suspected elderly abuse to the Department of Social Services and Housing (DSSH). Members of hospital and medical facility staffs are required to report to the person in charge of the hospital or facility; the person in charge is then required to report to the DSSH.

Since elderly abuse and child abuse are similar problems, this bill proposes to pattern elderly abuse reporting on current child abuse reporting procedures. This bill accordingly repeals language in Section 349C-2, HRS, and substitutes provisions requiring professionals of health-related occupations, employees of public and private agencies, employees of adult residential care homes and adult day care centers, medical examiners, and coroners to report directly to the DSSH. This would eliminate the current two-tier reporting system in hospitals and medical facilities, to improve and encourage timely reporting of abuse.

This bill also proposes to include "financial exploitation" in the definition of elderly abuse or neglect, and to provide a penalty of a fine of \$500 for failure to report abuse.

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

Concerns were also raised that the penalty for failure to report incidents of elderly abuse

should be increased, to reinforce the seriousness of non-compliance, and that the penalty for failure to report should not be attached only to failure to file written reports.

Upon consideration of the testimony offered, your Committee amended the bill by changing the penalty for failure to report cases of elderly abuse from a fine of not more than \$500 to a petty misdemeanor, and by deleting the reference to "written" reports from the penalty section.

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

Signed by all members of the Committee.

SCRep. 766-86 Human Services on H.B. No. 2246-86

The purpose of this bill is to clarify and re-assign responsibility for handling cases of suspected Medicaid abuse and fraud by providers of health-care services.

Your Committee finds that current statutes do not clearly specify limits and responsibilities for handling of Medicaid fraud cases, which are presently handled by the Medicaid Fraud Control Unit (MFCU) under the State Attorney General. Since its inception, there have been numerous complaints filed against the MFCU, charging invasion of privacy and violations of legal rights of persons being investigated.

This bill proposes to address the concerns regarding the handling of suspected Medicaid fraud cases by differentiating between Medicaid abuse and Medicaid fraud, with fraud being intentional deception for the purpose of gain, and by establishing procedures for a two stage investigation process of abuse and fraud cases.

Responsibility for preliminary investigation of all cases would be assigned to the Department of Social Services and Housing (DSSH). If the DSSH determines in preliminary investigation that a full investigation is warranted, the DSSH would retain responsibility for full investigation of abuse cases but would refer full investigation of fraud cases to the MFCU. The MFCU would investigate only cases of fraud referred by the DSSH, would not solicit cases involving fraud, and would refer all unsolicited cases involving fraud to the DSSH for preliminary investigation.

This bill specifies however, that these proposed provisions do not affect the authority of the MFCU to investigate cases of suspected abuse of patients of health-care facilities receiving medical assistance payments.

Your Committee has amended the bill by deleting provisions specifying that the legal rights of persons being investigated shall not be invaded, for the purpose of reducing redundancy and confusion; deleting the provision specifying that the DSSH shall not receive assistance from the MFCU in preliminary investigations, to allow the DSSH access to the technical expertise and experience of the MFCU; deleting the word "abuse" from the section title on page 7, line 4, to more accurately reflect the contents of the section; and by making technical changes which have no substantive effect.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2246-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2246-86, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 767-86 Health 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 provide that in order for a septic tank which is followed by a subsurface disposal field to be allowed, the lot size must be at least 10,000 square feet.

Act 282, Session Laws of Hawaii 1985, added a new definition for "individual wastewater systems" which effectively eliminated the ability of the Hawaii Housing Authority to develop low-cost multi-family projects in certain rural areas of the State. Act 282 also blocked the usage of septic tanks in smaller lots which are under 15,000 square feet. This bill would 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, and allows septic tanks on properties as small as 10,000 square feet.

After hearing extensive testimony by several interested parties, including the Department of Health and private contractors, your Committee finds that the prohibition of septic tanks on properties which are under 10,000 square feet unduly inhibits normal construction, which has already been severely restricted due to the uncertainty of the future authority and administration over wastewater systems. Therefore, your Committee has amended the bill by deleting the minimum lot size requirement. Your Committee has also amended the bill by clarifying that the design flow for individual wastewater systems (Section 7 of Act 282, Items 6.1.B and 6.3.C(1)) shall be based on at least two hundred gallons per bedroom per day of treated capacity.

Your Committee has further amended the bill by deleting the provisions in Section 342-32, Hawaii Revised Statutes, delegating authority to the Director of Health to regulate individual wastewater systems and private wastewater treatment works under statute until such time as the counties assume complete administration thereof. It is apparent to your Committee that the transfer of functions to the counties will not be effected in the foreseeable future; therefore, your Committee has also amended the bill by providing that Sections 4 and 7 of Act 282, which provide specific statutory definitions and temporary guidelines for the regulation and administration of individual wastewater systems and private wastewater treatment works, shall remain in effect only until the Department of Health has adopted its own rules relating to administration of wastewater treatment systems, after which Sections 4 and 7 shall be repealed. It is the expectation of your Committee that such rules shall be adopted prior to the Regular Session of 1987.

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

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2513-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2513-86, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Machida.

SCRep. 768-86 Health on H.B. No. 172

The purpose of this bill as received was to repeal section 321-11.2, Hawaii Revised Statutes.

Your Committee has amended this bill by deleting the substance and inserting therefor new material the purpose of which is to provide for the confidentiality of records and information relating to sexually transmitted diseases.

Specifically, the bill would add a new part to Chapter 325, Hawaii Revised Statutes, which would provide for the following:

- (1) That any information or record from any source which identifies any person who has or is suspected of having a sexually transmitted disease shall be confidential and may be released for medical or epidemiological reasons only if the subject of the record or information cannot be identified or gives written consent, or in case of medical emergency, or to protect the general public, or for the purpose of enforcing the child abuse statutes;
- (2) Criminal penalties for illegal disclosure;
- (3) Civil penalties for negligent and willful disclosure;
- (4) Exemption of Department of Health personnel from examination in civil, special, or other proceedings regarding any individual's records, or the existence or contents thereof, without the written consent of the affected individual; and
- (5) That the part does not diminish, limit, or eliminate the responsibility of anyone to report sexually transmitted diseases to the proper authorities.

Your Committee heard extensive testimony by several interested parties, including the Department of Health, and finds that providing for the confidentiality of records of persons having or suspected of having a sexually transmitted disease is essential to the Department's mission to protect the public health and consistent with declared public policies relating to protection of individual rights. Without confidentiality, the Department would be severely restricted in its ability to deal with sensitive problems such as A.I.D.S. and its transmission, because individuals affected therewith would be reluctant to seek treatment and counseling if they thought their condition would be reported and become public knowledge. Lack of confidentiality would also hamper efforts of medical personnel to diagnose and treat sexually

transmitted diseases and educate the public regarding such conditions.

This bill would establish a method by which affected individuals and sources would be protected and violators severely punished, which your Committee believes satisfies the need for confidentiality of individual information and records without jeopardizing the ability of the Department and the medical profession in general to protect the public health.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 172, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 172, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Machida.

SCRep. 769-86 Health on H.B. No. 2103-8

The purpose of this bill is to amend the schedule of controlled substances to conform with changes in the federal Controlled Substances Act, and to strengthen the enforcement of Hawaii's Uniform Controlled Substance laws.

The schedules of controlled substances are amended every session to conform with changes made to the federal Act. This bill, in addition to conforming Hawaii's schedule with federal law, would also amend the law in the following manner:

(1) Section 329-34 would be amended to allow the Department of Health to revoke or suspend a registration if the registrant is granted a motion for a deferral of acceptance of a guilty plea or a nolo contendere plea to a felony, in addition to conviction of a felony as is presently provided in the section.

(2) Section 329-35 would be amended to authorize the Department of Health to subpoena witnesses to appear at administrative hearings relating to revocation of registrations.

(3) Section 329-38 would be amended to allow the transfer of prescriptions for Schedule III, IV, and V controlled substances from the original pharmacy that filled the prescription to another pharmacy on the same island.

(4) Section 329-41 would be amended to update provisions relating to the acquiring of controlled substances for aircraft or ships.

(5) Section 329-55 would be amended to authorize the seizure of firearms used in furtherance of violations of the laws relating to controlled substances.

Your Committee heard testimony in support of the bill from the Department of Health and the Honolulu Police Department and finds that this bill is necessary to bring Hawaii's statutes into conformance with federal standards and to allow proper and effective enforcement thereof.

Your Committee has amended the bill by clarifying that "Bureau" refers to the Drug Enforcement Administration or the "DEA", as it is commonly known, and by making technical changes which have no substantive effect.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2103-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2103-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Machida.

SCRep. 770-86 Health on H.B. No. 1996-86

The purpose of this bill is to include freestanding birthing centers and adult day health centers among the facilities subject to regulation by the Department of Health.

Your Committee heard supporting testimony by the Director of Health and finds that the services provided in freestanding birthing centers and adult day health centers can cause harm to the public if improperly administered or provided and, therefore, such facilities are proper subjects for Department regulation.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 1996-86, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Machida.

SCRep. 771-86 Health on H.B. No. 2007-86

The purpose of this bill is to provide for the confidentiality of records relating to persons who are developmentally disabled or mentally retarded.

Your Committee received supporting testimony from the Director of Health, the Family Court, the Protection and Advocacy Agency of Hawaii, and the Chairperson of the State Planning Council on Developmental Disabilities, and finds that there are no provisions in the Hawaii Revised Statutes which provide for the confidentiality of records relating to mentally retarded and developmentally disabled persons. This bill would provide such confidentiality, which would bring state law into compliance with the federal Developmental Disabilities Act and protect the State Protection and Advocacy Agency's continued federal funding as the designated agency for effectuating the purposes of the federal law.

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

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2007-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2007-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Machida.

SCRep. 772-86 Health on H.B. No. 2836-86

The purpose of this bill is to allow the Department of Health to act as the certifying agency for water quality standards on dredge and fill projects conducted by the U.S. Army Corps of Engineers.

Your Committee received supporting testimony from the Department of Health and finds that this measure will enable the Department to implement the Section 401 Water Quality Certification procedure of the federal Clean Water Act to ensure that activities permitted by the U.S. Army Corps of Engineers Section 404 dredge and fill program is consistent with State water quality standards.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2836-86, H.D. 2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Machida.

SCRep. 773-86 Government Operations on H.B. No. 1829-86

The purpose of this bill is to strengthen and clarify the laws regulating lodging or tenement houses, hotels, boardinghouses, and restaurants.

Presently, lodging or tenement houses, hotels, boardinghouses, and restaurants are licensed and regulated under Chapter 445, Hawaii Revised Statutes. This chapter, however does not adequately address problems faced by the Department of Health (DOH), regarding some lodging or tenement houses that operate in violation of certain health regulations. Your Committee finds that this is possible because of two deficiencies in the law.

First, Chapter 445, does not define "lodging or tenement houses", and second, Section 445-97 exempts houses owned by a private family taking in seven boarders or less from the licensure requirements under Chapter 445. Therefore, it appears that under certain conditions, some lodging or tenement houses are outside of the regulatory jurisdictions of the DOH or the appropriate county licensing agency as provided under Chapter 445.

This bill resolves this problem by repealing the exemption for private homes provided under Section 445-97, and adding a definition of "lodging or tenement house" to Chapter 445, to mean "any building or portion thereof containing no more than nine rooming units, in which space is let by the owner or operator to three or more unrelated persons." For the purpose of clarity the definition is consolidated with the present definitions of "hotel or boardinghouse" and "restaurant" under a new section in Chapter 445. Thus, the bill clearly identifies establishments affected by the licensure requirements under Chapter 445.

Your Committee has amended the bill by increasing the fines imposed under Chapter 445 for violations of any requirement or condition under that chapter and by changing the penalty for persons who fail to obtain a license under Sections 445-91, 445-92, or 445-93, from a fine to a misdemeanor.

Your Committee Government Operations is in accord with the intent and purpose of H.B. No. 1829-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1829-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 774-86 Government Operations on H.B. No. 1826-86

The purpose of this bill is to provide rule-making authority to the Liquor Commission for the issuance of temporary licenses to individuals or organizations who wish to sell intoxicating liquors at fundraising events.

Section 281-31, Hawaii Revised Statutes, includes general provisions and requirements for the issuance of thirteen classes of licenses which may be granted by the liquor commission. The current "Class-10 Special License," allows for the issuance of a three-day permit for any occasion; however, it is issued pursuant to the same procedures as the other classes of licenses such as manufacturers, wholesalers, retailers, and clubs.

Your Committee received public testimony indicating that the licensing process is too burdensome and time-consuming for the purpose of selling liquor at one-day fundraising events. The Commission, however, indicated that they do not have the statutory authority to waive the licensing requirements for special purposes. This bill allows the Commission to adopt rules to streamline the procedures to obtain a temporary license for a period not to exceed one day.

Your Committee has amended the bill by designating the license as "special" rather than "temporary" and to authorize the Commission to "issue" rather than "obtain" licenses which is the proper function performed by the Commission. Your committee has also amended the bill by making technical non-substantive changes for the purposes of clarity and style.

Your Committee on Government Operations is in accord with the intent and purpose of H.B. No. 1826-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1826-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 775-86 Government Operations on H.B. No. 1716-86

The purpose of this bill is to repeal the county licensing requirement imposed upon businesses which have ball or marble machines operated for profit.

Currently, section 445-41, Hawaii Revised Statutes, requires the county to impose an annual license fee of \$5.00 upon businesses which operate ball or marble machines for profit. Section 445-42 provides penalties for any person violating Section 445-41 and Section 445-43 states that it is unlawful for any person operating or in charge of the operation of ball or marble machines to permit any person under the age of 18 years unaccompanied by either a parent or guardian to loiter about or play such a game.

Your Committee received testimony from the City and County of Honolulu and the Hawaii Business League indicating that regulation of ball and marble games is unnecessary and prejudicial in that similar types of video games are not licensed.

Your Committee finds that the repeal of Sections 445-41, 445-42 and 445-43, Hawaii Revised Statutes, would eliminate unnecessary regulation and allow the same access to ball and marble games as the unlicensed video games.

Your Committee on Government Operations is in accord with the intent and purpose of H.B. No. 1716-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 776-86 Agriculture on H.B. No. 1855-86

The purpose of this bill is to require any person slaughtering cattle to record each and every brand on the cattle and to report any felonious or obliterated brand to the appropriate law enforcement agency.

The bill also provides that non-compliance with the reporting requirements shall be subject to the penalty provisions of Section 146-24, Hawaii Revised Statutes (HRS).

Your Committee finds that stolen cattle taken to a slaughterhouse may have the rightful owner's brand obliterated, or a felonious brand fixed on the brand which represents the rightful owner. In order to investigate these cases, law enforcement officers must have a record of all brands that are on the cattle being slaughtered. Slaughterhouses however, are not required to record any brands other than the brand belonging to the person having the cattle slaughtered. Therefore, it is impossible after the cattle is slaughtered to determine if the cattle was branded previously. This bill would require the recording of each and every brand before any cattle is slaughtered and serve to aid law enforcement officers in the investigation of cattle thefts.

Although your Committee concurs with the intent of this bill, your Committee finds that some consideration should be given to non-licensed slaughters which are done at home for personal use. Your Committee believes this bill may discourage slaughters for home consumption, therefore, your Committee has amended Section 146-21, HRS, to provide that the retention of hides shall not be required if the purpose of the slaughter is for personal consumption. For the purpose of this section, "personal consumption" means for one's own use or use by one's family.

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

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1855-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1855-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hee.

SCRep. 777-86 Agriculture on H.B. No. 1970-86

The purpose of this bill is to make all four parts of Chapter 142, Hawaii Revised Statutes (HRS), subject to the penalty provisions of Section 142-12, HRS, if a specific penalty is not otherwise provided, and to increase the penalties for repeated violations.

Your Committee heard the companion to this Administration bill, S.B. No. 1631-86, and received testimony from the Chairman of the Board of Agriculture providing statistics on the numerous warnings and criminal citations given under Part I of Chapter 142, HRS, during the period of October 1984 to January 1986. Approximately one-seventh of the warning and citations were given to persons who were previously warned or cited offenders. The Chairman further testified that these intentional and repeated violations of Chapter 142 would cost the State millions of dollars for eradication in the event of a serious disease outbreak.

Your Committee concurs with the Chairman of the Board of Agriculture that this bill would encourage compliance or at least eliminate the apathy currently being displayed by violators, and that a heavier penalty will act as an effective deterrent.

Your Committee has amended this bill to include proposed statutory material in Section 142-12(a) on page 1, line 15, which was inadvertently omitted; to change paragraph 142-12(b)(3) to provide that the penalty for a third or subsequent conviction within five years of the first may be the combination of both a fine and imprisonment; to delete the word "above" on line 6, page 3; and to delete the proposed subsection 142-12(e) which is unclear and may jeopardize the effectiveness of the rest of the bill.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1970-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1970-86, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hee.

SCRep. 778-86 Agriculture on H.B. No. 1971-86

The purpose of this bill is to allow the Department of Agriculture to enter any premises to conduct inspections and investigations to enforce the provisions of Chapter 142, Hawaii Revised Statutes (HRS).

Your Committee received testimony from the Board of Agriculture stating that in order for the Department to identify, control, and isolate animal diseases, access must be available to the Department, to board any vessel, vehicle, or aircraft or enter any premises to conduct inspections and investigations.

The Board of Agriculture cited numerous incidents which justifies this right of entry. One past experience involved an individual who refused to allow Department officials to inspect

caged birds known to have been exposed to the exotic Newcastle disease. This refusal jeopardized the poultry industry by delaying the proper evaluation of the disease and the immediate isolation of the diseased birds. This bill would provide the Board of Agriculture with the necessary authority to investigate these kinds of incidents to control animal diseases, and provide penalties for violators of the proposed section.

Although your Committee concurs with the intent of this bill, your Committee finds that the Department must have probable cause that an offense has been or is being committed to warrant access for inspections. This practice is in line with the current procedures law enforcement officers must follow. Your Committee, therefore, has amended this bill to include the phrase "with probable cause", on line 5, to read: "The department of agriculture may, with probable cause, board any vessel, vehicle, or aircraft or enter any premises to conduct inspections and investigations and to obtain information in enforcing this chapter".

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1971-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1971-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hee.

SCRep. 779-86 Agriculture on H.B. No. 1974-86

The purpose of this bill is to provide for the issuance of a citation and summons for any violation of Chapter 142, Hawaii Revised Statutes.

Presently the statutes provide for the issuance of a citation and summons only for Part I of chapter 142, Hawaii Revised Statutes. The Chairman of the Board of Agriculture testified that their enforcement efforts dealing with Part I have been effective, resulting in greater awareness of the statutes as well as improved compliance.

The Chairman further testified that this bill would provide for a uniform and effective enforcement of the entire Chapter, particularly with respect to brands, fencing, trespasses by animals, destruction of feral livestock, and harboring of agricultural pests.

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

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1974-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1974-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hee.

SCRep. 780-86 Agriculture on H.B. No. 1976-86

The purpose of this bill is to require a valid health certificate for any live animal entering the State.

A valid health certificate would include identifying information about the animal and a confirmation that the animal is free of any internal and external parasites and any infectious or contagious disease.

Current law requires health certificates for certain animals such as cattle, sheep, swine, goats, horses, poultry, and non-domestic animals entering the State. However, dogs, cats, rabbits, and other less common animals entering the State are not required to be accompanied by a health certificate. Your Committee finds that this bill would strengthen the Department of Agriculture's ability to prevent diseased animals from entering the State. The bill would also provide an additional means to locate animals in a disease outbreak and in epidemiological investigations.

Your Committee has amended the bill by:

- (1) Requiring if practicable, the sex of an animal to be included on a certificate;
- (2) Authorizing the Department of Agriculture to adopt rules to check animals for parasites;
- (3) Easing the reporting requirement that animals be free of any infectious or contagious diseases, and have not been exposed to those diseases; and

(4) Making technical changes which have no substantive effect.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1976-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1976-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hee.

SCRep. 781-86 Agriculture on H.B. No. 1977-86

The purpose of this bill is to expand the rule making authority of the Department of Agriculture, by allowing it to regulate the air transportation of all animals within or without the State.

Presently, Section 142-2, Hawaii Revised Statutes, is unclear as to whether or not non-livestock animals are included in provisions regulating the sea and highway transportation of animals. This bill clearly expands the scope of the law to include all animals including non-domestic animals, and also include animals transported by air within the provisions of Section 142-2.

Your Committee finds that most animals are now transported by air and all animals need to be inspected to prevent the spread of diseases that may be incubating during and after transport. Your Committee also finds that this bill will assist the Department in regulating the transport of animals within and without the State and provide a safeguard against the spread of disease.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1977-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 782-86 Agriculture on H.B. No. 1983-86

The purpose of this bill is to authorize the Department of Agriculture to establish and assess fees to defray various costs associated with the enforcement of Chapter 142, Hawaii Revised Statutes (HRS).

Presently Section 141-5, HRS, authorizes fees only for inspection, disinfection, fumigation and quarantine. This bill provides for fees to be assessed for facilities usage, vaccinations, medical treatments, emergency transportation of quarantined animals and other similar services. The Chairman of the Board of Agriculture testified that except for the costs of the initial inspection, the owner, consignee or handler should be responsible for the costs of these services.

Your Committee has amended this bill to clarify that if the Department of Agriculture provides these services, the owner, consignee or handler is responsible for the costs of the services. In some instances the owner, consignee or handler may not utilize the services of the Department to comply with the provisions of Chapter 142, HRS, so should not be subject to the fees proposed in this bill. Your Committee has also amended the bill to clarify that the Department may establish and assess fees in accordance with Chapter 91, The Administrative Procedure Act.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1983-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1983-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 783-86 Agriculture on H.B. No. 1984-86

The purpose of this bill is to repeal the penalty for shooting or destroying animal ferae naturae, which is currently provided in Section 149-91, Hawaii Revised Statutes, and making such violations subject to the penalties provided in Section 142-12. The bill further clarifies the language of Section 142-91.

Animal ferae naturae means animals which are wild by nature. Section 142-91 provides for protection of livestock that may have escaped and become wild and enables farmers and ranchers to reclaim their animals, even though they have become feral.

Your Committee notes that this bill deletes the present \$50 penalty for violation of Section

142-91 and the section, as amended by this bill, will not contain a penalty provision. H.B. No. 1970-86 amends Section 142-12, which presently provides penalties for violations of Part I of Chapter 142, to make the penalties applicable to all parts of Chapter 142. Upon enactment of H.B. No. 1970-86, the penalties under that section will apply to violations of Section 142-91.

Your Committee has amended this bill by deleting the word "animal's" on line 8 and adding "of the species" after the word "introduction" in order to clarify that it is not a particular animal but the group, as introduced into the State, which is protected.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1984-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1984-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hee.

SCRep. 784-86 Agriculture on H.B. No. 2282-86

The purpose of this bill is to reduce the membership and diversify the interests of the Pesticides Advisory Committee.

Currently, the Pesticides Advisory Committee consists of sixteen members. Reducing the membership will increase efficiency, while retaining enough members to ensure a broad range of interests. In addition, the present membership of the committee is heavily represented by pesticide-user interests. The restructuring of the Advisory Committee, as proposed by this bill, will provide a more balanced representation between user interests and the general public. Since the Pesticide Advisory Committee is a policy-making body attached to the Department of Agriculture, it should have balanced representation to ensure full and fair discussion of pesticide issues and for the purposes of policy development.

Your Committee received testimony on the companion bill to this measure (S.B. No. 1994-86) and upon consideration of the testimony submitted by the Hawaiian Sugar Planters' Association and Dole Packaged Food, has amended the bill to allow a representative of the sugar and pineapple industry to remain on the committee. Your Committee finds that both industries are major users of pesticides and can be relied upon for experience and research in this area.

Your Committee has further amended this bill to clarify that one at-large public member shall sit on the committee, and the manner of selecting members representing environmental and citizen interests shall be without regard to recommendations by the respective agencies and industries involved in pesticide use or regulation. Your Committee has also made technical amendments which have no substantive effect.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 2282-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2282-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Hee.

SCRep. 785-86 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 reactivation of the licenses.
- (3) Provides a way for physicians to formally retire their licenses.
- (4) Provides stronger authority for the Board to communicate with other agencies regarding licensees and applicants for licenses.
- (5) Provides a stronger 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.
- (9) Extends protection from civil liability to members of a hospital quality assurance committee and protects the records of such committees from discovery.

Your Committee received 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 and Dentists, and Hospital Association of Hawaii with several amendments suggested.

Your Committee requested that the interested parties work together on language agreeable to all parties. Accordingly, a compromise draft was submitted to your Committee with opposition from the Hawaii Medical Association and the Hawaii Federation of Physicians and Dentists.

Your Committee, upon consideration of the amendments submitted by the interested parties, has amended the bill by:

- 1) Adding a requirement that the examining physician of a licensee or applicant who has submitted to a mental or physical examination report any findings which would be relevant to the licensee's ability to practice medicine;
- 2) Adding language which provides that the records the Board obtains to make judgment on a licensee or applicant exclude all records that do not pertain to the physician's ability to practice medicine;
- 3) Providing that the board will review the application and affidavit of an inactive licensee expeditiously and will not unreasonably delay reactivation of the licensee;
- 4) Adding the requirement that any disciplinary action taken by the board, or, voluntary surrender of or voluntary limitation on the license of any person shall be reported to the state medical society, to the state hospital association, and, upon request, to any health care facility in the State; and
- 5) Adding a provision specifying that the law shielding the proceedings and records of peer review and quality assurance committees from discovery shall not be construed as precluding discovery of hospital medical records relating to patients.

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

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Chang, Kawasaki and Young.

SCRep. 786-86 Consumer Protection and Commerce on H.B. No. 1942-86

The purpose of this bill was 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 enterprise. 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 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 substantially amended the bill by:

- 1) Raising the amount from \$250,000 to \$300,000; and
- 2) Adding a new chapter creating a comprehensive regulatory framework for authorizing foreign bank operations in the State of Hawaii, and a temporary commission with the responsibility for developing and implementing a promotional program to encourage foreign banks to establish offices in Hawaii.

Upon consideration of this amendment, your Committee reviewed the concern of local financial institutions that foreign banks operating in the State of Hawaii should not accept local deposits. Your Committee concurs with the concern of the local financial institutions, and notes that under this bill, as amended, foreign banks shall not be permitted to solicit or accept local deposits.

Your Committee finds that this new chapter would respond to the need for the State, if it is to fulfill its leadership role in the Pacific basin, to open its commercial process to foreign banks in order to attract capital, to provide full commercial services, and to enhance the State's geographically favored location in the consummation of trade and commercial transactions. Moreover, the establishment of foreign banks in Hawaii would constitute positive evidence of a favorable business climate within the State.

Your Committee concludes that the timing is right for this legislation, and accordingly recommends its passage, with the desired element of reciprocity which is set forth in Section -33(b)(7), Establishment of office. Your Committee desires to make it clear that it seeks unquestioned reciprocity for American banks to operate in those countries which are the domicile of foreign banks operating in Hawaii. Specifically, it is also your Committee's intent that a state must allow "Hawaii" based banks to operate in its state, otherwise the state foreign bank will not be allowed to operate in Hawaii.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1942-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1942-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Chang, Kawasaki and Young.

SCRep. 787-86 Consumer Protection and Commerce on H.B. No. 1945-86

The purpose of this bill was to extend the term of the Board of Barbers until December 31, 1992.

A Legislative Auditor's Report recommended that Chapter 438, Hawaii Revised Statutes, be allowed to expire as scheduled on December 31, 1986 because barbering poses little danger to the public and does not require regulation.

Your Committee received testimony from the Board of Barbers and members of the barbering profession in support of extending the Board because it has done a good job in protecting the public from those who have not acquired the ability to practice safely.

Your Committee, upon consideration of the Auditor's report and the testimonies submitted, believes that regulation of barbers should continue. However, in view of the Auditor's recommendation to allow expiration, your Committee has amended the bill to extend regulation for four years rather than six years, thereby allowing the Legislature to reconsider the need to continue regulation at an earlier date. Your Committee has also adopted recommendations from the Auditor's report recommending expansion of the scope of practice to include permanent waving and hair coloring and deleting the good moral character requirement for certification.

The Auditor further recommended deleting the rule requiring barbers to work only in barber shops. Your Committee agrees with this recommendation and therefore, has amended the definition of barbershop to mean "any establishment or place of business wherein the practice of barbering is engaged in or carried on and is the primary purpose of that establishment or business."

Your Committee has further amended this bill to clarify sanctions which may be imposed against persons who violate the certification laws; to require the Board to contract with the same professional testing service as the Board of Cosmetology to prepare and provide examinations for applicants; to require that the practical examination for permanent waving

and hair coloring shall be the same as the practical examination administered to cosmetologists; to require every applicant to be examined by the Board to pay an examination fee; to require the Board to report to the legislature on the progress made in improving the examination process prior to the convening of the regular session of 1987 and if any new developments occur subsequent to the 1987 report, to include the same in a report to the legislature prior to the convening of the regular session of 1988; to amend the age requisite for admission to examinations and registration to at least seventeen years of age; and change the effective date from January 1, 1987 to "upon its approval."

Finally, your Committee is concerned about the potential hazard of disease transmission. Although Section 438-7, Hawaii Revised Statutes, requires clearance from infectious or contagious diseases upon filing of an application for certification, it does not provide for the control of disease transmission thereafter. Your Committee believes there is always a potential for disease transmission in barbering because of the extensive "hands on" contact, and that the Board should also be responsible for monitoring disease transmission. Your Committee has therefore amended this bill to authorize the Board, at its discretion, to request that appropriate medical clearance test, including blood tests, be taken by any barber to protect the public health.

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

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Chang, Kawasaki and Young.

SCRep. 788-86 Consumer Protection and Commerce on H.B. No. 2033-86

The purpose of this bill is to clarify the registration exemptions provided in Section 454D-2, Hawaii Revised Statutes (HRS); to provide for an automatic termination of the registration of a servicing agent when a bond is not kept active; to provide for powers and duties of the Director of the Department of Commerce and Consumer Affairs to regulate mortgage and collection servicing agents; and to clarify that the remedies or penalties are cumulative to each other and to other remedies and penalties provided by law.

Currently, there is some confusion with Section 454D-2(1), HRS, in that it appears to exempt from registration requirements all real estate brokers and salesmen who provide collection services. Your Committee finds that there is justification to exempt a broker or salesman from Chapter 454D, HRS, when they provide collection services during the course of a real estate transaction because of the provisions in Chapter 467, HRS, which provide consumers with adequate protection. Your Committee finds that the bill clarifies that brokers and salesmen are on notice that they are exempt only when the provisions as set forth in the bill are met.

Your Committee heard testimony from the Department of Commerce and Consumer Affairs and finds that the bill would provide protection for consumers with respect to conventional loans which are serviced by a Housing and Urban Development (HUD) approved lender. Your Committee heard testimony that even though a financial institution may receive HUD approval, this does not necessarily mean consumers are adequately protected by HUD regulations.

Presently, Section 454D-3, HRS, requires that mortgage and collection servicing agents covered by the chapter shall keep a surety bond current and in effect. The bill provides for the automatic suspension of the registration should the registrant's bond be cancelled or terminated, with the possibility of termination of the registration should the registrant fail to effect a reinstatement of a suspended registration by submitting satisfactory proof of bond coverage to the director. Your Committee finds that this provision provides added protection for the consumer.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2033-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2033-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Chang, Kawasaki and Kuroda.

SCRep. 789-86 Consumer Protection and Commerce on H.B. No. 1946-86

The purpose of this bill was to extend the term of the Board of Cosmetology until December 31, 1988 and amend Section 439-14, Hawaii Revised Statutes, to authorize the Board to contract with a professional testing service to prepare and provide examinations for applicants and require every applicant to pay an examination fee.

The Legislative Auditor, in his sunset review findings on the regulation of beauty culture, recommended that Chapter 439, Hawaii Revised Statutes, be allowed to expire as scheduled on December 31, 1986, on the basis that the practice of beauty culture poses minimal potential harm to the public health, safety, or welfare and that the Board has not always acted responsibly and with good judgment.

Your Committee upon due consideration of the Legislative Auditor's report and the concern that deregulation would expose consumers to a variety of health and safety risks such as communicable diseases, chemical burns, skin infections, allergic reactions, and accidental injuries, finds that some type of regulation of this profession is necessary but shares some concerns raised in the Auditor's report. Accordingly, your Committee has amended this bill to extend the Board until December 31, 1989, to provide adequate time to incorporate and implement some of the recommendations so that the sunset report in 1989 will more clearly indicate whether there is a need to continue regulating this board.

Among the recommendations your Committee has adopted are eliminating the good moral character requirement, deleting the Board's authority to inspect beauty shops, reducing the ratio of beauty operators to apprentices to a one to one ratio, and transferring the regulation of electrologists from the Department of Commerce and Consumer Affairs to the Department of Health.

The Auditor further recommended that the licensing categories for permanent wave operators, Japanese hairdressers, and facial cosmeticians be eliminated on the basis that such licenses are not specifically authorized in the statutes. At the hearing your Committee expressed concern that a number of licensing categories of beauty operators were unnecessary. The Board assured the Committee that steps were being taken to eliminate the permanent wave operators, Japanese hairdressers, and facial cosmeticians, and that the categories would be reduced. Your Committee has amended this bill to require that there be only nine certification categories, excluding apprentice, student, instructor-trainee, temporary operator, junior operator, temporary instructor, and technician certification, and that the Board may modify the number of categories only if passed by a two-thirds vote of the board.

The Auditor also recommended eliminating requirements for practical and oral examinations and limiting written examinations to health and safety issues. The Board testified that the practical exam was totally revised and administered for the first time in October 1985. Examination sessions subsequent to the initial session have shown improvements.

This bill authorizes the Board to contract with a professional testing service to prepare and provide examinations for applicants and requires every applicant to pay an examination fee. Your Committee concurs with the intent of this amendment and has expanded it to require that the examination be updated and revised based on current job analysis surveys and providing that the practical examination for waving and hair coloring be the same as the practical exam administered to barbers.

Further, your Committee is interested in keeping informed on the progress made in implementing the Auditor's recommendations contained in the sunset evaluation report on beauty culture (Report No. 86-6), including the improvement of the examination process, and has provided that the Board shall report to the legislature prior to the convening of each of the regular sessions of 1987, 1988 and 1989, provided that if the Board is in compliance with the Auditor's recommendations at the time of the 1988 report, the 1989 report is not necessary.

Your Committee has also provided that cosmetologists may work in a barbershop and that a barber may work in a beauty shop by amending the definition of "beauty shop" to mean any establishment or place of business where the practice of hairdressing or cosmetology is engaged or carried on and is the primary purpose of that particular establishment or business.

Your Committee has also amended the effective date from January 1, 1987 to "upon its approval" and made technical amendments which have no substantive effect.

Finally, your Committee disagrees with the Auditor's Report that there is minimal potential hazard of disease transmission, and that the responsibility for disease control rests with the Department of Health, not the Board. Your Committee believes there is a potential for disease transmission in beauty culture practice because of the extensive "hands on" contact, and that the Board should also be responsible for monitoring disease transmission. Your Committee has amended this bill to authorize the Board, at its discretion, to request that appropriate medical

clearance tests, including blood tests, be taken by licensees to protect the public health.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1946-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1946-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator B. Kobayashi, Cayetano, Chang, Kawasaki and Young.

SCRep. 790-86 (Majority) Consumer Protection and Commerce on H.B. No. 2062-86

The purpose of this bill is to require health insurers that provide pregnancy-related benefits to provide a one-time benefit for outpatient expenses resulting from in vitro fertilization procedures.

The bill also specifies the requirements of in vitro fertilization coverage which concern the patient, the patient's spouse, the patient's or spouse's infertility and the quality of the in vitro fertilization procedure.

Your Committee has amended the bill by amending:

(1) page 1, line 6, and page 3, line 15 of the bill to include the phrase "in addition to any other benefits for treating infertility" to insure that patients may qualify for other infertility treatments besides the in vitro fertilization treatment.

(2) page 2 line 15, and page 4, line 17 of the bill to replace the phrase "any less costly" with the word "other," referring to infertility treatments to provide patients with greater flexibility in seeking infertility treatment care; and

(3) page 3 line 4, and page 5 line 5 of the bill to redefine the definition of spouse for purposes of clarity.

Your Committee finds that the in vitro fertilization procedure is relatively new and is by no means a panacea to the problem of infertility. In vitro fertilization does however, provide a medical option or alternative to infertile patients and should therefore be supported accordingly. It is not the intent of your Committee to support the increased use of in vitro fertilization in the future, but rather to support proven, medically safe procedures that promote the health safety, and welfare of the public. Further, in recommending approval of this measure, your Committee in no way intends that this bill be cited as a precedent for other legislative measures mandating coverage of procedures that are not necessary to restore a person's health.

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

Signed by all members of the Committee except Senators Cayetano, Chang and Kawasaki. Senators Henderson and A. Kobayashi did not concur.

SCRep. 791-86 Consumer Protection and Commerce on H.B. No. 2117-86

The purpose of this bill was to clarify and redefine certain terms concerning fine prints, to require that certain informational details must be disclosed to purchasers by sellers of fine prints, and to set penalties for violations of these requirements.

Your Committee finds that Chapter 481F, HRS, presently requires sellers to disclose informational details which may be inadequate or misleading for a purchaser attempting to judge the degree of uniqueness or scarcity of a fine print. This bill would strengthen the existing fine prints law by requiring that consumers are provided with more meaningful details regarding fine prints with which to make an informed decision.

Your Committee, upon consideration, has amended the bill by deleting the substance of H.B. No. 2117-86 and replacing it with the substance of H.B. No. 1782-86, which is modeled after California law. Specifically, the bill would amend the existing statutes by:

(1) Limiting the definition of "artist" to one who created the image contained in the master or who conceived of and approved the image contained in the master. Presently, "artist" may include a person whose work merely served as a model for the fine print.

(2) Limiting the definition of "signed" to mean that the fine print was autographed by the artists' own hand. The art dealer may not represent that the artist "signed" the print if the artist's name were placed on the print by any mechanical process.

(3) Specifically authorizing the Attorney General, the Office of Consumer Protection and the county prosecuting attorneys to initiate legal action to enjoin violations of the fine prints law. Presently, the law creates a cause of action for damages for aggrieved purchasers.

(4) Requiring art dealers to post prominent signs which inform consumers that Hawaii law provides for the written disclosure of certain informational details concerning fine prints upon request of consumers. Presently, there is no similar requirement.

Your Committee is aware of the concern of the Office of Consumer Protection that the bill may cause some confusion and consequent enforcement problems since the disclosure requirements may vary depending on the time period during which a fine print was produced. Your Committee is also aware of concerns that the consumers may be presently misinformed regarding what constitutes an "original" and that there may be a need to define "original" in the statutes.

However, your Committee finds that the California law has been in existence for fourteen years and believes that California's experience in regulating this aspect of the art industry should be given credence. The California law appears to provide the consumer with sufficient disclosure requirements yet does not impose requirements upon Hawaii artists and art dealers which would place them at a disadvantage when competing with artists and art dealers from other states. Your Committee further believes that the proper index of the law's effectiveness would be the number of complaints received from consumers. If the number of complaints indicates a need for further legislation in this area, future legislatures may always amend the statutes as warranted.

Your Committee has further amended this bill by deleting the effective date for the purpose of allowing for further discussion of this measure.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2117-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2117-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Chang, Kawasaki and Young.

SCRep. 792-86 Consumer Protection and Commerce on H.B. No. 2238-86

The purpose of this bill is to amend Chapter 346, Hawaii Revised Statutes, to add a new section dealing with liability insurance coverage requirements for child care facilities.

This bill proposes to define "liability insurance coverage"; to specify that liability insurance shall not be required as a condition of licensure by the Department of Social Services and Housing (DSSH); to specify that DSSH shall require an uninsured child care facility to disclose to parents or guardians the lack of insurance or the loss of insurance within seven working days of the loss; and to specify that DSSH may suspend or revoke a child care facility's license if the facility fails to disclose the lack or loss of insurance.

Your Committee finds that current DSSH licensing regulations require insurance coverage of \$5,000 per child and \$10,000 per occurrence. Due to rapidly increasing insurance premiums, and the refusal of some insurance companies to cover child care facilities, many child care facilities are experiencing difficulty in meeting the current licensing regulations.

Your Committee is in agreement that removing liability coverage as a condition of licensure will allow a child care facility to continue to seek adequate and affordable coverage without having to either close its operation or operate in violation of DSSH regulations. However, requiring facilities to disclose the lack or loss of insurance to parents and guardians will ensure that parents and guardians are fully informed of the status of the facility, allowing them to make decisions in the best interest of their own children.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2238-86, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Cayetano, Chang, Kawasaki and Kuroda.

SCRep. 793-86 Judiciary on H.B. No. 1959-86

The purpose of this bill is to amend Section 571D-1, Hawaii Revised Statutes, to specifically designate the senior judge of the first circuit family court as the family court representative on the Juvenile Justice Interagency Board.

Currently, any senior judge of the family court may be appointed to the Juvenile Justice Interagency Board. Your Committee finds that the senior judge of the first circuit court would be the most effective family court representative to the Juvenile Justice Interagency Board since he or she presides over the largest of the four state circuit courts and the circuit most involved in matters pertaining to legislative and policy determination. Furthermore, as chairperson of the Board of Family Court Judges, the senior judge of the first circuit family court is entrusted with the leadership position by the senior judges of the other three circuits.

The bill also designates the family court position as ex officio rather than as appointive.

Your Committee has made technical nonsubstantive changes to conform to recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1959-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1959-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 794-86 Judiciary on H.B. No. 1740-86

The purpose of this bill is to simplify the process of searching land titles in Hawaii by providing that the tax map key number shall be used as a uniform method of identifying property.

Your Committee has amended the bill so that it does not apply to property under the jurisdiction of the land court, and to require that the tax map key numbers used are verified. The bill was also amended to require the Department of Taxation to verify that any subject property has subdivision approval, before issuing a tax map key number, and to defer the effective date of the bill.

Your Committee finds that title searches are cumbersome, expensive, and complicated. Integrating the use of the tax map key number into the existing system of records will make title searches easier and more reliable. Essential information about all property in the state will be readily available to unsophisticated purchasers as well as experts in such matters.

Your Committee finds that title searches within the land court system are inexpensive and convenient. Accordingly, the use of tax map key numbers was confined to property registered by the Bureau of Conveyances.

As your Committee concluded that fully effectuating the purpose of the bill will require verified tax map key numbers, the date that the bill's provisions would take effect has been delayed by six months.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1740-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1740-86, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators George and Kawasaki.

SCRep. 795-86 (Majority) Judiciary on H.B. No. 2561-86

The purpose of this bill is to clarify the laws governing elections in Hawaii. Your Committee has amended the bill to clarify and conform its language to the terminology used in Hawaii's Constitution.

The bill amends §11-118, Hawaii Revised Statutes, to assure that the death, withdrawal, or disqualification of a candidate after the times specified in the statute does not necessarily prevent the substitution of another candidate. The bill allows statutory time limits to be waived in special circumstances, in conformity with rules to be adopted by the chief election officer.

A second amendment states that blank, spoiled and invalid ballots shall not count as votes tallied in an election that requires a simple majority of votes for the result. Such votes are

currently counted only to ascertain whether the necessary majority of all voters casting ballots in a particular election, vote one way or the other on a constitutional question. They are not counted to determine whether a majority of those voting on the constitutional question approved or disapproved it, nor to determine the result in elections generally. The bill clearly states and continues the current practice.

The bill also clarifies when the result of an election is effectuated, and provides for issuance of a "certificate of results" when a question is decided by the voters.

The bill also changes the current practice by requiring individual's seeking absentee ballots to mail a request including the voter's name, social security number and date of birth directly to the clerk. This provision will assure timely and expeditious processing of such requests.

Your Committee finds that this bill will bring the benefits of greater clarity to the state's election laws and will prevent the problems that could result from misunderstanding.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2561-86, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as H.B. No. 2561-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Abercrombie, Cobb, Kawasaki, and A. Kobayashi.
Senator George did not concur.

SCRep. 796-86 Judiciary on H.B. No. 1680-86

The purpose of this bill is to give the Family Court the discretionary power to make the parents of unmarried minors who bear children liable for the support of those children.

The bill is prompted by a distressingly large number of births to unmarried minor parents who have neither the ability nor the inclination to assume the full responsibility of parenthood. The bill addresses the concern that it should be the minor parents and the grandparents of the children, rather than the taxpayers of the State, who should support the children.

The bill provides that the grandparents could only be held liable prior to the time that the minor parents reach the age of majority or otherwise become emancipated.

Your Committee amended the bill to assure that liability for child support can only be assigned to the grandparents when they are able to provide the support needed, and their minor children are not financially capable of supporting their children.

Your Committee further amended the bill by emphasizing the continuing duty of the minor parents to do all that can be reasonably be done to provide support their children.

Your Committee also amended the bill to provide that the Legislative Auditor report on the effectiveness of the law to the Legislature. This will allow the Legislature to review the law and gauge its impact on this problem.

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

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1680-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1680-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 797-86 Judiciary on H.B. No. 2360-86

The purpose of this bill is to provide for the assessment of a fee of \$50.00 for cases remanded to a district court after such cases have been transferred to a circuit court on demand for a 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 such a case is remanded.

Your Committee finds that the fee of \$50.00 will meet the cost of processing remands, and will assist the orderly administration of the courts.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2360-86, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cobb, Kawasaki and George.

SCRep. 798-86 Judiciary on H.B. No. 2465-86

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

Your Committee supports the concept of restitution as a valuable means of compensating losses incurred by victims and confronting the offender with the direct personal consequences of the crime. It should take priority over the payment of a fine.

Your Committee has made a technical, nonsubstantive revision to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2465-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2465-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 799-86 Judiciary on H.B. No. 2483-86

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

In 1985, the scope of section 709-906, Hawaii Revised Statutes was expanded to include criminal penalties for abuse between household members. Confusion has arisen as to whether the family court or the district court has jurisdiction over cases involving abuse of household members. Section 709-906, Hawaii Revised Statutes, provides redress for abused household members, as well as family members, by petition to the family court. However, section 571-14, Hawaii Revised Statutes, restricts family court jurisdiction over adults to offenses committed against a minor child by the child's parents, custodian or guardian, or to intra-spousal abuse. Specifically including violations of section 709-906, Hawaii Revised Statutes, under family court jurisdiction clarifies the Legislative intent to have cases of abuse between household members treated similarly as cases of intra-family or child abuse.

Your Committee has amended the bill by correcting typographical errors.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2483-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2483-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 800-86 Judiciary on H.B. No. 2363-86

The purpose of this bill is to correct an error in the statutory provision that allows adoptions without the consent of one parent. The current provision allows a child to be adopted without the consent of an adjudicated or presumed father who has not previously petitioned to adopt the child.

Your Committee finds that an adjudicated or presumed father is, by definition, legally recognized as the father of the child and would therefore have had no reason to file a petition to adopt the child.

Your Committee has amended the bill to conform it to recommended drafting style, without changing its purpose or effect.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2363-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2363-86, S.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators George and Kawasaki.

SCRep. 801-86 Judiciary on H.B. No. 2656-86

The purpose of this bill is to improve and simplify the procedures used to legitimate children. The bill allows a legitimated child's full name to be changed in a single step and provides that a

new original birth certificate bearing the new name shall be issued for a child upon legitimation.

The law currently authorizes changing the surname of a child upon legitimation. However, changing the child's last name may not be considered sufficient for the purposes that prompted the legitimation particularly if a child was given the father's surname as a middle name and the change would leave the child with the same middle and last name. The subsequent change of a legitimated child's first or middle name would therefore require the parents to petition the Office of the Lieutenant Governor for another name change.

The Department now simply amends a child's old birth certificate upon legitimation. By directing the Department of Health to issue new original birth certificates for legitimated children, the bill will bring the Department into compliance with section 584-23(b), Hawaii Revised Statutes, which provides that birth certificates shall not disclose the legitimation.

Your Committee has amended the bill so that it allows a child to be legitimated more than once.

No statute currently permits or precludes legitimating a child more than once, although the Department of Health does not allow it. The new provision will apply if, for example, an unwed father acknowledges his child before marrying the child's mother. At the time of their marriage, the parents may want to give their child the father's name and to have a new birth certificate prepared.

Your Committee finds that the bill will make the legitimation process more efficient and complete, and will support the State's policy of encouraging legitimation.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2656-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2656-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 802-86 Judiciary on H.B. No. 1993-86

The purpose of this bill is to exempt the State from liability for tort claims that result from the activities of the Hawaii National Guard during periods of federal service.

The law currently exempts the State from liability only for tort claims that result from the Guard's combat activities. Because members of the Guard are legally considered State as well as federal employees, the State could be held liable for injuries caused by training or other activities of the Guard during periods of federal service.

This bill would not leave members of the Guard without means of remedy for service-related injury. Individuals injured from the Guard's activities while in federal service would be permitted to sue the federal government under the Federal Tort Claims Act. Further, the bill preserves the State's liability for claims that arise from the Guard's activities when its members act as State employees.

Your Committee has amended the bill to conform it to recommended drafting style.

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

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 803-86 Judiciary on H.B. No. 2358-86

The purpose of this bill is to allow the Hawaii Supreme Court to hear questions of law certified to it by a Federal District Court. The law now allows the U.S. Courts of Appeals and certain state tribunals, to certify questions of law to the Hawaii Supreme Court.

The certification procedure is used when a case before a federal court turns upon a question of state law that has not been addressed directly by Hawaii's courts. By certifying questions, the federal court can avoid guessing how the State's courts would answer a question of state law that they have not considered. Also the lengthy and expensive process of appealing a decision simply to obtain a state court determination of a question of state law will be abbreviated, benefiting both the parties and the courts.

Your Committee finds that authorizing the Hawaii Supreme Court to decide questions

certified by United States District Courts will enhance the administration of justice in Hawaii. It will also conform the practice in Hawaii to the Uniform Certification of Questions of Law Act, which has been approved by the American Bar Association.

Your Committee has amended the bill so that it now comports with recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2358-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2358-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 804-86 Judiciary on H.B. No. 2373-86

The purpose of this bill is to prohibit the introduction of evidence of self-induced intoxication to negate state of mind as an element of a crime.

Currently, evidence of self-induced intoxication is admissible to prove or disprove both conduct and state of mind. A defendant could claim that he or she was intoxicated when the crime was committed and thus lacked the requisite state of mind.

Your Committee finds that persons acting under self-induced intoxication should remain ultimately responsible for their actions. A person who willingly becomes intoxicated and then commits a crime is now precluded from claiming self-induced intoxication as a defense. Evidence of self-induced intoxication is still admissible for the limited purposes of proving or negating conduct or proving state of mind.

Your Committee has made nonsubstantive, clarifying amendments.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2373-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2373-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 805-86 Judiciary on H.B. No. 2337-86

The purpose of this bill is to amend section 291-4, Hawaii Revised Statutes, to authorize the court to require a person who has been found guilty of driving under the influence of alcohol to be assessed by a substance abuse counselor and to obtain appropriate treatment if the offender is determined to be an alcohol abuser.

Currently, a person convicted of a second or third offense of driving under the influence of alcohol may be required by the court to obtain treatment if the offender is assessed by a counselor to have a dependence on alcohol.

This bill would expand the court's reach to those persons who may not be dependent on alcohol, but nevertheless need to resolve a problem of alcohol abuse.

Your Committee finds that alcohol abuse is a very serious problem and recognizes the compelling need to protect the public from persons who abuse alcohol and drive while under its influence. Early intervention can help a person control a problem with alcohol before an abusive situation develops into a dependency. Your Committee finds that the assessment of alcohol abuse and the need for treatment by a certified substance abuse counselor may reduce the incidence of drunk driving.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2337-86, H.D. 2, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 806-86 Judiciary on H.B. No. 2479-86

The purpose of this bill is to revise the statutory requirements that pertain to notaries public seals. The bill permits the use of rubber stamp facsimile seals of office and provides that a notary's seal shall clearly show appropriate information when applied to a document.

Your Committee finds that this bill will expedite the process of having documents notarized. Rubber stamps facsimile seals will save notaries time and money, and will be more visible on

photocopies of sealed documents.

Your Committee has amended the bill to conform it to recommended drafting style.

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

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 807-86 Judiciary on H.B. No. 2170-86

The purpose of this bill is to grant immunity from civil liability to qualified individuals who assist police officers by drawing blood for testing from drivers suspected of intoxication.

Your Committee has amended the bill so that its purpose is now to indemnify, rather than immunize, individuals who may be sued for drawing a blood sample at the request of a police officer. The indemnity extends to damages that result from the need to take an immediate blood sample under less than ideal conditions, from good faith reliance upon the representations of a police officer, and from errors concerning the existence of consent.

Currently a fear of civil liability persuades some qualified personnel to refuse a police officer's request for a blood sample from an individual suspected of driving while intoxicated. The fear derives from a recent Hawaii Supreme Court decision, Rossell v. City of Honolulu, in which the Court held liable a physician who drew a suspect's blood without the suspect's consent.

Your Committee finds that a driver cannot be effectively prosecuted or referred for appropriate treatment unless a blood sample is obtained and tested for alcohol content. Further, a person who operates a motor vehicle in Hawaii gives implied consent to a blood test for alcohol. The reservations of those asked to draw a suspect's blood must be overcome in order to effectuate public policy.

Your Committee selected indemnity rather than immunity as a solution to this problem so that a person whose blood is taken without his or her consent may receive compensation from the person who directs the withdrawal of the blood or that person's employer or both.

Indemnification is not available for negligence, wanton conduct, or omissions.

Your Committee has made nonsubstantive amendments to the bill for clarification.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2170-86, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2170-86, S.D. 2.

Signed by all members of the Committee except Senators Abercrombie, Kawasaki and George.

SCRep. 808-86 Judiciary on H.B. No. 2362-86

The purpose of this bill is to allow the Family Court to waive, in selected cases, the requirement that grandparents be given notice of hearings on petitions to appoint guardians for their minor grandchildren.

Your Committee has amended the bill to specify that the notice requirement shall not be waived unless all reasonable efforts to contact the grandparent have failed and upon a finding that the grandparent has not shown a reasonable degree of interest in the minor. Your Committee has also made other technical changes to conform the bill to recommended drafting style.

Your Committee fully supports the rights and interests of grandparents in matters affecting their grandchildren. Notice should never be waived as to any grandparent who can be located or who has displayed a reasonable interest in a grandchild. Still, requiring notice to be provided in all cases has the effect of forcing petitioners to incur the substantial expense of publishing notice in precisely the cases in which grandparents are strangers to their grandchildren.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2362-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2362-86, S.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 809-86 Judiciary on H.B. No. 326

The purpose of this bill is to include poisoning as an act of cruelty toward an animal which is prohibited under section 711-1109, Hawaii Revised Statutes.

It is recognized that while intentional, needless mutilation, poisoning or killing of animals is deserving of sanction, extermination of certain animals is a commonly condoned activity. Persons who seek to control pests such as insects, vermin and rodents are not subject to criminal penalties under the proposed amendments to Section 711-1109, Hawaii Revised Statutes.

A concern was raised that the present definition of an animal under Section 711-1100(5) could be interpreted to include people who participate in certain sporting activities. Therefore, your Committee amended the definition to exclude human beings.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 326, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 326, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 810-86 Judiciary on H.B. No. 105

The purpose of this bill is to broaden the statutory provisions authorizing name changes. The bill allows the family court to order name changes for minors with the consent of only one parent, if the change is in the best interests of the child and efforts have been made to locate and notify the absent parent. A second provision permits the acceptance in Hawaii of valid name changes ordered by courts in other United States jurisdictions.

Your Committee has amended the bill so that it now requires clear proof from the applicant for a name change that all reasonable efforts have been made to contact the other parent. Your Committee expects that the family court will demand the same exhaustive efforts that it now uses to find absent parents who owe child support payments, or who must be contacted for other reasons.

Depending upon the facts of a particular case, the family court currently locates absent parents through relatives, friends, employers, or the Department of Social Services and Housing. Individuals without local ties may be found through military records, through the Social Security Administration, or by the federal parent locator service. Further, if a name change is entered and the absent parent appears and objects, the matter could be reopened and the change reconsidered.

Your Committee is well aware that divorced parents may seriously disagree over the upbringing of their children. A name change with the consent of only one parent would not ordinarily be in the child's best interests. However, when a parent has essentially disappeared from the life of a child, that parent's unavailability should not thwart a name change that is otherwise in the child's best interest.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 105, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 105, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 811-86 Judiciary 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 within 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 statutes 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 has amended the bill to conform it to recommended drafting style.

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

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 812-86 Judiciary on H.B. No. 122

The purpose of this bill is to facilitate the investigation of medicaid fraud and clarify the scope of the investigatory subpoenas issued by the Department of the Attorney General.

Your Committee has amended the bill by deleting the provisions pertaining to medicaid fraud. Your Committee concluded that the bill would not improve current medicaid fraud enforcement activities, and therefore did not provide sufficient justification for encroaching upon the privacy or confidentiality of records held by state departments.

The current statute allows the department an unsupervised subpoena power for use only in connection with general information gathering. Once an investigation has focused on specific conduct or suspected wrongdoing, the department's subpoena power is subject to judicial supervision. If an adjudicatory proceeding is initiated, the Attorney General has subpoena powers no greater than its opponent.

As amended, the bill guides the department's use of its subpoena power more clearly than than does the current statute. In addition, it assures that recipients of subpoenas issued by the Department of the Attorney General are informed of their rights and options and instructs the Department to monitor its own use of subpoenas.

Your Committee finds that this bill will help maintain the important distinction between the Department's investigatory and prosecutorial functions. By preventing the inappropriate use of investigatory subpoenas in too close proximity to adjudicatory proceedings, the bill assures basic fairness to those opposing or investigated by the Department of the Attorney General.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 122, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 122, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 813-86 Agriculture on H.B. No. 1969-86

The purpose of this bill is to amend Chapter 161, Hawaii Revised Statutes (HRS), to enhance the enforcement of the provisions of the Hawaii Poultry Inspection Act.

This bill authorizes inspectors to issue citations and summons for violations of the poultry inspection regulations and clarifies the language of the Hawaii Poultry Inspection Act. Specifically, this bill provides inspection personnel a more viable and efficient means of enforcing the provisions of the poultry inspection regulations by allowing minor infractions and violations to be handled through the citation and summons procedure rather than the lengthy and costly court injunction process.

Your Committee has amended this bill to clarify that the head of the division of animal

industry or the division head's designees shall be authorized to issue citations for violations of this chapter. This bill is not intended to provide a means to harass people but to facilitate enforcement against operators who knowingly and continually ignore regulations.

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

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1969-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1969-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Mizuguchi.

SCRep. 814-86 Agriculture on H.B. No. 1967-86

The purpose of this bill is to amend Chapter 159, Hawaii Revised Statutes (HRS), to enhance the enforcement of the provisions of the Hawaii Meat Inspection Act.

Currently, the enforcement actions provided under Chapter 159, HRS, apply mainly to serious violations which require criminal prosecution or judicial intervention. It does not provide a practical means of addressing less serious violations. Letters of warning, which are provided for in the statutes, have been issued when minor violations are cited, however, this does not afford the kind of incentive needed to assure future compliance. Authorizing inspectors to issue citations and summons will provide the Department of Agriculture (DOA) an efficient and expedient means of enforcing meat inspection regulations.

The Board of Agriculture testified that during 1985 over sixty violations were filed with the DOA. One-third of the violators were repeat offenders. Also, many of these involved multiple violations involving more than one person or firm and often involving more than one product. The Board believes the authority to issue citations and summons to enforce the meat inspection regulations will serve as a deterrent to violators and afford meaningful, immediate responses to violations that are not currently available. This deterrent will provide better protection to the consumer.

Your Committee has amended this bill to clarify that the head of the division of animal industry or the division head's designees shall be authorized to issue citations for violations of this chapter. This bill is not intended to provide a means to harass people but to facilitate enforcement against those operators who knowingly and continually ignore regulations.

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

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1967-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1967-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Mizuguchi.

SCRep. 815-86 Judiciary on H.B. No. 1729-86

The purpose of this bill is to clarify and revise the statutory provisions pertaining to writs of attachment of real estate. The bill codifies current practice by providing that such writs cannot be issued by district court judges and are available only from judges of the Circuit Court. The bill also deletes a limit of fifty dollars that the current statute imposes on attorney's fees in actions requiring a bond in which the plaintiff demonstrates that an attachment was wrongfully issued. The bill authorizes judges to award reasonable attorney's fees.

The underlying statute, §651-1, Hawaii Revised Statutes, requires amendment because previous technical amendments inadvertently distorted the statute, and because the ceiling on attorney's fees is obsolete.

Your Committee has amended the bill to clarify and conform it to recommended drafting style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1729-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1729-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 816-86 Judiciary on H.B. No. 1688-86

The purpose of this bill is to enable qualified adults to prepare instructions to guide their physicians during any terminal illness that destroys the ability to make decisions concerning treatment.

Your Committee has amended the bill to delete the summary provisions inserted by the Senate Committee on Health, and has included in the bill substantive provisions and safeguards that reflect and integrate aspects of previous House and Senate drafts. Specifically:

1. In stating the purpose of the proposed legislation, your Committee has clarified the scope of the declarations authorized by the bill.

2. The bill's definition of "life sustaining procedure" emphasizes that the bill does not permit withdrawal of nourishment, fluids or any medication or procedure necessary for pain relief or comfort.

3. The definition of "physician" has been amended to include individuals licensed to practice medicine under chapter 460, Hawaii Revised Statutes, which governs osteopathic physicians.

4. "Terminal condition" has been defined to emphasize that living will declarations are effective only in the final stage of terminal illness.

5. The bill contains a suggested declaration that includes the declarant's inability to make decisions concerning medical treatment as one of the events that activates the declaration.

6. Making an effective living will is contingent upon a physician's statement that the declarant has been informed of the issues and risks involved.

7. Individuals who refuse to comply with the transfer and certification provisions or who tamper with a declaration or revocation, may be guilty of misdemeanor offenses. Coercing someone to make a declaration is a Class C felony.

8. At least two physicians are required to certify a declarant as terminal, and two physicians must also certify that the terminal declarant is not capable of making decisions pertaining to medical care.

The basic features of the bill strengthen the safeguards that must surround living wills, without restricting their use.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1688-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1688-86, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 817-86 Judiciary on H.B. No. 1488

The purpose of this bill is to authorize the family court to hold parents responsible for payment of restitution when their child's actions has resulted in loss or damage to another person.

Although restitution to the victim is currently considered an appropriate disposition for juveniles who are determined to be law violators, the order of restitution is often meaningless since minors lack jobs or resources to make the payments. Requiring parents to provide restitution when an offending child is unable to do so will assist victims in recovering losses or damages caused by juvenile offenders and will emphasize the need for parents to be responsible for their children's activities.

Your Committee has made nonsubstantive amendments to clarify the provisions of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1488, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1488, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 818-86 Judiciary on H.B. No. 1388, H.D. 1

The purpose of this bill is to give motor carriers a lien on nonperishable freight in their

possession to facilitate their recovery of amounts owed on prior shipments.

Your Committee has amended the bill so that the lien it allows applies only to amounts owed by a shipper on prior shipments.

The bill requires carriers to notify shippers that liens may result from failure to pay past charges and gives priority to any perfected security interest in the freight.

Your Committee finds that common carriers require an expeditious method of obtaining payment from shippers, since they cannot select their customers to reduce the risk of nonpayment. The bill also protects shippers' interests by affording them notice that a lien may be imposed on future shipments unless past charges are paid. An adequate opportunity to contest the carrier's claim is also provided before any freight can be sold.

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

Signed by all members of the Committee except Senator Abererombie.

SCRep. 819-86 Judiciary on H.B. No. 692

The purpose of this bill is to conform the terms of office for five state boards and commissions to the standard beginning and ending dates established in Act 153, Session Laws of Hawaii, 1985. The boards and commissions affected are: The State Foundation on Culture and the Arts, the Research Corporation of the University of Hawaii, the Board of Private Detectives and Guards, the Real Estate Commission, and the Board of Speech Pathology and Audiology.

Changing the beginning date of the members' terms on these boards and commissions will better synchronize their terms of office with the appointments process. Individuals confirmed during a legislative session that ends in April can take office in July, instead of waiting until January or being seated late.

The bill also places the specified boards and commissions on the same schedule as those governed by Act 153.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 692, H.D. 1, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 820-86 Judiciary on H.B. No. 100

The purpose of this bill is to make comprehensive amendments to Title 37, Hawaii penal code, by incorporating certain recommendations of the committee on penal code revisions and reform of the judicial council of Hawaii.

The committee on penal code revision was appointed in 1983 to address the community's concern that the Hawaii Penal Code, adopted in 1973, required some adjustment in order to respond to current patterns of crime. Criminal offenders were seen as recidivistic, predatory, and assaultive. The use of weapons in the commission of crimes was increasing. The maturing women's movement called for a new perspective on crimes, especially sexual assaults. Commercialization and organization of criminal activities was expanding. The penal code committee adopted the fundamental premise the punishment needed to become a larger factor in the criminal justice system. As a corollary to that premise, the committee decided that more criminals who commit serious crimes should be incarcerated for shorter, but more effectively should punishing terms.

The bill incorporates amendments which demonstrate a shift from the present approach of sentencing which emphasizes rehabilitation toward achieving the goal of just punishment. The corresponding deletion of section 706-620, Hawaii Revised Statutes, which requires the court to withhold imprisonment unless circumstances mandate otherwise, and the addition of a new section, section 706-606, outlining sections to be considered in imposing sentencing, including the need to afford deterrence and to provide just punishment, establish a different view of both incarceration and probation. The changes to section 706-606.5, Hawaii Revised Statutes, further provides for sentencing which is commensurate with the severity of the crime committed, particularly for violent, assaultive crimes.

Your Committee's revisions focus on crimes against the person and against property as the

most compelling areas for immediate reform. It is in these areas where the general public is most directly and grievously affected by crime. The restructuring of the penalties for substantive crimes intends to more precisely define various crimes in order to provide sentencing which most justly penalizes the crime committed.

The bill, as amended, incorporates selected recommendations of the penal code committee, some of which have been amended to reflect the suggested amendments offered by various public offices at public hearing.

The offense of murder in the first degree is expanded to include the killing of more than one person in separate incidents. The penalty of life imprisonment without parole is currently limited to persons who kill more than one person in the same incident. Your Committee intends that persons convicted of multiple killings which occur in the same incident or separate incidents be subject to life imprisonment without the benefit of parole.

Under section 707-702, Hawaii Revised Statutes, manslaughter is a class B felony. An A level offense of manslaughter is incorporated in the bill. Your Committee has designated killing under extreme mental or emotional as a class A felony; the offenses of reckless killing or causing another to commit suicide remain class B felonies. Killing under provocation more closely approximates the offense of murder. A person who kills under provocation has the state of mind requisite for murder mitigated by mental or emotional disturbance. In the other two offenses, the specific intent to kill is not present.

The definition of bodily injury has been expanded to include an intermediate level of substantial bodily injury. There are currently two definitions of bodily injury — "bodily injury" which means any physical, pain illness or impairment, and "serious bodily injury" which includes a substantial risk of death, or serious or permanent disfigurement, or loss of body organ. "Substantial bodily injury" has been added to account for injuries which are far more serious than mere bodily injury but do not approximate a risk of death or permanent loss or disfigurement. The word "grave" has been substituted for the word "serious" to provide a clear distinction between definitions.

The separate crimes of rape and sodomy have been eliminated as well as the "voluntary social companion" distinction between first and second degree rape and sodomy offenses. All of the sexual offenses have been incorporated into five degrees of sexual assault. The creation of the intermediate level of bodily injury allows for a graduated, five-level sexual assault scheme running from class A to a petty misdemeanor which provides punishment which reflects the seriousness of the offense committed.

In the area of crimes against property, amendments were made to adjust the dollar amounts of definitions of theft, criminal property damage, and shoplifting. The current figures represent dollar values designated in 1972 when the penal code was originally codified. According to the consumer price index, the value of the dollar has been inflated 139 per cent since 1972. With the dollar threshold amounts adjusted to more accurately reflect current property values, the various property offenses will warrant the level of culpability intended when the offenses were originally drafted.

A new chapter is added to the penal code by incorporating the provisions of Chapter 851, relating to credit card offenses. The offenses provided in Chapter 851 are essentially types of theft, fraud or forgery which can be classified as property crimes and thus properly belong within the penal code.

Your Committee recognizes that the prolific use of credit in consumer purchasing also marks an increase of criminal abuse of credit cares involving fraud, theft and forgery. Your Committee consequently believes that the penalties in this area need strengthening. In addition, since the likelihood of credit card fraud and theft is increased by the procurement of lists of credit cardholder names and account numbers from retail store and credit bureau, this bill bars disclosure except when regulated under federal law or when necessary to fulfill and service orders.

In section 702-206, Hawaii Revised Statutes, the definition of "recklessly" has been amended to read "a person acts recklessly with respect to his conduct when the person consciously disregards a substantial and unjustifiable risk that the person's conduct is of a specified nature," instead of requiring an awareness that such a risk is created by engaging in certain conduct. The amendment restricts the definition to the actor's awareness of the nature of his or her conduct, rather than focusing on external risks or results as described in subsections (b) and (c). The same amendments are made to the definition of "negligently" in section 702-206, Hawaii Revised Statutes.

Section 702-218, Hawaii Revised Statutes, provides for ignorance of mistake as a defense.

Language has been added in order to make explicit the intent of the legislature that the defense include mistake of law as well as of fact. Defense of mistake of law is not available to a person who claims mistake or ignorance of the law's existence, except as provided under section 702-219, Hawaii Revised Statutes. Mistake of law applies only to mistakes which actually negate awareness of an element of the offense. The amendment merely clarifies the intent of the legislature as stated in the original commentary.

The penal code committee's amendments to the insanity defense are incorporated into the bill. The penal code committee's recommendations follow the insanity defense formulation proposed by the American Bar Association, the American Psychiatric Association, and the American Psychologists Associations. The current insanity defense is restructured by eliminating physical disease as an exculpatory condition, by requiring an inability rather than a substantial incapacity to appreciate the wrongfulness of an act, and eliminating volitional incapacity as an exculpatory factor.

The repeat offender statute, section 706-606.5, Hawaii Revised Statutes, has been amended by incorporating the changes recommended by the Honolulu prosecuting attorney office. The changes are intended to provide sentencing of repeat offenders which is commensurate to the severity of the crime committed. Thus, a class A offender with a prior conviction is sentenced to a mandatory minimum term of six years, eight months, a class B half that amount, and a class C offender receives one year and eight months. The period of time during which a person is considered to have a prior felony conviction is made commensurate to the seriousness of the prior felony offense.

Under section 706-610, any felony defined outside of the penal code is designated as a class C felony. The section has been amended to allow provisions enacted subsequent to 1973 to specifically designate crimes as class A or B felonies.

Your Committee has further amended the bill to include a new Chapter 713 entitled, "Weapons and Explosives" that specifically prohibits the manufacture, sale, transfer or possession of certain types of weapons and ammunition. Statutory provisions currently under H.R.S. 134-7, which prohibit certain persons from owning or possessing firearms and ammunition, are transferred to the Chapter 713.

Your Committee is in accord with the intent and purpose of H.B. No. 100, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto is H.B. No. 100, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 821-86 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 penal code revision bill (SLBL No. 1793-86) for the 1986 Regular Session and are changes required to correct obsolete references not of the kind usually placed in the revision bill.

Section 1 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 739-4, and to substitute a reference to theft, as provided by section 708-830, H.R.S. Session Laws 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 false pretenses, obtaining by trick or device, fraudulent conversion, cheating, extortion, and blackmail.

Section 2 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 relating to solicitation and to sections 710-1060 to 710-1068, H.R.S., relating to perjury and related offenses. Session Laws 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., 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 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. Session Laws 1972, Act 9, repealed section 727-1, H.R.S. Section 3 amends section 666-3, H.R.S., by deleting the reference to section 727-1, and by substituting the definition of nuisance as stated in section 712-1270.

Your Committee made nonsubstantive technical amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2158-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2158-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 822-86 (Majority) Judiciary on H.B. No. 1857-86

The purpose of this bill is to assure that all individuals in Hawaii are free of unfair discrimination in their use of public accommodations.

Your Committee heard testimony that persons are encountering discrimination in public accommodations on the basis of sex, race, sexual orientation, military status, and occupation. Your Committee has therefore amended the bill so that it now forbids discrimination based on age, race, sex, color, religion, ancestry, handicap, or any other basis that cannot be justified by a well-founded concern for the public's health and safety.

Other amendments redefined "handicap" to include mental impairments other than drug and alcohol use, and conformed the bill to recommended drafting style.

Your Committee finds that the equal enjoyment of public accommodations by all the peoples and guests of the State is close to the heart of Hawaii. This bill clearly proclaims the State's policy of prohibiting all unfair discrimination, and will provide the legislature with needed information about the extent and focus of any discrimination in public accommodations. Any unreasonable discrimination towards any group, such as members of the military or gay community, detected by the complaint process established herein may serve as the basis for future legislative action.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1857-86, H.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1857-86, H.D. 2, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Toguchi and Abercrombie.
Senator Cobb did not concur.

SCRep. 823-86 Judiciary on H.B. No. 2725-86

The purpose of this bill is to provide indemnification to those persons employed by or under contract to the Department of Social Services and Housing, who have the responsibility for preventing child abuse and neglect in our society.

Your Committee by substituting indemnification for immunity as a way to protect social workers should they be found liable for damages resulting from their job performance.

The bill balances the needs of social workers and the Department of Social Services and Housing with the interests of those injured by the actions of state-employed social workers. The Department of Social Services and Housing is concerned that the fear of being sued discourages social workers from doing everything they might reasonably do to uncover and prevent child abuse, and that the department will be unable to retain sufficient numbers of social workers to protect abused and neglected children.

There is, however, the equally legitimate concern that those who are injured by the acts of these social workers should have a forum for bringing a complaint and a means of being compensated for their injuries. Such compensation would not be allowed under an immunity statute, but would be allowed if the social worker were indemnified.

The bill indemnifies only conduct that is not willfully, wantonly, or grossly negligent.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2725-86,

H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 2725-86, H.D. 1, S.D. 2.

Signed by all members of the Committee except Senator Abercrombie.

SCRep. 824-86 Judiciary on H.B. No. 2526-86

The purpose of this bill is to bring the use of certain wireless communication for private conversations within the purview of Chapter 803, Hawaii Revised Statutes, which prohibits electronic eavesdropping.

This bill proposes to establish the definition of "wireless communication" to include any communication made through the use of "domestic public cellular radio telecommunications facilities."

Your Committee finds that this extended application of the current wire tap law is necessary due to the availability and use of more sophisticated telecommunications equipment for private and commercial uses requiring confidentiality.

Your Committee has further amended the definition to also include communications made through the use of "microwave facilities." The need for this addition was presented in testimony from representatives of Tel-Net Joint Venture and Honolulu Cellular Telephone Co., who pointed out that the definition was too narrow. Microwave transmissions are increasingly being used to convey confidential financial information between islands and should be afforded protection from unauthorized interception.

This bill will not adversely affect operators or owners of amateur radio equipment, scanners, televisions, or citizens band radios. These devices are not "primarily intended" to intercept wireless communication and thus are not prohibited by the bill.

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

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 825-86 Judiciary on H.B. No. 2760-86

The purpose of this bill is to protect certain retirement plan assets from attachment for any obligations except for those arising from qualified domestic relations orders.

Your Committee has amended the bill so that contributions made to a qualified plan within a three year period before a debtor files for bankruptcy or is sued in a civil action are not protected. The amendment will assure that retirement accounts do not attract excessive contributions from debtors.

Your Committee further amended the bill so that contributions to a retirement plan established by state statute cannot be reached during the three year period in which other accounts would be susceptible. Since state employees' years of service are counted according to their contributions to the statutory state retirement system, allowing creditors to seize an employees' contributions for a given time would cancel the employees' service credit during that interval.

Your Committee also has deleted a provision that exempted from subpoenas all records of a debtor concerning exempt accounts. Your Committee can discern no need for such a provision nor was any need suggested by the relevant testimony and submissions.

The bill, as amended, balances creditors' rights against the strong individual and public interests in self-sufficient retirement by those able to maintain retirement accounts during their working years.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2760-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2760-86, S.D. 1, and placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and George.

SCRep. 826-86 Judiciary 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.

Currently, unless a lender obligates itself in the mortgage to make certain future advances, any liens on future advances will not have priority over subsequently recorded liens. Consequently, mortgage financing is not available in many situations requiring large infusions of funds in which a prior default has extinguished the priority of the mortgage lien.

This bill eliminates the requirement that a lender must obligate itself in the mortgage to make future advances and state the maximum amount of the advances, before its recorded mortgage lien would have priority over subsequently recorded liens.

This bill extends the usefulness of financing by future advances on mortgages by providing that all advances under the original credit line will have the same priority as the mortgage. The bill will be useful in allowing the continuation of ongoing projects that draw on the initial mortgage for financing, but suffer some financial strain before completion. Such projects are now disabled, even if the prior default was merely technical.

Your Committee on Judiciary 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 Senators Kawasaki and George.

SCRep. 827-86 (Majority) Judiciary on H.B. No. 2468-86

The purpose of this bill is to provide native Hawaiians and Hawaiians the right to bring suit in State courts to resolve controversies relating to the administration of the Hawaiian Homes Commission Act, 1920, as amended, and the Admission Act.

Your Committee recognizes and supports the rights of native Hawaiians and native Hawaiian organizations to bring suit for the enforcement of provisions which directly affect their status as native Hawaiians and the rights and benefits due to them.

Your Committee is also aware of a recent federal court decision affirming the reasonableness of the classification of Hawaiians as defined in section 10-2.

Your Committee recognizes the concerns expressed in prior testimony from representatives of native Hawaiians and native Hawaiian organizations that the rights and benefits afforded them should not be diminished by rights conferred on Hawaiians. Therefore, your committee has amended the bill by adopting the provisions of H.D. 2 of this bill with certain amendments which recognize the existence of two trusts for native Hawaiians as provided in sections 4 and 5 of the Admission Act and which clarify the benefits afforded Hawaiians by Article XII, section 5 and 6 of the Constitution of the State of Hawaii.

Your Committee has amended this bill as follows:

1. Section 1(e) was amended to read: (e) 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 establishment of the Office of Hawaiian Affairs as duly provided for in Article XII, sections 4, 5 and 6 of the State Constitution.

2. Section 1(h) was amended to read: (h) The purpose of the 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 trusts created by Article XII, sections 4, 5 and 6 of the State Constitution.

3. Section 3(a) was amended to read: "\$ - Suit by native Hawaiians and Hawaiians and native Hawaiian and Hawaiian organizations; Office of Hawaiian Affairs trusts. (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 trusts under Article XII, sections 4 and 5 of the State Constitution and under Section 5(f) of the Admission Act.

The bill gives native Hawaiians and native Hawaiian organizations the right to initiate actions in State courts to resolve controversies relating to the native Hawaiian public trusts under Article XII of the State Constitution implementing sections 4 and 5(f) of the Admission Act. In addition, the bill gives Hawaiians and Hawaiian organizations the right to initiate actions in state courts to resolve controversies relating to the public trust for the benefit of Hawaiians under HRS Chapter 10 and Article XII, sections 5 and 6.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2468-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.D. No. 2468-86, H.D. 2, S.D. 1, S.D. 2.

Signed by all members of the Committee except Senators Cayetano and Abercrombie.
Senator Kawasaki did not concur.

SCRep. 828-86 Ways and Means on H.B. No. 1694-86

The purpose of this bill is to authorize the licensure and operation of pure captive insurance companies and association captive insurance companies in Hawaii. Pure captive insurance companies are insurers which insure the risks of their parent and affiliated companies. Association captive insurance companies are insurers which insure the risks of members of associations and their affiliated companies.

Many benefits may derive from the formation of captive insurance companies. The benefits have been enumerated in previous standing committee reports pertinent to this bill. Basically, captive insurance companies are intended to allow the insureds to have greater control over the management and operation of their insurers and policy lines, allow the insuring of risks for which coverage is otherwise unaffordable, unavailable, or impractical, and provide greater access to and lower cost for reinsurance and excess insurance.

The Insurance Commissioner and actuarial and risk management consultant to the Commissioner have expressed reservations of the adequacy of the bill to protect against insolvency of captive insurance companies and the subsequent adverse effects. Because this bill exempts captive insurance companies from most of the provisions of the Hawaii Insurance Law, your Committee has seriously considered the reservations.

Your Committee recognizes that captive insurance companies operate under different circumstances than other insurance companies and that the same statutory restrictions may not apply to both. Your Committee, however, feels that the effects of insolvencies of captive insurance companies have the potential of redounding more adversely on persons to whom insureds are liable than on the insureds themselves. Thus, your Committee has amended the bill to establish greater protection against insolvencies. Among the more significant amendments are the following.

(1) The minimum capitalization and surplus of captive insurance companies are required to be established by the Insurance Commissioner. Under the bill, as received, minimum capital and surplus amounts were set statutorily. Your Committee finds that the Insurance Commissioner should have the authority to establish these requirements and intends that the Insurance Commissioner exercise the authority to protect the public as well as maintain the solvency of captive insurance companies. In addition, the minimum capital and surplus are allowed to be in the form of securities approved by the Insurance Commissioner.

(2) The reporting requirements under section -7 in the bill, as received, have been completely replaced. Among other things, the new provisions require an independently audited annual financial statement, which is required to include actuarially appropriate loss reserves. An actuarial opinion of the loss reserves by a member of the American Academy of Actuaries or other qualified loss reserve specialist is required to be included in the statement.

(3) Failure to maintain actuarially appropriate loss reserves is made grounds for the revocation or suspension of a license.

(4) Investments of captive insurance companies are made subject to the applicable provisions of the Hawaii Insurance Law. Under the bill, as received, pure captive insurance companies were explicitly exempt from the investment provisions and association captive insurance companies were not subject to explicit statutory guidelines.

(5) Reinsurers with whom captive insurance companies cede risks are required to be approved by the Insurance Commissioner.

(6) The Insurance Commissioner is required to submit proposed legislation to the Legislature, if deemed necessary, to further protect insureds of captive insurance companies and persons to whom the insureds may be liable.

(7) The provisions on captive insurance companies are made effective on July 1, 1987. Thus, the appropriation for the Insurance Commission to regulate captive insurance companies has been deleted. Your Committee intends to review the provisions of this bill again during the Regular Session of 1987.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1694-86, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1694-86, H.D. 1, S.D. 2.

Signed by all members of the Committee.

SCRep. 829-86 Consumer Protection and Commerce on H.B. No. 1940-86

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. This bill is a companion bill to S.B. No. 1514-86, S.D. 1, passed earlier by the Senate. The differences between the two bills are minor, with two exceptions of a substantive nature. Your Committee believes the House version better achieves the goal of clarifying the law.

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.

Your Committee heard testimony from 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. All supported the bill without qualification.

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:

(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 believes the following definitions worthy of comment:

(a) On pages 1 and 2 the definition of "consumer credit" parallels that contained in the federal Truth in Lending Act except the bill increases to \$100,000 the "floor" above which credit will not be considered consumer credit unless it is secured by the consumer's principal dwelling. Your Committee believes that 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, the definitions of "credit card" and "credit card agreement" are simply a restatement of the existing statutory definitions of those terms. 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. The bill further clarifies that provision by confirming that equity lines of credit enjoy the same status as overdraft lines of credit.

(c) On page 2, 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.

(d) On page 3, the definition of "real property" eliminates the need, in later sections, for an expansive description of what is covered by the term in addition to what is customarily understood to be real property.

(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. The first subsection continues in effect the rate limitation of 1 percent per month which applies to credit transactions which are the subject of a written contract, but restricts that limitation to consumer credit transactions and home business loans. The subsection also continues in effect the limitation of 18 percent per year which applies to credit card agreements. Home business loans made by lenders not authorized to lend under Chapter 408 and secured by junior mortgages of a dwelling are 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. The federal Truth in Lending Act has been in effect for over 16 years and consumers and creditors alike have become familiar with the terms "annual percentage rate" and "finance charge". Therefore, the second subsection provides an alternative permissible rate to the simple interest rate permitted by the first subsection. To avoid unnecessary litigation, however, the second subsection also provides 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. The third subsection, in effect, deregulates credit transactions other than consumer credit transactions, home business loans and credit card agreements. This will permit commercial credit transactions (except for home business loans) to have their interest rates and other charges determined by the market. The fourth and final subsection makes clear that the rate limitations provided in the first two subsections are inapplicable to transactions covered by Chapter 408 (relating to industrial loan companies) and Chapter 476 (relating to credit sales).

(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. The bill includes 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 478-4 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 it is 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. Both your Committee and the House Committee considering this bill considered other amendments to this section. However, your Committee concurs that further amendments are not necessary. While court decisions construing this section are few in number, those which have considered the matter, including Bolte v. Akau, 8 Haw. 742 and Jones v. Wight, 8 Haw. 614, have adequately and correctly construed the intent of the statute.

(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 modifies many of the exemptions provided by existing law and deletes others which are unnecessary.

Subsection (a) of Section 478-8, which exempts from the defense of usury any loan the principal amount of which exceeds \$750,000, is deleted as unnecessary in view of the fact that

the bill generally exempts commercial lending transactions from any interest rate limitation.

Subsection (b) of Section 478-8 is similarly unnecessary in view of the exemption afforded commercial credit transactions and is deleted by the bill.

Subsection (c) of Section 478-8 is redesignated as subsection (a) and 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. The bill clarifies that the exemption from application of the provisions of the chapter, rather than encompassing all provisions of the chapter (including the exemption), applies to the transactions enumerated in the subsection and further clarifies that the provisions of Section 478-3 pertaining to the rate of interest allowed upon a judgment, apply to the mortgage loans referred to in the subsection. The continued applicability of Section 478-3 to such loans is necessary in the event such mortgage loans are foreclosed and any monetary judgment is rendered as a part of such foreclosure proceedings. As to any such judgment, the limitations provided by Section 478-3 should continue to apply.

This bill deletes subsection (d) of Section 478-8. This subsection 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 subsection is both unnecessary and redundant.

Subsection (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 subsection and eliminates certain of the exemptions as being unnecessary in view of the earlier exemption provided for commercial credit transactions. The bill inserts in the first sentence of this subsection the same language as that inserted in subsection (a) for the same reasons as noted with respect to that section.

(a) Paragraph (1) of this subsection continues in effect the present exemption afforded first mortgage liens on real property. The bill amends this paragraph by deleting the references to residential cooperative housing corporations 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) Paragraph (2) of this subsection, as contained in the bill, continues in effect the exemption for agreements of sale. In view of the exemption afforded commercial credit transactions, the bill includes a specific reference to consumer credit agreements of sale in order to avoid any implication of a limitation of the exemption in favor of commercial credit transactions. The bill also effects a rearrangement and rewording of portions of this paragraph because previous amendments of the paragraph have created the potential for confusion. The rearrangement also confirms the original legislative intent that the limitation on interest rates which can be charged with respect to agreements of sale on renegotiation or extension applies only to agreements of sale entered into on or after July 1, 1985.

(c) The exemption for purchase money mortgages is continued.

(d) The bill adds a new paragraph to the section to eliminate the need for the so-called "merchant exception" provided by Section 478-8(h) of the present law. The present wording of the exemption is imprecise and potentially too broad in its scope. Your Committee does not intend, however, by the inclusion of the designated transactions in this section to preclude, for example, a seller from charging open account interest under Section 478-2.

(e) The wording of existing Subsection (f) is improper in that it is doubtful any plan of the type referred to would qualify for the exemption. The bill, therefore, has amended the subsection in the same manner as Act 16, Session Laws of Hawaii 1985 which amended Chapter 237 to afford a tax exemption to employee benefit plans. This amendment will achieve the intent of the original exemption.

(f) The bill proposes deletion of subsections (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 has amended the bill by underscoring the letters "(a)" on page 9, line 13, and

"(c)" on page 12, line 18 to conform to proper Ramseyer format. Your Committee has further amended the bill by deleting the word "paragraph" and inserted the word "subsection" on page 6, line 8 to correctly reflect the divisions of a section; and also inserted a semi-colon and the word "or" on page 12, line 6, which was inadvertently omitted. Finally, your Committee has amended the bill by deleting the phrase "signed by the party to be charged therewith" as it appeared on pages 4, 5, and 6. Your Committee believes that this language is unnecessary in light of the federal Truth In Lending Act and Section 476-3(a)(3), Hawaii Revised Statutes, which addresses this matter.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1940-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1940-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Chang, Kawasaki and Young.

SCRep. 830-86 (Joint/Majority) Health and Transportation on H.B. No. 2312-86

The purpose of this bill is to prohibit vessels from discharging pollutants into state waters.

Specifically, the bill does the following:

- (1) Includes discharge of pollutants by vessels in state waters among the prohibitions provided in Section 342-33, Hawaii Revised Statutes;
- (2) Provides that anyone causing an unlawful discharge has an affirmative duty to report the incident to the Director of Health within twenty-four hours;
- (3) Requires the Department of Health to investigate the incident or report, assess the adequacy of corrective measures being taken, and prescribe additional remedial actions and the time frame in which they must be taken, if warranted; and
- (4) Provides that failure to report an unlawful discharge or take corrective action shall be punishable by a fine for each day of violation in an amount necessary for clean-up, but not to exceed \$15,000 per day of violation, with legal interest accruing from the first day of violation.

Your Committees heard testimony by the Department of Health and others and find that recent incidents of sewage discharge from interisland cruise ships indicate that there are serious deficiencies in the ability of the State to respond to violations of water quality standards. Your Committees further find that state agencies are constrained by current law from appropriately penalizing violators, and that authority must be granted to the Department of Health so that it may deal quickly and effectively with violators. This bill would grant such specific statutory authority, and would thus add a significant measure of protection to Hawaii's valuable water resources.

Your Committees have amended the bill as follows:

- (1) Deleted Section 1;
- (2) Changed the word "shall" to "may" as it appears on page 2, lines 17, 18, and 22;
- (3) Adjusted the maximum fine for failure to report unlawful discharge or take corrective action from \$15,000 per day of violation to \$10,000 per day;
- (4) Amended Section 266-55, Hawaii Revised Statutes, which provides penalties for harbors violations enforced by the Department of Transportation, by raising the maximum fine from \$1,000 to \$10,000 per offense;
- (5) Changed the effective date of the Act to July 1, 1986; and
- (6) Made technical changes which have no substantive effect.

Your Committees believe that this bill, as amended, will provide the authority necessary for the state agencies to properly enforce harbor and state water pollution violations.

Your Committees on Health and Transportation are in accord with the intent and purpose of H.B. No. 2312-86, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 2312-86, H.D. 1, S.D. 1, and be placed on the calendar for

Third Reading.

Signed by all members of the Committees except Senators Kawasaki and George. Senators Soares and A. Kobayashi did not concur.

SCRep. 831-86 Consumer Protection and Commerce on H.B. No. 2525-86

The purpose of this bill was to prohibit mid-term cancellations of insurance policies except under certain conditions, to provide for a written notice requirement when cancellation is permitted and to restrict arbitrary nonrenewal of 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 nonrenewal 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 have established notice requirements, and several other states are presently considering similar statutory amendments. Therefore, this bill would not be unduly burdensome on insurers since 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 and classes of insurance policies as determined by the Insurance Commissioner;
2. Subsection (b) 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 cancellation upon notice if cancellation is from nonpayment;
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;
5. Subsection (e) provides the notice requirements necessary for the effectiveness of new terms and rates and grounds for which a policy holder may elect to cancel a renewal policy.
6. Subsection (f) provides that the insurer who does not state sufficient facts for cancellation or nonrenewal must submit that information within ten working days after a written request from a policyholder.
7. Subsection (g) provides for the effectiveness of a cancellation or nonrenewal if a risk-sharing plan exists for the kind of coverage provided by the insurance being cancelled or renewed.
8. Subsection (h) provides that there is no liability on the part of the insurer, its representatives, agents, employees or any persons furnishing to the insurer information concerning its cancellation or nonrenewal unless actual malice is shown by clear and convincing evidence.

Your Committee has amended the bill by extending the minimum time allowed for renewal notices to be sent out from fourteen to thirty days; and by allowing renegotiation between the insurer and the insured after a nonrenewal notice is sent out.

Your Committee heard testimony that the State is in the midst of an insurance capacity crisis. Insurers are selectively writing and in certain cases, abandoning certain lines of insurance. The Insurance Commissioner informed your Committee that for the most part, specialty lines carriers have abandoned Hawaii, leaving businesses such as rent-a-car and pest control operators in a panic.

However, your Committee also heard testimony from the Hawaii Independent Insurance Agents that insurance carriers generally do not consider Hawaii to be a good place to do business, and that if this situation is not corrected, it could result in insurance carriers leaving this market place because of reinsurance agreements and financial conditions.

Your Committee believes that there is a need to establish a better environment for

attracting property and casualty insurers in all lines. Your Committee also believes that there is a need to change the scale of automobile insurance affordability so that good drivers do not subsidize bad drivers and prevent drivers from securing affordable insurance premiums due to the "take-all-comers" provision in the existing law.

Your Committee has accordingly further amended the bill by:

(a) Amending subsection 294-9(b), Hawaii Revised Statutes, to provide that except as provided in subsection (d), an application for a no-fault policy, including required optional additional insurance meeting provisions of Section 294-11, covering a motor vehicle shall not be rejected by an insurer authorized to issue a no-fault policy unless the insurer has offered joint underwriting coverage through a servicing carrier to the applicant.

(b) Amending subsection 294-9(c), Hawaii Revised Statutes, to provide that a no-fault policy, including required optional insurance meeting provisions of Section 294-11, once issued shall not be canceled or refused renewal by an insurer unless the insurer has offered joint underwriting coverage through a servicing carrier to the applicant.

(c) Deleting the requirement in subsection 294-9(d), Hawaii Revised Statutes, that an insurer may reject or refuse to accept additional applications for, or refuse to renew no-fault policies if the insurer cease to write any new policies of insurance of any kind in this State.

(d) Deleting the requirement of subsection 294-22(a), Hawaii Revised Statutes, that the Insurance Commissioner shall establish classifications of eligible persons and uses for which the joint underwriting plan shall provide both the required no-fault policies and any optional insurance an eligible person or user applies for.

(e) Deleting the requirements of subsection 294-22(b), Hawaii Revised Statutes, that the Hawaii Joint Underwriting Plan shall provide all no-fault benefits and policies for all motor vehicles owned by licensed assigned risk drivers as the Commissioner shall, by regulation define; all motor vehicles owned by licensed drivers convicted within the thirty-six months immediately preceding the date of application of various offenses; all commercial uses, first class, defined as any commercial use engaged in the transport of passengers for hire or gratuitously; all commercial uses, second class, defined as any commercial business, or institutional use; and all motorcycles, motor scooters, and vehicles with less than four wheels required to be registered under Chapter 286.

(f) Amending Sections 294-24 and 294-33 to provide that age and length of driving experience may be used as a possible standard when setting rates.

(g) Adding a new section to Chapter 294 to allow any insurer to provide for a surcharge of fifty percent of an aggregate amount, as more specifically calculated in the section, against any insured based upon the classification of age or length of driving experience factors.

In line with your Committee's concern with creating an attractive environment for insurers, it endorses H.B. No. 1692-86, H.D. 2, S.D. 2, which the Committee on Ways and Means recommends for favorable consideration. That bill contains comprehensive reforms of the tort system which should have a major impact on insurance rates. In view of the reforms proposed in H.B. No. 1692-86, H.D. 2, S.D. 2, your Committee believes that mandating immediate reductions in casualty insurance rates is not unwarranted. Accordingly, the bill has been amended to include a provision mandating a reduction in insurance premiums to the levels existing on January 1, 1982 if H.B. No. 1692-86, H.D. 2, S.D. 2, becomes law. No increase in rates would be allowed until July 1, 1987 and thereafter, rates may be increased at a rate not to exceed ten percent a year until July 1, 1991.

The bill has also been amended to require, from the effective date of the bill, annual refunds or rebates to insureds in the amount of seventy-five percent of annual investment income earned by all general casualty insurers. Administrative operating expenses, plus profit, but excluding taxes, would be limited to fifteen percent of earned premium income per annum.

Further, the Insurance Commissioner is required to study the effect of the tort reforms on the operation of insurers and make yearly reports to the Legislature.

Your Committee emphasizes that the reduction in premiums and refunds will only become effective if the extensive tort reforms proposed in H.B. No. 1692-86, H.D. 2, S.D. 2, are enacted. It is your Committee's belief that the provisions of this bill and H.B. No. 1692-86, H.D. 2, S.D. 2, taken together, will result in benefit to insurers, insureds, and the general public.

Your Committee on Consumer Protection and Commerce is in accord with the intent and

purpose of H.B. No. 2525-86, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2525-86, H.D. 1, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki and Young.

SCRep. 832-86 Ways and Means on H.B. No. 1692-86

The purpose of this bill is to address several aspects of tort law that are viewed as causes of the high cost and difficulty of obtaining liability insurance, while fully respecting victim's rights.

Your Committee is convinced that modifying the tort system will affect the price and availability of liability insurance. In reviewing the experience of the California Medical Injury Compensation Reform Act of 1975 (MICRA), your Committee found that there is compelling evidence that such medical tort reforms have a significant effect in stabilizing insurance rates.

MICRA includes tort reforms similar to those your Committee is recommending, such as a cap on noneconomic damages, a sliding scale for attorneys' fees, and periodic payments. These tort reforms have withstood legal challenges before the Supreme Court of the United States.

The effect of MICRA in stabilizing insurance rates can be assessed in several ways. First, comparison of average medical malpractice awards between California and the rest of the nation shows that the California average of \$396,662 was only 40% of the national average of \$974,858 in 1984. In that same year, however, the California average award for all personal injury suits was slightly higher than the national average. California, significantly, has not enacted tort reforms in areas other than medical malpractice.

The final report of the Governor's Advisory Committee on Insurance Capacity noted that the Medical Insurance Exchange of California (MIEC), which writes approximately 60% of the medical malpractice insurance in Hawaii, has indicated that MICRA has helped to stabilize insurance markets in California. MIEC has estimated that premium increases have averaged only 4.9% compounded per year since the enactment of MICRA in 1975.

In contrast, medical malpractice insurance rates have dramatically increased in Hawaii where tort reform has not yet been enacted. The following table, supplied by MIEC, graphically demonstrates that tort reform does stabilize insurance rates:

<u>Specialty</u>	<u>Hawaii</u>			<u>California</u>		
	<u>1975</u>	<u>1985</u>	<u>Pct.</u>	<u>1975</u>	<u>1985</u>	<u>Pct.</u>
Internist	\$ 1,041	\$ 5,924	469%	\$ 3,000	\$ 5,112	70%
Surgeon	5,293	21,721	310%	9,524	16,864	77%
Obstetrician	4,498	42,783	851%	15,000	33,212	121%

Your Committee has amended the bill to include substantive tort reform provisions. We believe that unless meaningful tort reforms are enacted, there will be only minimal effect upon liability insurance markets. Therefore, in order to moderate premium increases and to expand insurance availability, your Committee has made the following amendments:

1. Section 1 has been amended by imposing a sliding scale on contingent fees for attorneys and deleting the cap on defense attorneys. Your Committee believes that a sliding scale on contingent fees would ensure that more of the money in an award or settlement would go to the plaintiff, without denying reasonable compensation to the attorney.
2. Section 2 has been amended by imposing a cap of \$250,00 on noneconomic damages in tort actions other than medical torts. For medical torts, your Committee has imposed a cap of \$750,000 and has specifically authorized judges to reduce judgments that are thought to be excessive in this area. The Rand Institute for Civil Justice has found that states with a cap on noneconomic damages reduce the amount of an average settlement by 25 per cent, reduce the number of cases going to verdict from 5.1 per cent to 4.6 per cent, and increase the number of cases dropped from 43 per cent to 48 per cent. Your Committee notes that MICRA provides for a \$250,000 cap on noneconomic damages that has withstood both state and federal constitutional challenges.
3. Section 3 has been amended by deleting the provision allowing the defendant's amount of liability insurance admissible. Your Committee finds that admitting such evidence would serve no useful purpose in determining either the actual negligence of the defendant or

the extent of damages to the plaintiff.

4. Section 4 has been deleted so that the current law regarding jury instructions on comparative negligence will remain unchanged.
5. Section 5 has been amended by requiring that defendants will be responsible only for their degree of negligence as determined by a judge or jury. Your Committee finds that the existing joint and several liability law can lead to grossly unfair allocation of payments among defendants that bears no resemblance to their actual fault. This has the effect of exacerbating the existing unfair bias against deep-pocket defendants identified by the Rand Institute for Civil Justice, where such defendants were found at fault more often and had to pay higher damages than individual defendants in cases involving similar circumstances.
6. Section 6 has been deleted so that the current title to Part I of Chapter 663, Hawaii Revised Statutes, will remain unchanged.
7. Section 7 has been amended by providing a more reasonable standard under which lawsuits and claims can be found frivolous. Your Committee finds that the current standard requiring claims to be "completely frivolous" and "totally unsupported by the facts and the law" is a standard that can rarely be met. Your Committee believes that establishing a more reasonable standard to challenge frivolous lawsuits would help to deter the filing of such lawsuits.
8. Section 8 has been deleted. The changing of the joint and several liability law in Section 5 would adequately address the concerns of the counties in this area.

In addition to the amendments noted above, your Committee has included sections to provide further substantive tort reform:

1. A section has been added to prohibit the imposition of punitive damages. Your Committee finds that the punishment and deterrence aspects of punitive damages are more appropriate in the criminal justice context and the mere threat of such damages serves to coerce or intimidate a defendant into settling a case, even where liability may be slight or nonexistent. Moreover, your Committee notes that eliminating punitive damages would help to stabilize the costs of the tort system.
2. A section has been added to allow a court to require all or part of a judgment in excess of \$100,000 to be paid by periodic payments. Your Committee finds that such payments help to guarantee that necessary funds will be provided to the plaintiff as they are needed.
3. A section has been added to prohibit the use of "ad damnum" clauses in lawsuits. Your Committee finds that a claim should state only the reasons for the lawsuit and the allegations against the defendant, not the dollar amount that is being sought. Your Committee believes that the existing use of the ad damnum clause can influence a jury to return an excessive verdict.
4. A section has been added to provide protection for health care providers from strict liability for iatrogenic reactions. Such providers, however, shall remain liable for their own negligence or willful misconduct.
5. A section has been added to provide protection for hospital or clinic quality assurance committees from liability for acts done to carry out their duties.
6. A section has been added to require that claimants or their attorneys shall certify in writing that a licensed health care provider has been consulted and who concludes that there is a reasonable basis for a medical malpractice lawsuit.
7. A section has been added to allow a health care provider to choose to arbitrate under a court-annexed arbitration program after a medical claim conciliation panel has issued its decision. This section also provides that a party who files a lawsuit after arbitration shall pay for costs and attorney's fees if the subsequent litigation fails to improve the arbitration award by at least 15 percent.

In summary, your Committee finds that this bill as redrafted will provide substantive tort reform. Such reform will help to stabilize Hawaii's insurance market by fostering predictability, affordability, and availability of insurance, while still ensuring fair treatment of injured parties.

Because of the meaningful tort reforms contained in this bill and the convincing evidence

that such reforms have a significant effect on insurance rates, your Committee finds that immediate reduction and stabilization of insurance rates is warranted. Therefore, your Committee included a provision in the bill that makes its enactment effective only if H.B. No. 2525-86 dealing with the issue of insurance rates becomes law.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1692-86, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1692-86, H.D. 2, S.D. 2.

Signed by all members of the Committee.

SCRep. 833-86 Judiciary on H.B. No. 2569-86

The purpose of this bill is to express Aloha as the essence of the law in the State of Hawaii.

The bill defines the Aloha Spirit in a way that conveys its relevance and importance to the State and its people. The bill also invites those who govern Hawaii to be guided by the Aloha Spirit.

Your Committee finds that the bill renews and strengthens the State's commitment to the Aloha Spirit as the spirit that infuses Hawaii and lives in its people.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2569-86, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 2569-86, S.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Abercrombie, Aki, Cobb, Kuroda and George.

SCRep. 834-86 Education on S.R. No. 39

The purpose of this resolution is to request the Department of Education (DOE) to study the feasibility of establishing magnet schools in the public school system.

The resolution also requests the DOE to recommend a plan and propose a budget to implement the magnet school concept as a pilot project, if appropriate.

The magnet school concept is an innovative method of delivering educational services, whereby the most promising or talented students in a particular subject area are provided special instruction or educational opportunities to develop their abilities in groups within a designated school.

Presently, the concept is in practice only in the Castle Complex Performing Arts Pilot Program of the Windward School District. Although initiated last year, the program has shown great potential.

Your Committee finds that the magnet school concept has many advantages to students, teachers, and the community. The concept may provide schoolwide recognition of student achievement, increase student and teacher expectations, encourage parental involvement and support, increase the community's awareness of, interest in, and expectation for quality school programs, and hopefully reduce the increasing exodus of some of Hawaii's best students and teachers out of the public school system.

Your Committee has amended this resolution by requesting the Board of Education (Board) rather than the DOE to conduct the study, since the Board is the proper policy-making authority.

In consideration of testimony submitted by the DOE, your Committee also amended the resolution by including "learning center" with "designated school" as locations available to magnet schools, which is the current policy practiced by the DOE.

The DOE also requested an extension of the deadline to report its findings and recommendations due to the complexity of the study. In compliance with the request, your Committee has amended the resolution to require a preliminary report of findings and recommendations to be submitted to the Senate during the 1987 Regular Session followed by a final report to be submitted twenty days prior to the convening of the 1988 Regular Session.

Your Committee's amendment regarding the different types of staffing and organizational configuration that would be best for the DOE was included as an issue to be examined to provide additional insight in the comparison between designated schools and learning centers.

Your Committee also heard testimony from the Hawaii State Teachers Association, the Commission on Employment and Human Resources, the Executive Council of Alliance for Drama Education, and concerned parents and citizens. All supported the resolution as amended by your Committee.

Your Committee on Education concurs with the intent and purpose of S.R. No. 39, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 39, S.D. 1.

Signed by all members of the Committee.

SCRep. 835-86 Education on S.C.R. No. 17

The purpose of this concurrent resolution is to request the Department of Education (DOE) to study the feasibility of establishing magnet schools in the public school system.

The concurrent resolution also requests the DOE to recommend a plan and propose a budget to implement the magnet school concept as a pilot project, if appropriate.

The magnet school concept is an innovative method of delivering educational services, whereby the most promising or talented students in a particular subject area are provided special instruction or educational opportunities to develop their abilities in groups within a designated school.

Presently, the concept is in practice only in the Castle Complex Performing Arts Pilot Program of the Windward School District. Although initiated last year, the program has shown great potential.

Your Committee finds that the magnet school concept has many advantages to students, teachers, and the community. The concept may provide schoolwide recognition of student achievement, increase student and teacher expectations, encourage parental involvement and support, increase the community's awareness of, interest in, and expectation for quality school programs, and hopefully reduce the increasing exodus of some of Hawaii's best students and teachers out of the public school system.

Your Committee has amended this concurrent resolution by requesting the Board of Education (Board) rather than the DOE to conduct the study, since the Board is the proper policy-making authority.

In consideration of testimony submitted by the DOE, your Committee also amended the concurrent resolution by including "learning center" with "designated school" as locations available to magnet schools, which is the current policy practiced by the DOE.

The DOE also requested an extension of the deadline to report its findings and recommendations due to the complexity of the study. In compliance with the request, your Committee has amended the concurrent resolution to require a preliminary report of findings and recommendations to be submitted to the Senate during the 1987 Regular Session followed by a final report to be submitted twenty days prior to the convening of the 1988 Regular Session.

Your Committee's amendment regarding the different types of staffing and organizational configuration that would be best for the DOE was included as an issue to be examined to provide additional insight in the comparison between designated schools and learning centers.

Your Committee also heard testimony from the Hawaii State Teachers Association, the Commission on Employment and Human Resources, the Executive Council of Alliance for Drama Education, and concerned parents and citizens. All supported the concurrent resolution as amended by your Committee.

Your Committee on Education concurs with the intent and purpose of S.C.R. No. 17, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 17, S.D. 1.

Signed by all members of the Committee.

SCRep. 836-86 Higher Education on S.R. No. 79

The purpose of this resolution is to request the University of Hawaii to immediately develop and implement short term solutions to address the student parking situation at the University of Hawaii at Manoa.

Your Committee finds that student access to parking at the University of Hawaii at Manoa is becoming increasingly limited as new construction projects replace available parking areas.

Your Committee notes with concern that current estimates indicate a need for a minimum of at least 2,000 additional parking spaces specifically for students.

In a public hearing on this resolution, your Committee has learned that the University is aware of the situation and has included a proposal for a second parking structure in its list of requests for new capital improvement projects for the 1987-1989 fiscal biennium. Due to the immediate urgency of the problem, however, the University has recently explored the feasibility of using vacant undeveloped land as temporary sites for student parking. At the present time, a parcel of land has been identified for use as a temporary parking area with a capacity of 200 to 225 stalls. The University is proceeding with plans to convert this area for parking use at an approximate cost of \$175,000 which will be paid from parking revenues.

Your Committee has amended this resolution to correct a typographical error in the last line of the third "Be It Resolved" clause by changing the year "1986" to 1987.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 79, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 79, S.D. 1.

Signed by all members of the Committee.

SCRep. 837-86 Economic Development on S.R. No. 19

The purpose of this resolution is to request legislative review of action taken by the Board of Land and Natural Resources, as required by Section 171-50, Hawaii Revised Statutes, on the exchange of public land for private land, which is subject to disapproval by the Legislature by two-thirds vote of either the Senate or the House of Representatives or by a majority vote of both bodies.

Your Committee received testimony from the Department of Land and Natural Resources requesting the review of action for the exchange of land between the State and Mr. and Mrs. Arthur C. Lum for a parcel of 11,087 square feet located in Waimanalo. This exchange would enable the State to acquire land needed for road access within the Waimanalo Agriculture Park.

Your Committee finds that this land exchange meets the requirements of the provisions of Section 171-50, Hawaii Revised Statutes, and accordingly, does not disapprove this exchange.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 19 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 838-86 Economic Development on S.R. No. 5

The purpose of this resolution is to request the U.S. National Oceanic and Atmospheric Administration (NOAA) to give immediate priority attention to full restoration of weather satellite coverage to the mid-Pacific, by allocating geostationary satellites or any other methods which would achieve the desired level of weather coverage.

Your Committee finds that the movement of the current geostationary satellite responsible for generating weather information in the mid-Pacific area is positioned so that Hawaii is "toward the edge" of the satellite picture, resulting in distortions and forecasting inaccuracy. Your Committee further finds that the country's highest hurricane risk areas are the mid-Pacific region, and therefore Pacific marine, aviation, and public safety are critically dependent upon accurate weather information.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 5 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 839-86 Consumer Protection and Commerce on H.B. No. 1803-86

The purpose of this bill is to exclude from the Residential Landlord-Tenant Code the unique relationship between a seller and a prospective buyer who occupies an apartment unit or home prior to the completion of the sale or transfer of property.

Your Committee is in agreement that the relationship between a seller and a prospective buyer of property is of a special nature and should be exempt from the Code.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1803-86, H.D. 1 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Kawasaki, Matsuura, Young and Henderson.

SCRep. 840-86 Consumer Protection and Commerce on H.B. No. 1903-86

The purpose of this bill is to add the waters of Barbers Point Deep Draft Harbor and adjoining shoal waters to the pilotage waters of the State.

Under existing law, the waters of six ports in the State are described as pilotage waters. Barbers Point would become the seventh.

Your Committee received testimony from the Department of Commerce and Consumer Affairs and finds that the description of the Barbers Point pilotage water was prepared by the Harbors Division of the Department of Transportation in conjunction with their Department and has the concurrence of the U.S. Coast Guard, Captain of the Port, and the President of Hawaii Pilots. It is expected that vessels required to take a pilot will be traversing these waters prior to the close of the next legislature. Therefore, in light of the objectives of maritime pilotage and the enhancement of safety, your Committee finds that this bill is in the public interest.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1903-86, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Kawasaki, Matsuura, Young and Henderson.

SCRep. 841-86 Consumer Protection and Commerce on H.B. No. 2037-86

The purpose of this bill is to strengthen the laws regulating the massage profession.

Specifically this bill deletes the "good moral character" requirement for licensing of massage therapist; deletes the option of waiver of examinations; authorizes the Board of Massage to contract for examination services with an independent testing agency; establishes provisions for cumulative remedies; and provides the Department of Commerce and Consumer Affairs the right to apply for an injunction to restrain any violation of Chapter 452, Hawaii Revised Statutes.

Your Committee finds that this bill will serve to protect the consumer and insure the integrity of the massage profession.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2037-86, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Kawasaki, Matsuura, Young and Henderson.

SCRep. 842-86 Consumer Protection and Commerce on H.B. No. 2354-86

The purpose of this bill is to allow apartment owners to own or have designated parking stalls appurtenant to their respective apartments.

Under this bill, if a developer or condominium association rents parking stalls to apartment owners, a majority of the owners may request the Real Estate Commission to appoint an appraiser to establish a purchase price for each stall for its prospective owner. It also requires that sales contracts for any newly constructed apartments shall include ownership of parking stalls or else designate stalls to be appurtenant to the apartments as limited common elements.

Your Committee received testimony on this bill from the Hawaii Council of Associations of Apartment Owners and the Horizontal Property Regime Committee of the Hawaii State Bar Association and finds that allowing apartment owners to own or have exclusive use of parking stalls in their buildings is consistent with the regulatory purpose of the Horizontal Property Regime law and is therefore in the public interest.

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

Signed by all members of the Committee except Senators Cayetano, Kawasaki, Matsuura, Young and Henderson.

SCRep. 843-86 Consumer Protection and Commerce on H.B. No. 2375-86

The purpose of this bill is to exempt a person operating a motor vehicle owned by that person's employer, from the general penalty provisions of the mandatory insurance law.

Presently, a person operating a motor vehicle owned by that person's employer during the normal scope of that person's employment, is liable for any penalties imposed because of the motor vehicle's lack of proper motor vehicle insurance. Your Committee finds that an employee should not be held responsible for an employer's obligation of acquiring motor vehicle insurance.

This bill penalizes an employer instead of an employee for not acquiring motor vehicle insurance for a motor vehicle owned by the employer.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2375-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Kawasaki, Matsuura, Young and Henderson.

SCRep. 844-86 Consumer Protection and Commerce on H.B. No. 2118-86

The purpose of this bill is to authorize the use of the Western Region Consumer Price Index instead of the Honolulu Metropolitan Area Consumer Price Index to compute the medical-rehabilitative tort threshold under the Hawaii No-Fault Insurance Law.

Your Committee received favorable testimony from the Insurance Division of the Department of Commerce and Consumer Affairs (DCCA). Act 181, Session Laws of Hawaii 1985, requires the Insurance Commissioner 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 Insurance Division 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 found 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 except Senators Kawasaki, Matsuura and A. Kobayashi.

SCRep. 845-86 Consumer Protection and Commerce on H.B. No. 2110-86

The purpose of this bill is to clarify and strengthen the licensure requirements for the chiropractic profession.

Specifically, this bill would:

- (1) Clarify the requirement that an applicant must pass all parts of the National Board of Chiropractic Examiners' examination in order to qualify for the state examination;
- (2) Change the examination grading system from a percentage basis to a point system;
- (3) Change the credit received for work experience from percent to points;
- (4) Authorize the Board of Chiropractic Examiners to contract for examination services with a testing agency;
- (5) Provide that the examination fee may be paid directly to a contracted testing agency.
- (6) Allow instead of require the state examination to include both practical demonstration and a written examination; and
- (7) Delete the provision that allows the board to accept an applicant who presents bona fide evidence as having passed the national board of chiropractic examiners' examination in lieu of the written portion of the state board of chiropractic examiners' examination.

Your Committee received testimony in favor of this bill from the Board of Chiropractic Examiners and finds that these provisions will add a significant measure of protection to consumers of chiropractic services and is therefore in the public interest.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2110-86, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Matsuura and A. Kobayashi.

SCRep. 846-86 Consumer Protection and Commerce on H.B. No. 1944-86

The purpose of this bill is to enable Hawaii state-chartered trust institutions to compete more effectively with Mainland-based national competitors.

Current Hawaii law does not specifically authorize trust institutions to provide the type of access to funds that the Mainland security brokers are presently providing. The Commissioner of Financial Institutions has authorized one local trust company to provide such access through drafts that are cleared through the commercial banking system. This program has been operating successfully, without problems, since November 1983.

This bill 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.

This bill also provides adequate protection for the public by requiring prior approval by the Hawaii Commissioner of Financial Institutions before any new services are provided.

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.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1944-86, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Matsuura and A. Kobayashi.

SCRep. 847-86 Consumer Protection and Commerce on H.B. No. 1937-86

The purpose of this bill is to amend Chapter 479, Hawaii Revised Statutes, to limit the application of freedom of choice provisions to lenders engaged in the business of making loans;

to amend the written notice requirement; and to strengthen the penalty provisions for violations under this chapter.

Currently, persons making insured loans who inadvertently fail to deliver a technical notice indicating that the borrower is free to procure the required insurance policy from any insurance company authorized to do business in the State, 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 notice requirement appears to extend to agreements of sale, in which case an individual selling property on credit may be in violation of this section. This bill clarifies the law by excluding such an individual from the scope of chapter 479, and specifies that chapter 479 shall apply only to loans made by lenders engaged in the regular business of making loans.

In addition to limiting the scope of this chapter, this bill also revises the form of the notice required under Section 479-2, Hawaii Revised Statutes, to make it consistent with Section 479-1, Hawaii Revised Statutes. This bill also provides that "written notice substantially stating that the insurer for any required insurance may be chosen by the borrower will also constitute compliance with this section."

Finally this bill will provide a significant penalty, in which 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.

Your Committee received testimony from the Department of Commerce and Consumer Affairs and other groups in support of the bill.

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

Signed by all members of the Committee except Senators Kawasaki, Matsuura and A. Kobayashi.

SCRep. 848-86 Consumer Protection and Commerce on H.B. No. 1859-86

The purpose of this bill is to clarify the definition of the term "no-fault benefits."

The term "personal injury protection benefits" is widely used in insurance policies and is understood to have the same meaning as the term "no-fault benefits" as defined in Chapter 294, Hawaii Revised Statutes. However, Chapter 294 contains no definition of "personal injury protection benefits."

To eliminate any confusion, this bill clarifies that the term "no-fault benefits" and the term "personal injury protection benefits" are synonymous.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1859-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Matsuura and A. Kobayashi.

SCRep. 849-86 Consumer Protection and Commerce on H.B. No. 1795-86

The purpose of this bill is to amend Section 514A-96, Hawaii Revised Statutes, to require a yearly unannounced verification of a condominium association's cash balance rather than an unannounced audit of its financial records.

The present law requires that an association have a yearly unannounced audit of its financial accounts, unless the audit is waived by a majority vote of all apartment owners taken at an association meeting. This provides some type of accounting of an association's funds and acts as a deterrent to embezzlement or misappropriation of funds.

This bill would require an unannounced "verification of cash balance" rather than an unannounced audit. Your Committee finds that this bill does not weaken the original intent of the unannounced audit because it will continue to provide protection to associations from fraud or embezzlement while at the same time be less burdensome for the association. The bill also allows both certified and non-certified public accountants to conduct the audit or verification required under section 514A-96, Hawaii Revised Statutes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1795-86, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Kawasaki, Matsuura and A. Kobayashi.

SCRep. 850-86 Transportation on Gov. Msg. Nos. 113, 190 and 293

Recommending that the Senate advise and consent to the nominations to the Medical Advisory Board of the following:

MICHAEL K. IMURA, M.D., and DAVID Y. KIMURA, M.D., for terms ending June 30, 1989; and

ARTHUR T. KOBAYASHI, O.D., MICHAEL M. OKIHIRO, M.D., and WILLIAM M. DANG JR., for terms ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 851-86 Transportation on Gov. Msg. Nos. 188 and 292

Recommending that the Senate advise and consent to the nominations to the Commission on Transportation of the following:

A. DUANE BLACK, JACK RICHARDSON, AH LEONG KAM and MARK H. HASTERT, for terms ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 852-86 Transportation on Gov. Msg. No. 189

Recommending that the Senate advise and consent to the nomination of KEITH T. BURLEY to the State Highway Safety Council, for a term ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 853-86 Human Services on H.B. No. 2345-86

The purpose of this bill is to enable Hawaii to join the Interstate Compact on Adoption and Medical Assistance, to allow children from Hawaii who are eligible for medical assistance to continue to receive such assistance even if they move to another state after being adopted.

Your Committee finds that Public Law 96-272 permitted, for the first time, partial federal reimbursement to states, under Title IV-E, for adoption assistance made to eligible children with special needs. Adoption assistance includes a monthly subsistence payment, as well as Title 19 medical benefits. These benefits follow the child and the adoptive parents regardless of where within the United States the family resides, during their continued eligibility.

However, it is rare that health care providers accept Medicaid cards from outside the state in which they are located. Consequently, some of Hawaii's children eligible for Title 19 medical benefits have not been able to receive the benefits when their adoptive families moved outside the State.

For prospective adoptive parents, this problem may deter their adopting children with special medical needs which are often extensive and long-term. If not adopted, such children remain in foster care and continue to be dependent on the State.

The Interstate Compact on Adoption and Medical Assistance assures continued access to medical services for children receiving Title IV-E adoption assistance who move across state lines with their adoptive parents.

Your Committee is in agreement with the Department of Social Services and Housing that adoption assistance, and assurance that this assistance will continue regardless of where within the United States the family resides, provides incentive for prospective parents to adopt these children with special needs, facilitating the placement of Hawaii's children in need of permanent families.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2345-86, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for

Third Reading.

Signed by all members of the Committee.

SCRep. 854-86 Human Services on H.B. No. 2121-86

The purpose of this bill is to standardize the state asset disregard limit for public financial assistance eligibility to \$1,000 for all applicants, and to conform the state Medicaid asset disregard limit to the federal limit.

Your Committee finds that current statutes provide a graduated asset disregard limit based on family size. Hawaii is one of three remaining states that has not standardized the limit to \$1,000 as permitted by federal regulations.

Your Committee is in agreement with the Department of Social Services and Housing that standardizing the asset disregard limit as proposed by this bill will facilitate the administration of the financial assistance program, as well as reduce administrative errors occurring in the application of multiple standards.

This bill also amends the state Medicaid asset disregard limit by making it compatible with the limits of the federal Supplemental Security Income (SSI) program. As both programs serve common recipients it is reasonable that they have common limits.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2121-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 855-86 Human Services on H.B. No. 2056-86

The purpose of this bill is to provide opportunity to all eligible Medicaid recipients to enroll in a health maintenance organization (HMO) or a prepaid health plan.

Your Committee finds that current statutes limit the participation in HMOs and health plans only to families in the Aid to Families with Dependent Children (AFDC) program. There is also a demonstration project for a six-month guaranteed enrollment program, which is likewise limited to AFDC families.

Your Committee is in agreement with the Department of Social Services and Housing and the Hawaii Medical Association that the opportunity to participate in HMOs and prepaid health plans should be extended to the entire Medicaid population, as proposed by this bill.

To establish consistency with the requirements for Federal financial participation, which limits federal matching funds for the six-month guaranteed enrollment program to federally qualified HMOs, this bill also clarifies that the six-month guaranteed program is available only to HMOs.

Your Committee on Human Services is in accord with the intent and purpose of H.B. No. 2056-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 856-86 Ways and Means on Gov. Msg. Nos. 244, 264 and 245

Recommending that the Senate advise and consent to the nominations to the various Boards of Taxation Review of the following:

GEORGE Y. KONDO to the Second Taxation District (Maui), for a term ending June 30, 1990;

ALBERT "BENNY" RODERO to the Third Taxation District (Hawaii), for a term ending June 30, 1990; and

WALLACE K. TASAKA to the Fourth Taxation District (Kauai), for a term ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 857-86 Ways and Means on S.C.R. No. 61

The purpose of this concurrent resolution is to request a study of the taxation of insurance premiums and the preferential rates being granted domestic insurance companies.

The United States Supreme Court has questioned the constitutionality of state laws which give preferential treatment to domestic insurance companies in Metropolitan Life Insurance, et al. v. Ward, W.G., et al. and remanded the case to the states. Hawaii is one of the states which gives preferential tax treatment to domestic insurance companies and many foreign insurance companies are paying the premium tax under protest, pending resolution of the issue.

This concurrent resolution calls for the appointment of a panel to study the issue with the purpose of formulating recommendations which, if implemented, will satisfy the parties involved and eliminate extended litigation and continued protest of tax payments.

Your Committee has made three amendments to this concurrent resolution. The word "one" has been replaced by "a substantial number of" in reference to foreign insurance companies in the third "WHEREAS" paragraph and the grammar has been conformed. The amendment reflects correctly the situation. The makeup of the panel to study the issue has been changed. Membership is to be composed of "individuals with expertise in the area of insurance" rather than "judges and attorneys". Your Committee feels that a panel with expertise and orientation is preferable. The second "RESOLVED" paragraph has been amended to explicitly state that the study is to be transmitted to the Legislature prior to the convening of the Regular Session of 1987.

Your Committee on Ways and Means concurs with the intent and purpose of S.C.R. No. 61, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 61, S.D. 1.

Signed by all members of the Committee.

SCRep. 858-86 Ways and Means on S.R. No. 84

The purpose of this resolution is to request a study of the taxation of insurance premiums and the preferential rates being granted domestic insurance companies.

The United States Supreme Court has questioned the constitutionality of state laws which give preferential treatment to domestic insurance companies in Metropolitan Life Insurance, et al. v. Ward, W.G., et al. and remanded the case to the states. Hawaii is one of the states which gives preferential tax treatment to domestic insurance companies and many foreign insurance companies are paying the premium tax under protest, pending resolution of the issue.

This resolution calls for the appointment of a panel to study the issue with the purpose of formulating recommendations which, if implemented, will satisfy the parties involved and eliminate extended litigation and continued protest of tax payments.

Your Committee has made three amendments to this resolution. The word "one" has been replaced by "a substantial number of" in reference to foreign insurance companies in the third "WHEREAS" paragraph and the grammar has been conformed. The amendment reflects correctly the situation. The makeup of the panel to study the issue has been changed. Membership is to be composed of "individuals with expertise in the area of insurance" rather than "judges and attorneys". Your Committee feels that a panel with expertise and orientation is preferable. The second "RESOLVED" paragraph has been amended to explicitly state that the study is to be transmitted to the Legislature prior to the convening of the Regular Session of 1987.

Your Committee on Ways and Means concurs with the intent and purpose of S.R. No. 84, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 84, S.D. 1.

Signed by all members of the Committee.

SCRep. 859-86 Tourism and Recreation on S.C.R. No. 47

The purpose of this concurrent resolution is to request the Legislative Auditor to conduct a financial, management, and program audit of the Hawaii Visitors Bureau (HVB), and to examine the administration of the HVB's contract with the Department of Planning and Economic Development (DPED).

Your Committee heard testimony from DPED and HVB. Your Committee finds from testimony that the last financial audit of HVB conducted by the Legislative Auditor was seventeen years ago. Since that time, HVB has undergone changes in management, operations,

and fiscal control.

Your Committee further finds that HVB is jointly funded by private contributions, fees, and public appropriations. Recognizing the importance of the visitor industry to Hawaii's economy, the Legislature has increased appropriations to HVB over the last five years. For fiscal year 1985-1986, State appropriations contributed seventy-six percent of HVB's operating budget.

Your Committee is in agreement that an audit of HVB conducted by the Legislative Auditor, as requested by this concurrent resolution, will be timely in light of changes in HVB since the last legislative audit, and will assist DPED in performing its fiduciary responsibilities.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.C.R. No. 47 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 860-86 Economic Development on Gov. Msg. Nos. 152, 153, 154, 209, 155, 210,
156, 208, 157, 207, 235, 252, and 276

Recommending that the Senate advise and consent to the nominations of the following:

MOSES KEALOHA to the Board of Land and Natural Resources, for a term ending June 30, 1990;

WINONA RUBIN, LAWRENCE CHUN and FREDERICK P. WHITEMORE to the Land Use Commission, for terms ending June 30, 1990;

GERALD H. KANG to the Aquatic Life and Wildlife Advisory Committee, County of Hawaii, for a term ending June 30, 1990;

HENRY OTA to the Aquatic Life and Wildlife Advisory Committee, County of Hawaii, for a term ending June 30, 1990;

STANLEY Y. OSHIMA and EDWIN K. YOKOUCHI to the Aquatic Life and Wildlife Advisory Committee, County of Maui, for terms ending June 30, 1990;

J. LEOLANI ABDUL KILLION to the Aquatic Life and Wildlife Advisory Committee, County of Maui, for a term ending June 30, 1990;

GLENN Y. IKEMOTO and HERBERT H. HONJO to the Aquatic Life and Wildlife Advisory Committee, County of Kauai, for terms ending June 30, 1990;

EDWIN A. EBISUI, JR., to the Aquatic Life and Wildlife Advisory Committee, City and County of Honolulu, for a term ending June 30, 1990;

THOMAS MOORE AND KWOCK TIM YEE to the Board of Directors, High Technology Development Corporation, for terms ending June 30, 1990;

RICHARD C. WASS, Ph.D., and KENNETH Y. KANESHIRO, Ph.D., to the Animal Species Advisory Commission, for terms ending June 30, 1990;

KILIKIUA ALVINA PARK to the Hawaiian Homes Commission, for a term ending June 30, 1990;

RALPH H. TAKAFUJI to the Hawaii Fisheries Coordinating Council, for a term ending June 30, 1988;

FRANK L. PETERSON, Ph.D., and KENNETH M. NAGATA to the Natural Area Reserves System Commission, for terms ending June 30, 1990; and

M. LEE GOFF, Ph.D., to the Natural Area Reserves System Commission, for a term ending June 30, 1989.

Signed by all members of the Committee.

SCRep. 861-86 Agriculture on Gov. Msg. No. 228

Recommending that the Senate advise and consent to the nominations to the Hawaii Aquaculture Advisory Council of the following:

BILL SALSER and BRUCE SMITH, for terms ending June 30, 1988;

ED MCSWEENEY, Ph.D., and GLENN TANOUE, for terms ending June 30, 1989; and

ROBERT HANOHANO, GEORGE LOCKWOOD AND WILLIAM ROWLAND, for terms ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 862-86 Agriculture on Gov. Msg. No. 227

Recommending that the Senate advise and consent to the nominations to the Governor's Agriculture Coordinating Committee of the following:

ALEX NAPIER JR., for a term ending June 30, 1989; and

YOSHITO TAKAMINE, for a term ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 863-86 Agriculture on Gov. Msg. No. 131

Recommending that the Senate advise and consent to the nomination of LELAN C. NISHEK to the Advisory Committee on Flowers and Foliage, for a term ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 864-86 (Joint) Agriculture and Economic Development on S.C.R. No. 14

The purpose of this concurrent resolution is to request the Board of Land and Natural Resources (BLNR) to formulate a plan to provide lessees of long-term leases of agricultural lands either the right of first refusal to purchase their lands in fee simple or the right to continue to lease such lands on terms mutually agreeable to both the lessees and the Board.

Your Committees find that it is of vital importance to the State that agricultural lands remain in agricultural use. Since the availability of agricultural lands has been a problem for certain segments of the farming community, the State has made public lands available for farming purposes through the issuance of leases and permits. However, this practice creates uncertainty of future tenancy by lessees and permittees on lands they have lived on and farmed for years.

Your Committees believe that a plan to provide those who are lessees, permittees, and holdover tenants of State agriculture lands with long-term security and tenancy by considering various alternatives, including purchase or lease of such lands, would be mutually beneficial to the agricultural industry in Hawaii and economic development in general.

The Chairman of the BLNR testified that rather than requesting the Board to formulate a plan limited to enabling lessees to purchase or acquire lease extensions, an examination of whether direct long-term farm tenancy should be provided should be examined. An appropriation to engage consultant services would be necessary to conduct this examination.

Your Committees concur with the Board's recommendation and has amended this concurrent resolution in its entirety, to authorize the Department of Land and Natural Resources to expend any funds at its disposal to formulate a plan to provide lessees, permittees, and holdover tenants of agricultural lands long-term security and tenancy by considering various alternatives, including the right of first refusal to purchase their lands in fee simple or the right to lease such lands on terms mutually agreeable to both the lessees and the Board.

Your Committees further agree that a proviso be submitted to the Ways and Means Committee specifically authorizing the use of existing funds from public lands management (LNR 101).

Your Committees have also amended this concurrent resolution to provide that until a plan has been presented to and approved by the Legislature, the Department of Land and Natural Resources should hold in abeyance any plans to lease or otherwise dispose of such lands, except where such action will not directly affect current permittees, and lessees, or where they are in violation of the provisions of their permits and leases, and have amended the title to reflect the content of the amended concurrent resolution.

Your Committees on Agriculture and Economic Development concur with the intent and

purpose of S.C.R. No. 14, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 14, S.D. 1.

Signed by all members of the Committees except Senator Henderson.

SCRep. 865-86 Agriculture on H.B. No. 1981-86

The purpose of this bill is to extend the Department of Agriculture's authority relating to forfeiture of animals to include any animal placed in provisional quarantine.

Provisional quarantine means a temporary or conditional isolation which is primarily used for imported birds and poultry, and affects approximately 20,000 imported birds and poultry annually. Provisional quarantine acts as an effective tool in preventing and controlling disease by providing a time period to study and detect the presence of any latent disease.

Although Section 142-11, Hawaii Revised Statutes, presently authorizes the Department to exercise its forfeiture rights when any animal is taken or removed from a permanent quarantine area or status before being duly discharged, it does not address animals placed in provisional quarantine.

This bill clarifies and expands the Department's authority over both quarantined and provisionally quarantined animals.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1981-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Matsuura and Henderson.

SCRep. 866-86 Economic Development on S.C.R. No. 58

The purpose of this concurrent resolution is to provide legislative authorization pursuant to Section 171-53, Hawaii Revised Statutes, to lease submerged lands and lands beneath tidal waters which the Board deems suitable for reclamation.

Your Committee received testimony from the Department of Land and Natural Resources indicating that this disposition involves the sale of a lease at public auction, together with an easement, covering certain submerged land located adjacent to Sand Island for use as a cable ship berth and depot for maintenance and repair of submarine telecommunications cables. The Department further testified that Hawaii-Pacific Marine, Inc. would develop a permanent facility for AT&T Communications to base a cable inventory and ship in Honolulu.

Your Committee finds that this disposition of submerged lands meets the requirements of Section 171-53, Hawaii Revised Statutes, and authorizes the easement for the purposes specified.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 58 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 867-86 Economic Development on S.C.R. No. 36

The purpose of this concurrent resolution is to request that the Department of Planning and Economic Development, Department of Land and Natural Resources, and the Attorney General, prepare a report on possible federal and state actions to achieve an effective management role for the State in the federal Exclusive Economic Zone (EEZ).

Your Committee received testimony from the Department of Planning and Economic Development supporting the need for this study based on President Reagan's proclamation of the U.S. EEZ, which claims for the U.S. the beneficial right to use the resources in the waters surrounding the United States and its territories, out to 200 nautical miles. The Department further stated that the creation of the EEZ will stimulate offshore development, but may also increase federal/state conflicts relating to ocean resources development. This study would reexamine federal/state relationships, and evaluate current law and possible future legislation, necessary to insure that state coastal interests and the federal EEZ will be compatible.

Your Committee finds that a more effective state role in the EEZ requires clearly defined legal authority, ocean policy-making, and well-planned ocean development.

Your Committee has amended the concurrent resolution to make technical nonsubstantive

changes for the purposes of clarity and style.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 36, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 36, S.D. 1.

Signed by all members of the Committee.

SCRep. 868-86 (Majority) Economic Development on H.B. No. 1763-86

The purpose of this bill is to provide that the Director of the Department of Planning and Economic Development (DPED) may defer up to two years, interest payments on loans made under the Hawaii Capital Loan Program.

Section 210-6, Hawaii Revised Statutes, provides the terms and provisions under which loans may be made for the capital costs of establishing or expanding small businesses. One of the provisions allows the Director of DPED to defer, up to five years, principal payments on these loans.

Testimony submitted by the Department, requests this authority to defer debt service as an additional mechanism to assist small businesses to maximize their chances for success, in the event of changes in the business and economic environment. The Department further testified that these deferred interest payments would have a minimal short-term impact on the amount of lendable funds, and a positive long-term impact toward reducing the default rate.

Your Committee finds that this measure is consistent with the State's efforts to assist small businesses, providing flexibility for debt repayment while still encouraging responsible business practices.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1763-86, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
Senator Kawasaki did not concur.

SCRep. 869-86 Economic Development on H.B. No. 1720-86

The purpose of this bill is to repeal Chapter 270, Hawaii Revised Statutes, which requires all officers and employees in the service of any public utility to be residents of the State of Hawaii for at least one year immediately preceding their appointment or election.

Your Committee received testimony from Hawaiian Electric Company, Inc., Hawaiian Telephone Company, and Pacific Resources, Inc. indicating that the present residency requirement is restrictive and possibly unlawful because it prevents the hiring of persons from outside the state, including former residents. Accordingly, the repeal of Chapter 270, Hawaii Revised Statutes, would give utility companies the freedom to compete effectively and broaden their applicant market.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 1720-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 870-86 Health on H.B. No. 2005-86

The purpose of this bill is to exempt permit applications or reapplications under federally delegated programs from the requirements of Section 342-6, Hawaii Revised Statutes, so that the permit issuance procedures of the Department of Health conform to applicable sections of the federal Clean Air Act and Clean Water Act.

The Department of Health is delegated the authority to administer the federal Acts. However, the Environmental Protection Agency, Region 9, has informed the Department that Hawaii law is inconsistent with both of the federal Acts in that under Hawaii law, failure of the Director of Health to act on a permit application within one-hundred eighty days constitutes automatic grant of the permit. Federal law, on the other hand, requires that permits under federally delegated programs be exempt from such provisions.

Your Committee received testimony from the Department of Health and the University of

Hawaii and finds that failure to enact the changes proposed in this bill may result in the loss of delegation of the federal permit programs and of federal funds to administer them. Your Committee further finds that this bill would solve the problem by exempting from Hawaii law those permit applications which are made under federally delegated programs.

Your Committee on Health is in accord with the intent and purpose of H.B. No. 2005-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 871-86 Consumer Protection and Commerce on H.B. No. 2043-86

The purpose of this bill is to delete the residency requirement as a prerequisite to taking the real estate licensure examination and delete the five-day hearing notice requirement.

Your Committee heard testimony from the Commission and the Hawaii Association of Realtors in support of this bill.

Your Committee finds that the original intent of the residency requirement was to insure that applicants were committed to working in Hawaii and were interested in long term relationships rather than "making a fast buck". Presently, however, because of legislation which has strengthened the powers of the Board and because of stricter qualifications of licensure the residency requirement is not warranted and has outlived its purpose.

Your Committee further finds that the deletion of the "five-day notice of hearing" requirement under Section 467-15, removes language that conflicts with Chapter 91, Hawaii Revised Statutes, which specifies a "fifteen-day notice for hearing" requirement. The provisions in Chapter 91 should prevail.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2043-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading

Signed by all members of the Committee except Senators Chang, Kawasaki, Kuroda, Henderson and A. Kobayashi.

SCRep. 872-86 Consumer Protection and Commerce on H.B. No. 1802-86

The purpose of this bill is to allow a rental agreement to provide that a prevailing party may be awarded costs and attorney's fees in all matters other than unpaid rent arising under the Landlord-Tenant Code.

Your Committee received supporting testimony from the Hawaii Association of Realtors and finds that in many instances a landlord will take action against a tenant for a violation of the Landlord-Tenant Code other than unpaid rent. For instance, a landlord may take action against a tenant who keeps a pet when none is allowed, or has more individuals in a unit than the lease allows, or is damaging the unit beyond normal wear and tear. Currently, no attorney's fees are awarded in such actions. Under this bill, if the rental agreement so provides, a judge may award attorney's fees and costs to the prevailing party, whether landlord or tenant.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1802-86, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Chang, Kawasaki and Kuroda.

SCRep. 873-86 Health on Gov. Msg. Nos. 104, 105, 151, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 211, 238, 239, and 240

Recommending that the Senate advise and consent to the nominations of the following:

LYN KUX to the State Council on Mental Health and Substance Abuse, for a term ending June 30, 1989;

JAMES K. IKEDA to the Technical Advisory Committee on Pesticides, for a term ending June 30, 1987;

AKIRA TANAKA to the Board of Radiologic Technologists, for a term ending June 30, 1990;

ROGER B. BRAULT, M.D., and DORIS SEGAL MATSUNAGA to the Board of Health, for terms ending June 30, 1990;

JUDITH A. NANIOLE and FRANCIS OKITA to the Honolulu Subarea Health Planning Council, for terms ending June 30, 1990;

ALAN YOSHIDA to the Central Oahu Subarea Health Planning Council, for a term ending June 30, 1990;

CLAUDETTE G. MUDLER to the Windward Oahu Subarea Health Planning Council, for a term ending June 30, 1990;

ROBERT K. MOLE to the Waianae Coast Subarea Health Planning Council, for a term ending June 30, 1990;

HERBERT NAKASONE, JUDITH MIKAMI, MAMORU TOFUKUJI, M.D., BERT KEN AKITAKE, M.D., and RICHARD HIGASHI to the Maui County Subarea Health Planning Council, for terms ending June 30, 1990;

JO-ALYCE PETERSON, Ph.D., and THOMAS CULBERTSON to the State Planning Council on Developmental Disabilities, for terms ending June 30, 1990;

PETER HALFORD, M.D., and EUGENE K. KAWAGUCHI, M.D., to the State Emergency Medical Services Advisory Committee, for terms ending June 30, 1990;

KENNETH ISHIZAKI, WALLACE MIYAHIRA, BERT Y. KIMURA, Ph.D., and R. CHRIS JANSEN to the Environmental Council, for terms ending June 30, 1990;

ELOISE WETHERALL, PAULA PURINGTON and JOSEPHINE G. EPSTEIN to the Commission on the Handicapped, for terms ending June 30, 1990;

JEAN L.J. LUM, Ph.D., to the County Hospital Management Advisory Committee, City and County of Honolulu Hospital System, for a term ending June 30, 1990;

HERBERT H. SAKAKIHARA to the County Hospital Management Advisory Committee, Maui County Hospital System, for a term ending June 30, 1990;

LUDVINA TAKAHASHI and JOSE S.L. VALENCIA, M.D., to the County Hospital Management Advisory Committee, Kauai County Hospital System, for terms ending June 30, 1990;

KAZU HAYASHIDA and JAMES NAKATANI to the Technical Advisory Committee on Pesticides, for terms ending June 30, 1990;

SHERWOOD R.H. GREENWELL, JITSUO KOTAKE and FRED Y. FUJIMOTO to the County Hospital Management Advisory Committee, Hawaii County Hospital System, for terms ending June 30, 1990;

MELVIN K. KUMASAKA to the Drug Product Selection Board, for a term ending June 30, 1990;

KIMIE LANE and PEPITO RAGASA to the County Hospital Management Advisory Committee, Maui County Hospital System, for terms ending June 30, 1990; and

KATHY FOGARTY to the Board of Radiologic Technologists, for a term ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 874-86 Consumer Protection and Commerce on Gov. Msg. Nos. 149, 204, 232, 233, 234, and 250

Recommending that the Senate advise and consent to the nominations for the following:

DENNIS KUWABARA, O.D., to the Board of Examiners in Optometry, for a term ending June 30, 1990;

JOSO UYETAKE to the Board of Hearing Aid Dealers and Fitters, for a term ending June 30, 1989;

KATHLEEN N. KAMO to the Board of Dispensing Opticians, for a term ending June 30, 1990;

ARTHUR K. KUSUMOTO to the Board of Examiners in Optometry, for a term ending June 30, 1990;

BETTY K. UEHARA, IRENE SHIMOMURA and JONNA D. ZANE to the Board of Speech Pathology and Audiology, for terms ending June 30, 1989; and

STELLA SATAKE to the Board of Speech Pathology and Audiology, for a term ending June 30, 1989.

Signed by all members of the Committee except Senators Chang, Kawasaki, Kuroda and McMurdo.

SCRep. 875-86 Consumer Protection and Commerce on Gov. Msg. Nos. 201 and 202

Recommending that the Senate advise and consent to the nominations of the following:

PAMELA S. KIMURA, MELVIN M. KAETSU and KWAN H. KUH to the Consumer Advisory Council, for terms ending June 30, 1987;

NATHAN PACO to the Consumer Advisory Council, for a term ending June 30, 1988; and

SHARON MORIWAKI and ELAINE G. EVANS to the CATV Advisory Council, for terms ending June 30, 1990.

Signed by all members of the Committee except Senators Chang, Kawasaki, Kuroda, Matsuura and McMurdo.

SCRep. 876-86 Consumer Protection and Commerce on Gov. Msg. Nos. 136, 140, 141, 142, 145, 203 and 274

Recommending that the Senate advise and consent to the nominations of the following:

MARVIN SAGUM to the Contractors License Board, for a term ending June 30, 1990;

HERBERT K. ENDO and K. DAVID MALAMA to the Board of Electricians and Plumbers, for terms ending June 30, 1990;

JOHN LOPES to the Elevator Mechanics Licensing Board, for a term ending June 30, 1990;

JERRY MICHAEL HIATT to the Board of Registration of Professional Engineers, Architects, Landsurveyors, and Landscape Architects, for a term ending June 30, 1990;

CLYDE AKINA and JOHN T. KOMIJI to the Motor Vehicle Repair Industry Board, for terms ending June 30, 1990;

MALCOLM KOGA to the Contractors License Board, for a term ending June 30, 1990; and

HUGH H. WILLOCKS to the Contractors License Board, for a term ending June 30, 1990.

Signed by all members of the Committee except Senators Chang, Kawasaki, Kuroda, McMurdo and Henderson.

SCRep. 877-86 Consumer Protection and Commerce on Gov. Msg. Nos. 134 and 273

Recommending that the Senate advise and consent to the nominations of the following:

CLIFFORD TAMURA to the Boxing Commission, for a term ending June 30, 1990; and

EDMUND C.K. LUM, M.D., to the Boxing Commission, for a term ending June 30, 1988.

Signed by all members of the Committee except Senators Chang, Kawasaki, Kuroda and McMurdo.

SCRep. 878-86 Consumer Protection and Commerce on Gov. Msg. Nos. 133, 137, 230 and 247

Recommending that the Senate advise and consent to the nominations of the following:

DONALD F. KAYE to the Board of Barbers, for a term ending June 30, 1990;

ESTHER C. IZU to the Board of Cosmetology, for a term ending June 30, 1990;

KEN H. TAKAYAMA to the Board of Cosmetology, for a term ending June 30, 1990;

HAROLD M. NAKAMOTO to the Board of Barbers, for a term ending June 30, 1988; and

RICHARD H. KAWANO to the Board of Barbers, for a term ending June 30, 1990.

Signed by all members of the Committee except Senators Chang, Kawasaki, Kuroda and McMurdo.

SCRep. 879-86 Consumer Protection and Commerce on Gov. Msg. Nos. 132, 138, 205, 206 and 275

Recommending that the Senate advise and consent to the nominations of the following:

WALTER T.Y. LAU and MANUEL R. SYLVESTER to the Board of Public Accountancy, for terms ending June 30, 1990;

PATRICK PETTI to the Credit Union Review Board, for a term ending June 30, 1990;

EDWARD B. BEIDLEMAN to the Board of Private Detectives and Guards, for a term ending June 30, 1988;

CALVIN C. FUJITA to the Board of Private Detectives and Guards, for a term ending June 30, 1989;

JOSEPH CARVALHO to the Board of Private Detectives and Guards, for a term ending June 30, 1990; and

ALEXANDER K. CHO to the Board of Private Detectives and Guards, for a term ending June 30, 1990.

Signed by all members of the Committee except Senators Chang, Kuroda, McMurdo, Henderson and A. Kobayashi.

SCRep. 880-86 Consumer Protection and Commerce on Gov. Msg. Nos. 103, 135, 143, 146, 150, 229 and 270

Recommending that the Senate advise and consent to the nominations of the following:

MARK K. ONO to the Board of Physical Therapy, for a term ending June 30, 1987;

ELROY K. CHONG and RONALD Y. HONDA to the Board of Physical Therapy, for terms ending June 30, 1988;

DENNIS M. CROWLEY, M.D., and JONI S. KANAZAWA to the Board of Physical Therapy for terms ending June 30, 1989;

JOHN T. RATHJEN, D.C., to the Board of Chiropractic Examiners, for a term ending June 30, 1990;

EDSON HOO to the Board of Massage, for a term ending June 30, 1990;

RODNEY CHUN, N.D., to the Board of Examiners in Naturopathy, for a term ending June 30, 1990;

JOAL A. DUNSTON to the Board of Psychology, for a term ending June 30, 1990;

SHARON M. YOUNG to the Board of Chiropractic Examiners, for a term ending June 30, 1990; and

JEAN ADAIR-LELAND, Ph.D., to the Board of Psychology, for a term ending June 30, 1990.

Signed by all members of the Committee except Senators Chang, Kawasaki, Kuroda and McMurdo.

SCRep. 881-86 Consumer Protection and Commerce on S.C.R. No. 52

The purpose of this concurrent resolution is to request the Congress of the United States to

address and resolve the reinsurance crisis of our nation and federally regulate the reinsurance industry.

Your Committee finds that reinsurers are declining to provide insurance to primary insurance companies. This practice has caused a dramatic increase in the rates and unavailability of insurance. Further, your Committee has been informed that more than \$5 billion annually is paid to foreign reinsurers by insurance companies in the United States.

Your Committee believes the problems of reinsurers must be properly and immediately addressed on a national level in order to address the reinsurance crisis facing the United States.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 52 and recommends its adoption.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Chang, Kawasaki and Kuroda.

SCRep. 882-86 Consumer Protection and Commerce on S.R. No. 76

The purpose of this resolution is to request the Congress of the United States to address and resolve the reinsurance crisis of our nation and federally regulate the reinsurance industry.

Your Committee finds that reinsurers are declining to provide insurance to primary insurance companies. This practice has caused a dramatic increase in the rates and unavailability of insurance. Further, your Committee has been informed that more than \$5 billion annually is paid to foreign reinsurers by insurance companies in the United States.

Your Committee believes the problems of reinsurers must be properly and immediately addressed on a national level in order to address the reinsurance crisis facing the United States.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 76 and recommends its adoption.

Signed by all members of the Committee except Senators Chang, Kawasaki, Kuroda and McMurdo.

SCRep. 883-86 Consumer Protection and Commerce on S.R. No. 15

The purpose of this resolution is to request that the Senate Committee on Consumer Protection and Commerce conduct hearings on the standards and administration of Hawaii's lemon law, and, if appropriate, make recommendations for revisions in the law or its administration.

The Hawaii lemon law was enacted in 1984 to require motor vehicle manufacturers and dealers to repair, replace, or refund the purchase price of vehicles which do not conform to express warranties. It was intended to enhance the rights and remedies of consumers under the Uniform Commercial Code, and not to abrogate or limit the rights or remedies which are otherwise available.

Dissatisfaction has been expressed with regard to the standards and administration of the lemon law, including complaints about the exclusion of collateral charges from the arbitration process; the lack of information available to consumers about their rights under the lemon law; delays in the arbitration of cases; and an alliance between arbitrators, dealers, and manufacturers which works to the disadvantage of consumers.

Your Committee believes that to ensure the full range of protection of the warranty statutes and the Uniform Commercial Code, it is necessary to investigate the basis of these complaints in a public forum.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 15 and recommends its adoption.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Chang, Kawasaki and Kuroda.

SCRep. 884-86 Health on H.B. No. 2436-86

The purpose of this bill is to include a representative from the structural pest control industry in the membership of the Technical Advisory Committee on Pesticides (TACP).

Your Committee received supporting testimony from the Director of the Office of Environmental Quality and the Hawaii Pest Control Association and 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 is a major user of pesticides 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 Health 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.

SCRep. 885-86 Health on Gov. Msg. Nos. 255, 256, 257, 278, 287, 288, 289 and 290

Recommending that the Senate advise and consent to the nominations of the following:

ERNEST L. BADE, M.D., to the Board of Health, for a term ending June 30, 1990;

EDWARD STANLEY and ROBERT C. PALMER, M.D., to the Advisory Commission on Drug Abuse and Controlled Substances, for terms ending June 30, 1990;

WALTER H. MURAOKA to the Environmental Council, for a term ending June 30, 1988;

FLORENCE TOMITA to the County Hospital Management Advisory Committee, Kauai County Hospital System, for a term ending June 30, 1990;

CHRISTINE S. JACKSON, WALTER C.K. AONA, JOYCE MARGARET O'BRIEN and DANIEL B. SMITH to the Waianae Coast Subarea Health Planning Council, for terms ending June 30, 1990;

SHIRLEY H. KODANI to the Maui County Subarea Health Planning Council, for a term ending June 30, 1987;

CHARLOTTE SMITH KAUI and PAULINE D. VENTURA to the Kauai County Subarea Health Planning Council, for terms ending June 30, 1990; and

STANLEY G.H. YIM and GERALD A. JENSEN to the Board of Certification of Operating Personnel in Wastewater Treatment Plants, for terms ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 886-86 Education on S.R. No. 38

The purpose of this resolution is to urge the Board of Education and the State Executive Branch to negotiate salary increases for public school teachers which will restore teacher salaries to a level which is comparable to other professions, and is competitive with teacher salary schedules on the mainland.

Your Committee finds that there are several reasons for increasing public school teacher salaries.

First, a salary increase for public school teachers is long overdue. Hawaii's public school teachers ranked last in the nation among the forty-nine other states and the District of Columbia in average salary increases over the last ten years; they earn eleven percent less in real dollars than they did ten years ago; and their average salaries have dropped from a high of third in the nation to the current twelfth position.

Second, the demand for teachers will increase at a greater rate than the supply of teachers, at both the national and local levels because of three factors: (1) Hawaii can expect to replace 4500 to 5000 teachers in public schools within the next five years due to teacher retirement and resignations; (2) The student population at public schools is expected to increase within the same time frame by 12,500 students; and (3) Some qualified public school teachers are leaving the public school system to pursue more lucrative teaching careers at private schools, or other non-teaching occupations.

Third, there is little incentive for college students to pursue teaching as a career. Nationally, only approximately four percent of the college graduates in 1986 will be trained as

teachers. Locally, Hawaii's colleges and universities are not prepared to produce the required number of graduates to fulfill Hawaii's expected demand for teachers.

In summary, Hawaii's public schools are expected to lose more teachers than it can replace, and the student population at public schools is expected to increase. Increasing salaries for teachers will go a long way to retain the qualified teachers the State already employs, attract teachers from the mainland and encourage college students to pursue a career in teaching to ultimately insure the availability of a qualified corps of teachers for Hawaii's public schools.

Your Committee on Education concurs with the intent and purpose of S.R. No. 38 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 887-86 Economic Development on S.R. No. 65

The purpose of this resolution is to request that the Department of Planning and Economic Development, Department of Land and Natural Resources, and the Attorney General, prepare a report on possible federal and state actions to achieve an effective management role for the State in the federal Exclusive Economic Zone (EEZ).

Your Committee received testimony from the Department of Planning and Economic Development supporting the need for this study based on President Reagan's proclamation of the U.S. EEZ, which claims for the U.S. the beneficial right to use the resources in the waters surrounding the United States and its territories, out to 200 nautical miles. The Department further stated that the creation of the EEZ will stimulate offshore development, but may also increase federal/state conflicts relating to ocean resources development. This study would reexamine federal/state relationships, and evaluate current law and possible future legislation, necessary to insure that state coastal interests and the federal EEZ will be compatible.

Your Committee finds that a more effective state role in the EEZ requires clearly defined legal authority, ocean policy-making, and well-planned ocean development.

Your Committee has amended the resolution to make technical nonsubstantive changes for the purposes of clarity and style.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 65, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 65, S.D. 1.

Signed by all members of the Committee.

SCRep. 888-86 (Joint) Economic Development and Higher Education on S.R. No. 18

The purpose of this resolution is to request the Department of Planning and Economic Development (DPED) and the University of Hawaii to study the feasibility of establishing a state-operated technical training institute for film industry careers.

Your Committees received testimony from the DPED, and the University of Hawaii's Chancellor of Community Colleges, supporting the concept of an institute. The DPED indicated that the study would be conducted by the Film Industry Branch in consultation with the University's community colleges.

Your Committees find that the film industry has the potential to become a major revenue-producing industry in Hawaii, and thus the establishment of a technical training institute should be given thoughtful consideration.

Your Committees on Economic Development and Higher Education concur with the intent and purpose of S.R. No. 18 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 889-86 Energy on S.C.R. No. 63

The purpose of this concurrent resolution is to encourage continued efforts on the part of the State, the counties, and private enterprise to reach declared energy goals for Hawaii, including the promotion and development of the State's geothermal resources, in a manner which is consistent with the maintenance of acceptable environmental standards and which protects the health and safety of the people.

Orderly development of our geothermal resources is consistent with the Hawaii State Plan, which calls for increasing the State's energy self-sufficiency, as well as the development of "dependable, efficient, and economical statewide energy systems capable of supporting the needs of the people." Geothermal energy development can make a major contribution toward achieving these objectives.

Your Committee received supporting testimony from the Director of Planning and Economic Development, Hawaiian Electric Company, the Estate of James Campbell, and two geothermal companies, and finds that support provided to date through state and federal actions has demonstrated both the presence and technical feasibility of geothermal energy in Hawaii, thereby encouraging the private sector to invest over \$20 million toward commercial development.

However, your Committee also finds that geothermal energy in Hawaii has not developed as rapidly as was anticipated for a number of reasons including the decline in world oil prices, organized public opposition, and problems encountered in the regulatory process, although your Committee wishes to point out that technological and long-term economic considerations have not been major factors contributing to the delay. Therefore, your Committee finds that the encouragement of vigorous efforts to develop geothermal resources in a safe yet aggressive manner, as provided by this concurrent resolution, is consistent with declared State policy and with the efforts of the Legislature to provide for the economic well-being and energy self-sufficiency of the people of Hawaii.

Your Committee on Energy concurs with the intent and purpose of S.C.R. No. 63 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 890-86 Energy on S.R. No. 86

The purpose of this resolution is to encourage continued efforts on the part of the State, the counties, and private enterprise to reach declared energy goals for Hawaii, including the promotion and development of the State's geothermal resources, in a manner which is consistent with the maintenance of acceptable environmental standards and which protects the health and safety of the people.

Orderly development of our geothermal resources is consistent with the Hawaii State Plan, which calls for increasing the State's energy self-sufficiency, as well as the development of "dependable, efficient, and economical statewide energy systems capable of supporting the needs of the people." Geothermal energy development can make a major contribution toward achieving these objectives.

Your Committee received supporting testimony from the Director of Planning and Economic Development, Hawaiian Electric Company, the Estate of James Campbell, and two geothermal companies, and finds that support provided to date through state and federal actions has demonstrated both the presence and technical feasibility of geothermal energy in Hawaii, thereby encouraging the private sector to invest over \$20 million toward commercial development.

However, your Committee also finds that geothermal energy in Hawaii has not developed as rapidly as was anticipated for a number of reasons including the decline in world oil prices, organized public opposition, and problems encountered in the regulatory process, although your Committee wishes to point out that technological and long-term economic considerations have not been major factors contributing to the delay. Therefore, your Committee finds that the encouragement of vigorous efforts to develop geothermal resources in a safe yet aggressive manner, as provided by this resolution, is consistent with declared State policy and with the efforts of the Senate to provide for the economic well-being and energy self-sufficiency of the people of Hawaii.

Your Committee on Energy concurs with the intent and purpose of S.R. No. 86 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 891-86 Energy on S.C.R. No. 22

The purpose of this concurrent resolution is to request the Department of Planning and Economic Development and the University of Hawaii to develop a program of study for state and county personnel involved with reviewing technical reports and materials submitted by geothermal developers.

The geothermal permit and approval process is a lengthy and complicated one, requiring geothermal developers to contract with engineering, environmental, and operational specialists to provide the engineering, design, operational and environmental impact reports required by the State and county agencies to render a sound decision.

Your Committee finds that the regulatory review process would be expedited if regulatory agency personnel had the technical expertise to objectively evaluate the reports submitted by the developers in support of their proposed projects.

The Director of the Department of Planning and Economic Development testified that the Department and the University would need to coordinate with the regulatory agencies, namely the Department of Land and Natural Resources, the Department of Health, and the Planning Departments of the four counties, to determine their needs.

Your Committee has amended this concurrent resolution to request that the Department of Planning and Economic Development, as the lead agency, collaborate with the Department of Land and Natural Resources, the University of Hawaii, the Department of Health, and the Planning Departments of the four counties, on a program of study for state and county regulatory agency personnel who must deal with the technical materials submitted by geothermal energy developers in support of their permit review process.

Your Committee has further amended this concurrent resolution to transmit certified copies of this concurrent resolution to the Director of the Department of Land and Natural Resources, the Director of the Department of Health, and the Directors of the Planning Departments of the four counties, and has amended the title to request that an intensive technical program of study be developed for State and County agency personnel dealing with geothermal energy resource development.

Your Committee on Energy concurs with the intent and purpose of S.C.R. No. 22, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 22, S.D. 1.

Signed by all members of the Committee.

SCRep. 892-86 Energy on S.R. No. 44

The purpose of this resolution is to request the Department of Planning and Economic Development and the University of Hawaii to develop a program of study for state and county personnel involved with reviewing technical reports and materials submitted by geothermal developers.

The geothermal permit and approval process is a lengthy and complicated one, requiring geothermal developers to contract with engineering, environmental, and operational specialists to provide the engineering, design, operational and environmental impact reports required by the State and county agencies to render a sound decision.

Your Committee finds that the regulatory review process would be expedited if regulatory agency personnel had the technical expertise to objectively evaluate the reports submitted by the developers in support of their proposed projects.

The Director of the Department of Planning and Economic Development testified that the Department and the University would need to coordinate with the regulatory agencies, namely the Department of Land and Natural Resources, the Department of Health, and the Planning Departments of the four counties, to determine their needs.

Your Committee has amended this resolution to request that the Department of Planning and Economic Development, as the lead agency, collaborate with the Department of Land and Natural Resources, the University of Hawaii, the Department of Health, and the Planning Departments of the four counties, on a program of study for state and county regulatory agency personnel who must deal with the technical materials submitted by geothermal energy developers in support of their permit review process.

Your Committee has further amended this resolution to transmit certified copies of this resolution to the Director of the Department of Land and Natural Resources, the Director of the Department of Health, and the Directors of the Planning Departments of the four counties, and has amended the title to request that an intensive technical program of study be developed for State and County agency personnel dealing with geothermal energy resource development.

Your Committee on Energy concurs with the intent and purpose of S.R. No. 44, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 44, S.D. 1.

Signed by all members of the Committee.

SCRep. 893-86 (Joint) Economic Development and Tourism and Recreation on S.C.R. No. 13

The purpose of this concurrent resolution is to request the State Department of Land and Natural Resources (DLNR) and Historic Hawaii to report at a joint public hearing of your Committees on Economic Development and Tourism and Recreation on the program and future development of "Main Street Hawaii."

Your Committees jointly heard the reports of DLNR and Historic Hawaii, as requested by this concurrent resolution. Your Committees find that Main Street is a self-help program, originated on the mainland, that seeks to share knowledge and expertise to assist small towns in revitalizing their economies. In Hawaii, a task force of public and private sector representatives recommended that the program had potential to help Hawaii's small towns affected by the decline in agriculture. Historic Hawaii was designated as the agency to implement Main Street programs in Hawaii.

Your Committees further find that currently Hilo and West Kauai have been accepted as Main Street Towns, and Wailuku is in the process of organizing and applying for acceptance. The Hilo program is sponsored by their 400-member Downtown Improvement Association, and the West Kauai program is sponsored by their 100-member Business and Professional Association. Wailuku has so far recruited 100 members for its new Community Association.

The revitalization of Koloa Town, while not a Main Street Town, was cited as an example of what can occur in small business towns involved in the program. From 1983 to 1985, Koloa Town experienced a 100 percent increase in business and a 164 percent increase in employees, generating a 224 percent increase in gross retail sales.

Your Committees amended the concurrent resolution to delete references to the hiring of a statewide program coordinator and requesting that the DLNR and Historic Hawaii report to a joint hearing of your Committees, as these actions have already occurred. Your Committees added new language including findings from testimony heard at the joint hearing, and expressing legislative recognition and support for the Main Street Hawaii program as a proven program of economic revitalization of small towns. Your Committees amended the title of this concurrent resolution to better reflect these amendments, to "SENATE CONCURRENT RESOLUTION RECOGNIZING THE MAIN STREET HAWAII PROGRAM AS A PROVEN PROGRAM OF ECONOMIC REVITALIZATION OF SMALL TOWNS AND EXPRESSING LEGISLATIVE SUPPORT FOR ITS EFFORTS". Your Committees also made technical, nonsubstantive amendments.

Your Committees on Economic Development and Tourism and Recreation concur with the intent and purpose of S.C.R. No. 13, as amended herein, and recommend its adoption in the form attached hereto as S.C.R. No. 13, S.D. 1.

Signed by all members of the Committees except Senator Kawasaki.

SCRep. 894-86 Tourism and Recreation on S.C.R. No. 45

The purpose of this concurrent resolution is to request that the State acquire land at Oneloa Beach (Big Beach) at Makena, Maui, for a state park.

Your Committee finds that the State of Hawaii commissioned and accepted development plans for the Makena-La Perouse State Park in 1977. In 1984, the Legislature passed H.C.R. No. 41, H.D. 1, S.D. 1, requesting that the Department of Land and Natural Resources pursue acquisition of the Makena Big Beach lands for the Makena-La Perouse State Park by land exchange or purchase.

Your Committee further finds that there are three privately owned parcels in the area that have yet to be acquired. The landowners of one of the parcels, designated as TMK 2-1-06:26, have sought exchange of their property for a parcel of State land formerly used for the Kahului School and identified as TMK 3-7-04:03. The State site is currently occupied by State and Maui County agencies on a temporary basis.

Your Committee amended this concurrent resolution by amending the title to delete a typographical error, the word "Big" after "Oneloa Beach."

Your Committee is in agreement with the Department of Land and Natural Resources and the State Park at Makena organization that the land acquisition requested by this concurrent resolution will contribute to the preservation of Makena Beach, which is considered one of the last major undeveloped white sand beaches on Maui, for both visitors and residents of the Island of Maui to enjoy.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.C.R. No. 45, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 45, S.D. 1.

Signed by all members of the Committee.

SCRep. 895-86 Tourism and Recreation on S.C.R. No. 41

The purpose of this concurrent resolution is to request the creation of a blue ribbon committee for the purpose of recommending the most appropriate site for the King Kalakaua statue.

Your Committee finds that Act 300, Section 157, Session Laws of Hawaii 1985, provides \$175,000 in fiscal year 1985-1986 and \$150,000 in fiscal year 1986-1987 for the construction and location of a statue of King Kalakaua, as a memorial to the last King of Hawaii.

Your Committee further finds that the location of the statue has not been designated, and that it remains unclear as to the most suitable location. Your Committee heard testimony from the Department of Land and Natural Resources, the Friends of Iolani Palace, and the architectural design firms of Phillips, Brandt, Reddick and Associates and Spencer Mason Partnership. Your Committee finds from testimony offered that the current goal of the Iolani Palace restoration effort is historic preservation; specifically, the restoration of the Palace and grounds to their condition during the late Hawaiian Monarchy period, the time of King Kalakaua himself. In view of this goal the grounds of Iolani Palace may not be the most appropriate location for the statue.

Your Committee heard suggestions for other sites, including the birthplace of the King, the site chosen by his widow, Queen Kapiolani, and the site chosen by his successor, Queen Liliuokalani.

This concurrent resolution requests the Governor to appoint a blue ribbon committee, to report to the Legislature prior to the convening of the Regular Session of 1987 its recommendations on the most appropriate site for the King Kalakaua statue.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.C.R. No. 41 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 896-86 Consumer Protection and Commerce on Gov. Msg. Nos. 139, 144, 147, 148, 231, 249 and 251

Recommending that the Senate advise and consent to the nominations of the following:

WALTER A. LICHOTA, D.D.S., and HOWARD K. MIYAMOTO, D.D.S., to the Board of Dental Examiners, for terms ending June 30, 1990;

MARION L. HANLON, M.D., to the Board of Medical Examiners, for a term ending June 30, 1990;

ADELE MITCHELL, DOROTHY ANN PARK, JOSEPHINE DUVAUCHELLE and VIOLET L. NAKAMURA to the State Board of Nursing, for terms ending June 30, 1989;

LINDA R. CONBOY to the State Board of Nursing, for a term ending June 30, 1987;

JANET M. HIRATA and CLIFFORD E. MILLER, JR., to the Board of Examiners of Nursing Home Administrators, for terms ending June 30, 1990;

VERNA HANASHIRO to the Board of Examiners of Nursing Home Administrators, for a term ending June 30, 1989;

KALLI S. MALLEY AND TODD KIYOSHI INAFUKU to the Board of Pharmacy, for terms ending June 30, 1990; and

ALBERT H. ORNELLAS to the Board of Veterinary Examiners, for a term ending June 30, 1990.

Signed by all members of the Committee except Senators Chang, Kawasaki, Kuroda, Henderson and A. Kobayashi.

SCRep. 897-86 Ways and Means on Gov. Msg. No. 304

Recommending that the Senate advise and consent to the nomination of ROBERT F. MAYNARD to the Board of Taxation Review, First Taxation District, Oahu, for a term ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 898-86 Agriculture on S.R. No. 96

The purpose of this resolution is to authorize the Department of Land and Natural Resources to expend any funds at its disposal to formulate a plan to provide lessees, permittees, and holdover tenants of agricultural lands long-term security and tenancy by considering various alternatives, including the right of first refusal to purchase their lands in fee simple or the right to lease such lands on terms mutually agreeable to both the lessees and the Board.

This resolution further provides that until a plan has been presented to and approved by the Legislature, the Department of Land and Natural Resources should hold in abeyance any plans to lease or otherwise dispose of such lands, except where such action will not directly affect current permittees and lessees, or where they are in violation of the provisions of their permits and leases.

Your Committee finds that it is of vital importance to the State that agricultural lands remain in agricultural use. Since the availability of agricultural lands has been a problem for certain segments of the farming community, the State has made public lands available for farming purposes through the issuance of leases and permits. However, this practice creates uncertainty of future tenancy by lessees and permittees on lands they have lived on and farmed for years.

Your Committee believes that a plan to provide those who are lessees, permittees, and holdover tenants of State agriculture lands with long-term security and tenancy by considering various alternatives, including purchase or lease of such lands, would be mutually beneficial to the agricultural industry in Hawaii and economic development in general.

Your Committee concurs with the intent of this resolution, and requests that the Senate Committee on Ways and Means consider including a proviso in the Supplemental Biennial Budget authorizing the use of existing funds from public lands management (LNR 101).

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 96 and recommends its adoption.

Signed by all members of the Committee except Senator Toguchi.

SCRep. 899-86 Energy on S.C.R. No. 33

The purpose of this concurrent resolution is to provide that the proceeds generated from the special purpose revenue bonds authorized by Act 145, Session Laws of Hawaii (SLH) 1984 may be applied to a wind energy farm capable of producing electric energy greater than five megawatts.

Act 145, SLH 1984 authorized the Department of Budget and Finance to issue special purpose revenue bonds for the establishment of a five megawatt wind energy farm at South Point, County of Hawaii. This project is in line with the State's goal of developing alternate energy resources to decrease dependency on imported petroleum.

Your Committee finds that a common practice in the wind energy conversion industry is to construct wind energy farms at a higher capacity in order to generate a constant flow of electric energy at lower wind speeds. A five megawatt maximum capacity wind farm at South Point will not be able to deliver a constant five megawatts of electrical power. In order to deliver a constant five megawatts of electrical power, a higher maximum capacity is required.

Your Committee further finds that the legislative intent of Act 145, SLH 1984, was to provide a means to establish a wind energy farm capable of generating a constant five megawatts of electric energy. This concurrent resolution will allow the Department of Budget and Finance to apply the special purpose revenue bond proceeds to a wind energy farm capable of producing a constant five megawatts of electric energy.

Your Committee has amended this concurrent resolution by making a nonsubstantive change to the title to conform with recommended drafting style.

Your Committee on Energy concurs with the intent and purpose of S.C.R. No. 33, as amended herein, and recommends that it be referred to the Committee on Ways and Means, in the form attached hereto as S.C.R. No. 33, S.D. 1.

Signed by all members of the Committee.

SCRep. 900-86 Energy on S.R. No. 61

The purpose of this resolution is to provide that the proceeds generated from the special purpose revenue bonds authorized by Act 145, Session Laws of Hawaii (SLH) 1984 may be applied to a wind energy farm capable of producing electric energy greater than five megawatts.

Act 145, SLH 1984 authorized the Department of Budget and Finance to issue special purpose revenue bonds for the establishment of a five megawatt wind energy farm at South Point, County of Hawaii. This project is in line with the State's goal of developing alternate energy resources to decrease dependency on imported petroleum.

Your Committee finds that a common practice in the wind energy conversion industry is to construct wind energy farms at a higher capacity in order to generate a constant flow of electric energy at lower wind speeds. A five megawatt maximum capacity wind farm at South Point will not be able to deliver a constant five megawatts of electrical power. In order to deliver a constant five megawatts of electrical power, a higher maximum capacity is required.

Your Committee further finds that the legislative intent of Act 145, SLH 1984, was to provide a means to establish a wind energy farm capable of generating a constant five megawatts of electric energy. This resolution will allow the Department of Budget and Finance to apply the special purpose revenue bond proceeds to a wind energy farm capable of producing a constant five megawatts of electric energy.

Your Committee has amended this resolution by making a nonsubstantive change to the title to conform with recommended drafting style.

Your Committee on Energy concurs with the intent and purpose of S.R. No. 61, as amended herein, and recommends that it be referred to the Committee on Ways and Means, in the form attached hereto as S.R. No. 61, S.D. 1.

Signed by all members of the Committee.

SCRep. 901-86 Energy on S.C.R. No. 23

The purpose of this concurrent resolution is to request the Department of Planning and Economic Development to develop guidelines to improve the permit processing and approval system for geothermal development.

Presently the permitting process is a seemingly endless process of reviews and contested case hearings in several areas and levels of authority over geothermal development.

As set forth in the Hawaii State Plan and the State Energy Functional Plan, "A major goal for the State is to reduce Hawaii's dependency on oil through the use of alternate forms of energy." However, the development of geothermal resources may be deterred because of the complexity of the overall permit processing and approval system.

Your Committee believes it is appropriate to request the State Department of Planning and Economic Development to develop guidelines to improve and expedite the permit and approval process among all federal, state, and county agencies or authorities which the department determines may have jurisdiction over part or all of a proposed project to encourage the development of geothermal resource projects.

Your Committee on Energy concurs with the intent and purpose of S.C.R. No. 23 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 902-86 Energy on S.R. No. 45

The purpose of this resolution is to request the Department of Planning and Economic Development to develop guidelines to improve the permit processing and approval system for geothermal development.

Presently the permitting process is a seemingly endless process of reviews and contested case

hearings in several areas and levels of authority over geothermal development.

As set forth in the Hawaii State Plan and the State Energy Functional Plan, "A major goal for the State is to reduce Hawaii's dependency on oil through the use of alternate forms of energy." However, the development of geothermal resources may be deterred because of the complexity of the overall permit processing and approval system.

Your Committee believes it is appropriate to request the State Department of Planning and Economic Development to develop guidelines to improve and expedite the permit and approval process among all federal, state, and county agencies or authorities which the department determines may have jurisdiction over part or all of a proposed project to encourage the development of geothermal resource projects.

Your Committee on Energy concurs with the intent and purpose of S.R. No. 45 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 903-86 Energy on S.C.R. No. 72

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to conduct a study imposing an assessment on all new motor oil sold in Hawaii for the purpose of utilizing the assessment as a subsidy to encourage the use of used motor oil for suitable use as a fuel or for electrical generation. This concurrent resolution further requests that the study also assess any other means of disposing or recycling used motor oil, outlining the advantages and disadvantages of each proposal.

Your Committee finds that less than two years ago, gasoline dealers were receiving payment for used motor oil. Presently, however, the situation has reversed and it is the dealers who must pay disposal costs per gallon plus a pickup charge to have their waste oil disposed of through the only approved transporter firm.

Many service stations have refrained from accepting used oil from the do-it-yourself consumer because of the severe problem and cost of disposing of used oil, causing the consumer to consider disposing the oil on his own, circumventing the legal procedure for waste oil disposal to avoid the costs and inconvenience.

Currently a proposal to construct a used oil re-refinery capable of turning used motor oil into a fuel oil suitable to use as a boiler fuel, bunker fuel, or for electrical generation is in the planning stages. However, some type of controls or incentive must also be established to provide a meaningful control system.

This concurrent resolution will provide the means to acquire the necessary information to develop a control system to complement the used oil re-refinery, to utilize our disposal resources for energy generation.

Your Committee on Energy concurs with the intent and purpose of S.C.R. No. 72 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 904-86 Higher Education on Gov. Msg. Nos. 258 and 279

Recommending that the Senate advise and consent to the nominations of the following:

ROBERT M. OTA, SIMON SCHNEIDERMAN, Ph.D., and BRIAN K. MINAAI to the Board of Directors, Research Corporation, University of Hawaii, for terms ending June 30, 1990; and

DENNIS T. TOYOMURA to the Board of Directors, Research Corporation, University of Hawaii, for a term ending June 30, 1989.

Signed by all members of the Committee.

SCRep. 905-86 Higher Education on Gov. Msg. No. 178

Recommending that the Senate advise and consent to the nomination of CHARLES T. AKAMA to the Western Interstate Commission for Higher Education (WICHE), for a term ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 906-86 Higher Education on S.R. No. 113

The purpose of this resolution is to request the Senate Committee on Higher Education to conduct an assessment and evaluation of the University of Hawaii's role in the State's efforts to fully and actively participate in the affairs of the Pacific Rim.

As reflected in this resolution, the people of Asia and the Pacific now comprise more than half of the world's population. Historically, the population of the region has always been large but the economic dependence of the people on agriculture has in many ways limited their opportunities for economic development. In fairly recent times, however, we have seen many successful examples of western technology being successfully adopted and even improved upon by the nations of the East. The Asian nations in particular have been so successful in making the change from a subsistence level agrarian based economy to heavy reliance on major industries that a new economic term—Newly Industrialized Countries, or NIC's—has been created to describe them.

The spectacular economic growth which has occurred in the last twenty years in such countries as South Korea, Taiwan, and Singapore is far from over. The economies of the other nations in the region are growing at the same rate or faster than the first generation of NIC's. Within the next two decades, a second generation of NIC's will emerge from the region, thus substantially increasing Asia and the Pacific's share of gross world product.

As the focus of world attention shifts from the Atlantic to the Pacific, local political, business, and educational leaders have harmoniously stressed the importance of Hawaii's potential role in the affairs of the Pacific Rim. Each time however, "...the community considers the problems, weighs the merits, and debates the issues. But never is the question answered and the answer acted upon."

Your Committee finds that one obvious "answer" lies with the University of Hawaii's role in assisting with the State's efforts to actively participate in the affairs of the Pacific Rim. According to the East-West Center, "there will be a great need for people and organizations who can deal effectively with the region and in the region—by linking economic activities, bridging cultural differences, and resolving conflicting interests." The University recognizes this need and is committed to fulfilling it at all levels and disciplines.

At the Manoa campus, for example, major changes are in progress to achieve a Pacific Asian focus. These changes are in response to a need which is national in scope and representative of certain opportunities where the State and the University is possessed with unique natural advantages. The East-West Center has identified this need as follows:

"There are a number of American universities with excellent Asian Studies programs. What they produce are "area specialists" who have extensive knowledge of a particular country or region. They tend to concentrate in arts and humanities and in the core social sciences.

There is no systematic program in the country, however, designed for people who are interested in disciplines or professions such as law, business, health, the sciences, engineering, social work, etc., and who want to be sufficiently knowledgeable about Asia and the Pacific to be able to work effectively in the region. Yet this kind of dual-skills person is greatly needed in the world of today and tomorrow. In addition, there is no American university which attempts to include teaching about the Asia Pacific region as an integral part of its general education program."

The community colleges, on the other hand, have been and will continue to be more active in the Pacific islands where post secondary educational needs are more appropriately met by programs normally found at two-year institutions. Immediate needs in the allied health fields, hotel and restaurant operations, and child care are currently being met. Future needs in the Pacific are anticipated in the service industries and the skilled trades.

In addition, our community colleges are also actively involved in the institutional development of community colleges in American Samoa, Northern Marianas, Ponape, Palau, and Saipan.

Your Committee has received extremely supportive testimony on this resolution from the University of Hawaii's Acting Vice-President for Academic Affairs and the Chancellor for Community Colleges.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 113 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 907-86 Agriculture on H.B. No. 1989-86

The purpose of this bill is to repeal Section 142-15, Hawaii Revised Statutes, relating to purchase of animals afflicted with glanders and farcy.

Your Committee finds that glanders and farcy are lymphatic diseases of horses and cattle. These diseases have been eradicated from Hawaii and the mainland, and are considered foreign diseases now under the control and jurisdiction of the United States Department of Agriculture.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. 1989-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading

Signed by all members of the Committee.

SCRep. 908-86 Agriculture on H.B. No. 1979-86

The purpose of this bill is to require that the Department of Agriculture (DOA) be notified of the arrival of any live animals arriving by aircraft, as well as by vessels.

Present statute requiring the notification of the DOA of animal arrivals refers only to animals arriving by ship, and places the responsibility for notification of the DOA with the "Master of a vessel," a term which is used only in reference to sea transportation. Furthermore, the statute does not refer to animals arriving by air transportation.

Since the majority of animals currently entering the State is transported by aircraft and not by surface vessels, this bill proposes to amend Section 142-8, Hawaii Revised Statutes, to require notification of the DOA by the captain of any vessel or aircraft transporting live animals into Hawaii.

Your Committee finds, from testimony by the Department of Health, that all animals arriving in Hawaii, whether from the continental United States or from foreign countries, represent a potential source of disease for humans as well as animal populations. In order to maintain adequate surveillance over incoming animals, it is essential that the DOA be notified of all animal arrivals.

Your Committee is in agreement with the Departments of Agriculture and Health that the amendments proposed by this bill are a necessary clarification of the law in the interest of public health and safety.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1979-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 909-86 (Majority) Consumer Protection and Commerce on H.B. No. 2262-86

The purpose of this bill is to include psychologists in the definition of physicians for workers' compensation purposes.

Under current statute, only health care providers designated as physicians may serve as an injured employee's attending physician. Specifically only doctors of medicine, dentists, chiropractors, osteopaths, naturopaths and optometrists come within the present definition of physician. Including psychologists in the definition of physicians under worker's compensation will allow patients to obtain the services of psychologists without referral.

Upon consideration of the testimony, your Committee finds that psychologists are duly licensed health care providers who are recognized as independent providers by many health insurance plans such as HMSA, CHAMPUS, Aetna, and others. Your Committee concludes that psychologists should be afforded the same recognition under the workers' compensation law as is afforded to doctors of medicine, dentists, chiropractors, osteopaths, naturopaths and optometrists.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 2262-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

Senators Chang, Matsuura, Henderson and A. Kobayashi did not concur.

SCRep. 910-86 Consumer Protection and Commerce on Gov. Msg. No. 317

Recommending that the Senate advise and consent to the nominations to the Consumer Advisory Council of the following:

FRITZ L. KLATTENHOFF and MARIE WUNSCH, for terms ending June 30, 1988; and

MARTHA HANAKO LUNA GOO, RICHARD C. LIM, BARRY UTSUMI and RICHARD H. OSHIRO, for terms ending June 30, 1990.

Signed by all members of the Committee except Senators Chang, Kawasaki, Kuroda, Matsuura and Young.

SCRep. 911-86 Consumer Protection and Commerce on Gov. Msg. Nos. 308, 319 and 320

Recommending that the Senate advise and consent to the nominations of the following:

YOSHIKO I. KANO and MICHELE Y. MATSUO to the Real Estate Commission, for terms ending June 30, 1990;

KATAICHI NINOMIYA to the Board of Registration of Professional Engineers, Architects, Landsurveyors and Landscape Architects, for a term ending June 30, 1987;

GEORGE K. NISHIMURA and STANLEY J. SHIGEMURA to the Board of Registration of Professional Engineers, Architects, Landsurveyors and Landscape Architects, for terms ending June 30, 1990; and

YUKIO TAKEYA to the Real Estate Commission, for a term ending June 30, 1990.

Signed by all members of the Committee except Senators Chang, Kawasaki, Kuroda, Matsuura and Young.

SCRep. 912-86 Consumer Protection and Commerce on Gov. Msg. Nos. 285 and 295

Recommending that the Senate advise and consent to the nominations of the following:

LEIGHTON WONG to the Motor Vehicle Industry Licensing Board, for a term ending June 30, 1989; and

JOHN HIROTA to the Elevator Mechanics Licensing Board, for a term ending June 30, 1990.

Signed by all members of the Committee except Senators Chang, Kawasaki, Kuroda, Matsuura and Young.

SCRep. 913-86 Consumer Protection and Commerce on Gov. Msg. Nos. 284, 296, 306, 307 and 321

ERLINDA M. CACHOLA, M.D., and RUSSELL W.O. LUM to the Board of Medical Examiners, for terms ending June 30, 1990;

LAURIE E. FURUYA to the Board of Examiners in Naturopathy, for a term ending June 30, 1990;

MITSURU FUJIMOTO to the Board of Massage, for a term ending June 30, 1989;

LAWRENCE H. DAWSON to the Board of Massage, for a term ending June 30, 1990;

DEBORAH MERRITT to the Board of Osteopathic Examiners, for a term ending June 30, 1990; and

BJARNE N. FOLLING, D.V.M., to the Board of Veterinary Examiners, for a term ending June 30, 1990.

Signed by all members of the Committee except Senators Chang, Kawasaki, Kuroda, Matsuura and Young.

SCRep. 914-86 Tourism and Recreation on S.R. No. 67

The purpose of this resolution is to request the creation of a blue ribbon committee for the purpose of recommending the most appropriate site for the King Kalakaua statue.

Your Committee finds that Act 300, Section 157, Session Laws of Hawaii 1985, provides

\$175,000 in fiscal year 1985-1986 and \$150,000 in fiscal year 1986-1987 for the construction and location of a statue of King Kalakaua, as a memorial to the last King of Hawaii.

Your Committee further finds that the location of the statue has not been designated, and that it remains unclear as to the most suitable location. Your Committee heard testimony from the Department of Land and Natural Resources, the Friends of Iolani Palace, and the architectural design firms of Phillips, Brandt, Reddick and Associates and Spencer Mason Partnership. Your Committee finds from testimony offered that the current goal of the Iolani Palace restoration effort is historic preservation; specifically, the restoration of the Palace and grounds to their condition during the late Hawaiian Monarchy period, the time of King Kalakaua himself. In view of this goal the grounds of Iolani Palace may not be the most appropriate location for the statue.

Your Committee heard suggestions for other sites, including the birthplace of the King, the site chosen by his widow, Queen Kapiolani, and the site chosen by his successor, Queen Liliuokalani.

This resolution requests the Governor to appoint a blue ribbon committee, to report to the Legislature prior to the convening of the Regular Session of 1987 its recommendations on the most appropriate site for the King Kalakaua statue.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.R. No. 67 and recommends its adoption.

Signed by all members of the Committee except Senator George.

SCRep. 915-86 Economic Development on S.C.R. No. 32

The purpose of this resolution is to request that fish wholesalers and dealers refrain from taking small ahi in an effort to conserve this marine species.

Your Committee received testimony from the Department of Land and Natural Resources indicating that they are currently conducting a statewide small ahi tagging operation, to understand the local movements, distribution, and recruitment pattern of ahi. This study will provide information to determine whether small ahi will eventually be recruited as adults into the Hawaiian tuna fishery. The Department further testified that statutory prohibition of a three pound minimum size for ahi is premature until the results of the study are complete, however, they support the intent of this resolution to encourage conservation of the species.

Your Committee finds that voluntary efforts by commercial fishers to conserve ahi should be supported, especially during periods when large-size ahi are plentiful.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 32 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 916-86 Economic Development on S.R. No. 60

The purpose of this resolution is to request that fish wholesalers and dealers refrain from taking small ahi in an effort to conserve this marine species.

Your Committee received testimony from the Department of Land and Natural Resources indicating that they are currently conducting a statewide small ahi tagging operation, to understand the local movements, distribution, and recruitment pattern of ahi. This study will provide information to determine whether small ahi will eventually be recruited as adults into the Hawaiian tuna fishery. The Department further testified that statutory prohibition of a three pound minimum size for ahi is premature until the results of the study are complete, however, they support the intent of this resolution to encourage conservation of the species.

Your Committee finds that voluntary efforts by commercial fishers to conserve ahi should be supported, especially during periods when large-size ahi are plentiful.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 60 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 917-86 Economic Development on H.C.R. No. 14

The purpose of this concurrent resolution is to support the new owners of the Hawaiian Tuna Packers Cannery by requesting the Department of Transportation to expedite lease negotiations with the new owners.

Your Committee received testimony from the Department of Planning and Economic Development indicating that the tuna cannery is a significant economic asset to the State's commercial fishing sector. Further, the low import tariffs on tuna coupled with the low wage scales of foreign tuna processing operations, have put domestic cannery operations at a competitive disadvantage.

Your Committee, therefore, finds that the Hawaiian Tuna Packers Cannery should receive the full support and assistance from the State, by expediting lease accommodations and encouraging alternative revenue-producing activities.

Your Committee has amended the resolution by inserting the clause "the Senate concurring," in the first paragraph on page 2, as required for the adoption of a concurrent resolution and by including the Director of Transportation as a recipient of a certified copy of the resolution.

Your Committee on Economic Development concurs with the intent and purpose of H.C.R. No. 14, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 14, H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 918-86 Economic Development on S.R. No. 6

The purpose of this resolution is to request the U.S. Congress to establish remote sensing receiving stations in Hawaii, Guam, and Midway to assist the fisheries industry in locating stocks of fish for harvest.

Your Committee finds that satellite remote sensors provide a unique view of the ocean, through measurements which indicate fluctuations in ocean conditions which impacts the fish populations. Your Committee further finds that this type of information is necessary to understand and predict the effects of the marine environment on fish populations, and plays an important role in fishery research and harvesting in the Pacific.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 6 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 919-86 Economic Development on S.C.R. No. 60

The purpose of this concurrent resolution is to provide legislative authorization pursuant to Section 171-53, Hawaii Revised Statutes, to lease submerged lands and lands beneath tidal waters which the Board deems suitable for reclamation.

Your Committee received testimony from the Department of Land and Natural Resources indicating that this disposition involves a perpetual non-exclusive easement for seawall and boat ramp purposes in the tidal waters of Kaneohe Bay. The Department further testified that the applicant's property has had a documented history of shoreline erosion and the seawall would prevent further erosion and loss of property, trees, and shrubs.

Your Committee finds that this disposition of submerged lands meets the requirements of Section 171-53, Hawaii Revised Statutes, and authorizes the easement for the purposes specified.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 60 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 920-86 Economic Development on S.C.R. No. 44

The purpose of this Concurrent resolution is to provide legislative authorization pursuant to Section 171-53, Hawaii Revised Statutes, to lease submerged lands and lands beneath tidal waters which the Board deems suitable for reclamation.

Your Committee received testimony from the Department of Land and Natural Resources indicating that this disposition involves the sale of a forty year-term easement of public land

near Lanai for use as a commercial boat basin and dock for tour boats from Maui. The Department further indicated that a boat pier and six mooring buoys will be constructed on the submerged land. This disposition will enable the State to receive income from currently non-income producing property.

Your Committee finds that this disposition of submerged lands meets the requirements of Section 171-53, and authorizes the easement for the purposes specified.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 44 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 921-86 Health on S.C.R. No. 39

The purpose of this Concurrent Resolution is to request the Department of Health to convene an interagency committee to study and make recommendations on the continuation of the Employee Assistance Program (EAP) for state employees.

Employee Assistance Programs have proven to be effective in reducing costs, improving productivity, and boosting morale within a company by helping poorly performing workers to regain their original state of well-being and acceptable levels of performance. However, a viable EAP requires proper organizational location with sufficient resources and support for program planning, policy development, and on-going supervisory/union training and consultation, employee education and outreach, and referral network development, in addition to direct assessment, counseling, and referral services.

The Department of Health piloted Hawaii's Employment Assistance Program in 1978, and since November 1981 has been operating Project CARE (Counseling and Referral for Employees) as the State's EAP with one full-time staff member. However, budgetary restrictions have necessitated that the full-time position be reduced to 75 percent this current fiscal year.

Your Committee received testimony in support of this Concurrent Resolution from the Director of Health, the Superintendent of Education, the Chairman of the Hawaii Advisory Commission on Drug Abuse and Controlled Substances, the Hawaii Government Employees Association, the Hawaii Psychological Association, and the Hawaii State Teachers Association, and finds that there is a need to review Project CARE and determine its most appropriate location, role function, and resource requirement within the State government structure. A concerned interagency effort in this review process would strengthen the validity of the resulting recommendations and form a potential basis for the marshalling of interagency resources to meet program needs. Your Committee further finds that the Department of Health is ready and able to commit staff resources to carry out the study called for in this Concurrent Resolution.

Your Committee has amended this Concurrent Resolution by adding the words "problems which are affecting" between the words "have" and "their" in the seventh "WHEREAS CLAUSE" and by providing that copies shall be transmitted to the Director of Personnel Services, the Director of Labor and Industrial Relations, the Superintendent of Education, HGEA, UPW, HSTA, and UHPA. Your Committee has further amended the Concurrent Resolution by making numerous technical and language changes which have no substantive effect but which place the Concurrent Resolution in conformance with recommended drafting style.

Your Committee on Health concurs with the intent and purpose of S.C.R. No. 39, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 39, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki and A. Kobayashi.

SCRep. 922-86 Health on S.C.R. No. 56

The purpose of this Concurrent Resolution is to request the Legislative Auditor to conduct a management and financial audit of Molokai General Hospital.

Molokai General Hospital is a community owned hospital which receives substantial financial support from the Legislature. In March, 1983, the hospital's Board of Trustees entered into a three year agreement with a California nonprofit corporation to manage the day-to-day operations utilizing local personnel. However, a civil suit by the Concerned Citizens for Molokai General Hospital has subsequently been filed alleging financial mismanagement, and many residents and Board members fear that the continued existence of the hospital is in jeopardy.

Your Committee heard testimony in support of this Concurrent Resolution by the Department of Health and several Molokai residents who have specific knowledge of the actual operations of the hospital, and finds that there is a rational basis to fear that there may be irregularities in management and financial activities connected with the hospital. Your Committee further finds that a management and financial audit is a sound and reasonable course of action which will help to insure the right of Molokai citizens to have access to the full range of health services which only Molokai General Hospital is capable of providing at the present time.

Your Committee wishes to emphasize that the audit is intended to protect the interests of Molokai residents who depend on the hospital and restore confidence in all concerned that the hospital is being operated in the best interests of the patients, and that the Legislative Auditor should use all available information in pursuit of such goals. Therefore, your Committee has amended this Concurrent Resolution by adding two new "BE IT FURTHER RESOLVED" clauses, which are set forth here in their entirety:

"BE IT FURTHER RESOLVED that the Legislative Auditor bear in mind that a specific reason for doing the audit is to look for possible anomalies in the financial and managerial practices of the hospital administration and to promote confidence on behalf of hospital board members, the community, and legislators, that the hospital is being run efficiently and effectively in the best interests of the patients. The audit should serve as a basis for corrective action; and

BE IT FURTHER RESOLVED that groups and organizations, including but not limited to the board and administration of Molokai General Hospital, Peat Marwick Mitchell and Co., the Medical Care Administration of the Department of Social Services and Housing, and the State/County Hospital Division of the Department of Health, which have information and expertise that might be useful to the Legislative Auditor, be requested to cooperate in accomplishing the purposes of this Concurrent Resolution;"

Your Committee has also amended the Concurrent Resolution by clarifying in the "BE IT RESOLVED" clause that the Legislative Auditor is to conduct a management and financial audit of Molokai General Hospital, rather than of the administration, utilizing wherever possible current studies and audits that may apply. Your Committee has also changed the submission date for the audit from December 1, 1986 to January 15, 1987, and made two technical changes to conform the language of the Concurrent Resolution with recommended drafting style.

Your Committee on Health concurs with the intent and purpose of S.C.R. No. 56, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 56, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki and A. Kobayashi.

SCRep. 923-86 Tourism and Recreation on S.C.R. No. 97

The purpose of this concurrent resolution is to request the Governor to assist Hawaii's congressional delegation in formulating a plan to hold a Hawaii Day in Washington, D.C.

Your Committee finds that our nation's capital has historically been more oriented towards the Atlantic-European sphere than the Pacific-Asian sphere. Although economic and trade interests have been shifting towards the Pacific, it is probable that much of official Washington, D.C. is not fully aware of the U.S. stake in this part of the world. With the recent fishing agreement between the Soviet Union and the nation of Kiribati, American awareness of the Pacific is more vital than ever.

Hawaii, with its location and population, is in a unique position to contribute towards making official Washington, D.C. and the East Coast media more aware of America's interests in Asia and the Pacific.

Your Committee finds further that the states of California and Texas, with the help of their congressional delegates, have each had a special day — a California Day and a Texas Day — in Washington, D.C. This resolution requests the Governor to assist Hawaii's congressional delegation in the formulation of a plan to hold a similar Hawaii Day in our nation's capital.

Your Committee is in agreement that a Hawaii Day will contribute to acquainting policymakers with the vital role that this State, and the region to which it is a gateway, plays politically, economically, militarily, and culturally.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.C.R. No. 97 and recommends its adoption.

Signed by all members of the Committee except Senators Chang and George.

SCRep. 924-86 Tourism and Recreation on S.R. No. 126

The purpose of this resolution is to request the Governor to assist Hawaii's congressional delegation in formulating a plan to hold a Hawaii Day in Washington, D.C.

Your Committee finds that our nation's capital has historically been more oriented towards the Atlantic-European sphere than the Pacific-Asian sphere. Although economic and trade interests have been shifting towards the Pacific, it is probable that much of official Washington, D.C. is not fully aware of the U.S. stake in this part of the world. With the recent fishing agreement between the Soviet Union and the nation of Kiribati, American awareness of the Pacific is more vital than ever.

Hawaii, with its location and population, is in a unique position to contribute towards making official Washington, D.C. and the East Coast media more aware of America's interests in Asia and the Pacific.

Your Committee finds further that the states of California and Texas, with the help of their congressional delegates, have each had a special day — a California Day and a Texas Day — in Washington, D.C. This resolution requests the Governor to assist Hawaii's congressional delegation in the formulation of a plan to hold a similar Hawaii Day in our nation's capital.

Your Committee is in agreement that a Hawaii Day will contribute to acquainting policymakers with the vital role that this State, and the region to which it is a gateway, plays politically, economically, militarily, and culturally.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.R. No. 126 and recommends its adoption.

Signed by all members of the Committee except Senator George.

SCRep. 925-86 Tourism and Recreation on S.C.R. No. 91

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources (DLNR) to begin implementation of the Kahana State Park Development Plan as submitted by the Kahana Advisory Council in December, 1985.

Your Committee finds that Kahana Valley was purchased by the State for development as a state park, but has remained largely undeveloped to allow resident families to continue living in the valley. The Kahana Advisory Council, made up of representatives from agencies and parties interested in the Park's development, was established by the DLNR in 1984 to make recommendations for the development of policies and programs including the feasibility of implementing a living park concept to allow residents of Kahana Valley to continue living in the valley.

The Advisory Council submitted a Kahana State Park Development Plan to the DLNR in December, 1985. The DLNR accepted the concept of the Plan at its Board meeting on January 10, 1985. The Board directed the Advisory Council to continue work, to provide clarification of elements of the Plan, including residency requirements, participation in programs, development costs, program and operational costs, resident share of costs, production and distribution of crops and other commercial products, and implementation of "konohiki rights".

Your Committee heard testimony in favor of this concurrent resolution from the DLNR, Alu Like, Inc., and the Hawaii Chapter of the Sierra Club. The DLNR testified that for planning purposes, disapproval or non-passage of this concurrent resolution would be regarded by the DLNR as a legislative intent not to implement the living park concept.

Your Committee finds, however, that there are many remaining questions and concerns that need to be addressed before implementation of the Plan can begin. However, to express legislative support for the continuation of the planning process, your Committee amended the concurrent resolution to delete specific recommendations for the Park's development and added language urging the DLNR and Advisory Council to continue their work in regards to the Park. The title has also been amended to reflect these changes.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.C.R. No. 91, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 91, S.D.1.

Signed by all members of the Committee except Senator George.

SCRep. 926-86 Tourism and Recreation on S.R. No. 121

The purpose of this resolution is to request the Department of Land and Natural Resources (DLNR) to begin implementation of the Kahana State Park Development Plan as submitted by the Kahana Advisory Council in December, 1985.

Your Committee finds that Kahana Valley was purchased by the State for development as a state park, but has remained largely undeveloped to allow resident families to continue living in the valley. The Kahana Advisory Council, made up of representatives from agencies and parties interested in the Park's development, was established by the DLNR in 1984 to make recommendations for the development of policies and programs including the feasibility of implementing a living park concept to allow residents of Kahana Valley to continue living in the valley.

The Advisory Council submitted a Kahana State Park Development Plan to the DLNR in December, 1985. The DLNR accepted the concept of the Plan at its Board meeting on January 10, 1985. The Board directed the Advisory Council to continue work, to provide clarification of elements of the Plan, including residency requirements, participation in programs, development costs, program and operational costs, resident share of costs, production and distribution of crops and other commercial products, and implementation of "konohiki rights".

Your Committee heard testimony in favor of this resolution from the DLNR, Alu Like, Inc., and the Hawaii Chapter of the Sierra Club. The DLNR testified that for planning purposes, disapproval or non-passage of this resolution would be regarded by the DLNR as a legislative intent not to implement the living park concept.

Your Committee finds, however, that there are many remaining questions and concerns that need to be addressed before implementation of the Plan can begin. However, to express legislative support for the continuation of the planning process, your Committee amended the resolution to delete specific recommendations for the Park's development and added language urging the DLNR and Advisory Council to continue their work in regards to the Park. The title has also been amended to reflect these changes.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.R. No. 121, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 121, S.D.1.

Signed by all members of the Committee except Senator George.

SCRep. 927-86 Tourism and Recreation on S.C.R. No. 104

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to conduct a study on suitable convention center sites in Hawaii.

Your Committee finds that a study done by Pannell, Kerr, Forster for the State of Hawaii concluded that a convention center would be economically feasible in Hawaii. A convention center would contribute to stabilizing Hawaii's cyclical visitor industry, as conventions generally tend to be scheduled in spring and fall when hotel occupancy rates traditionally are low.

Your Committee further finds that a site for the proposed convention center has not yet been designated. Many potential sites, including Fort DeRussy, Honolulu Zoo, Ala Wai Golf Course, Waikiki Shell, Kapiolani Park, Jefferson School, and Fort Armstrong have been suggested.

This concurrent resolution requests the Legislative Reference Bureau, with assistance from the Department of Planning and Economic Development (DPED), to conduct a comprehensive study of convention center sites, to include the above named sites as well as any other sites that may prove suitable. The study shall include the advantages and disadvantages of each site, along with a priority ranking. The Bureau shall report its findings and recommendations to the Legislature twenty days before the convening of the Regular Session of 1987.

Your Committee heard testimony in favor of this concurrent resolution from the DPED, the Chamber of Commerce of Hawaii, the Waikiki Residents Association, and Outrigger Hotels Hawaii. The DPED testified that an estimated \$500,000 will be needed to thoroughly evaluate the sites requested by this concurrent resolution.

Your Committee is in agreement that a study as requested by this concurrent resolution is needed to assist the Legislature in making a reasonable, timely, and knowledgeable decision on a convention center site.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.C.R.

No. 104 and recommends its adoption.

Signed by all members of the Committee except Senators Chang and George.

SCRep. 928-86 Tourism and Recreation on S.R. No. 133-86

The purpose of this resolution is to request the Legislative Reference Bureau to conduct a study on suitable convention center sites in Hawaii.

Your Committee finds that a study done by Pannell, Kerr, Forster for the State of Hawaii concluded that a convention center would be economically feasible in Hawaii. A convention center would contribute to stabilizing Hawaii's cyclical visitor industry, as conventions generally tend to be scheduled in spring and fall when hotel occupancy rates traditionally are low.

Your Committee further finds that a site for the proposed convention center has not yet been designated. Many potential sites, including Fort DeRussy, Honolulu Zoo, Ala Wai Golf Course, Waikiki Shell, Kapiolani Park, Jefferson School, and Fort Armstrong have been suggested.

This resolution requests the Legislative Reference Bureau, with assistance from the Department of Planning and Economic Development (DPED), to conduct a comprehensive study of convention center sites, to include the above named sites as well as any other sites that may prove suitable. The study shall include the advantages and disadvantages of each site, along with a priority ranking. The Bureau shall report its findings and recommendations to the Legislature twenty days before the convening of the Regular Session of 1987.

Your Committee heard testimony in favor of this resolution from the DPED, the Chamber of Commerce of Hawaii, the Waikiki Residents Association, and Outrigger Hotels Hawaii. The DPED testified that an estimated \$500,000 will be needed to thoroughly evaluate the sites requested by this resolution.

Your Committee is in agreement that a study as requested by this resolution is needed to assist the Legislature in making a reasonable, timely, and knowledgeable decision on a convention center site.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.R. No. 133 and recommends its adoption.

Signed by all members of the Committee except Senator George.

SCRep. 929-86 Tourism and Recreation on S.C.R. No. 68

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources (DLNR) to lease 290 acres of state land at Pu'uana'hulu, West Hawaii, for a public shooting range.

Your Committee finds that currently the Island of Hawaii does not have an easily accessible public recreational shooting range facility. The County police department and the National Guard maintain shooting ranges which are off limits to the general public, and there is a private shooting range for club members only in Hilo. The Pohakuloa Military Training Area is available for civilian use, but is accessible only via two-wheel-drive trucks or four-wheel-drive vehicles.

Your Committee further finds that the Puuwaawaa Ranch is in the process of relinquishing its lease with the State on approximately 290 acres of land at Pu'uana'hulu, makai of the Ranch between Kailua-Kona and Waimea. The West Hawaii Shooting Club, a non-profit educational organization, has been working towards the establishment of a public recreational shooting range, which could also include an archery range, on this property. Test shots were fired for a noise pollution test, and no shots were heard at the nearest home which is two miles.

Your Committee heard testimony in favor of this concurrent resolution from the DLNR, Conservation Council of Hawaii, West Hawaii Shooting Club, and Hualalai Archery. The DLNR testified that they intend to process the lease of the site for a public shooting range, however because the development, operation and maintenance of the site are vital, DLNR prefers that the site be leased to the County of Hawaii rather than to a private organization.

Your Committee is in agreement that the leasing of this property for a shooting range as requested by this concurrent resolution will enhance the recreational facilities for residents and visitors in West Hawaii.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.C.R. No. 68 and recommends its adoption.

Signed by all members of the Committee except Senator George.

SCRep. 930-86 Tourism and Recreation on S.R. No. 93

The purpose of this resolution is to request the Department of Land and Natural Resources (DLNR) to lease 290 acres of state land at Pu'uana'hulu, West Hawaii, for a public shooting range.

Your Committee finds that currently the Island of Hawaii does not have an easily accessible public recreational shooting range facility. The County police department and the national Guard maintain shooting ranges which are off limits to the general public, and there is a private shooting range for club members only in Hilo. The Pohakuloa Military Training Area is available for civilian use, but is accessible only via two-wheel-drive trucks or four-wheel-drive vehicles.

Your Committee further finds that the Puuwaawaa Ranch is in the process of relinquishing its lease with the State on approximately 290 acres of land at Pu'uana'hulu, makai of the Ranch between Kailua-Kona and Waimea. The West Hawaii Shooting Club, a non-profit educational organization, has been working towards the establishment of a public recreational shooting range, which could also include an archery range, on this property. Test shots were fired for a noise pollution test, and no shots were heard at the nearest home which is two miles.

Your Committee heard testimony in favor of this resolution from the DLNR, Conservation Council of Hawaii, West Hawaii Shooting Club, and Hualalai Archery. The DLNR testified that they intend to process the lease of the site for a public shooting range, however because the development, operation and maintenance of the site are vital, DLNR prefers that the site be leased to the County of Hawaii rather than to a private organization.

Your Committee is in agreement that the leasing of this property for a shooting range as requested by this resolution will enhance the recreational facilities for residents and visitors in West Hawaii.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.R. No. 93 and recommends its adoption.

Signed by all members of the Committee except Senators Chang, B. Kobayashi and George.

SCRep. 931-86 (Majority) Ways and Means on S.C.R. No. 94

The purpose of this concurrent resolution is to direct the department of budget and finance to conduct a study on the social, economic, and revenue-generating aspects of a state-run lottery and an Aloha state bond program.

Your Committee heard testimony from a Honolulu law firm in favor of the Aloha state bonds program. According to this firm, unlike the traditional lottery ticket concept, the Aloha state bond minimizes the risks to the bond holder since the holder can always demand a full return of the principal amount of the bond, and the holder of the bond is entitled to participate in the drawing as long as the holder retains the bonds. Therefore, one of the major drawbacks attributable to the lottery, that a lottery takes money from one segment of the population and gives it to another, and that the segment of the population that would probably purchase the most lottery tickets is that segment that can least afford it, is avoided. Moreover, the bond could be marketed to tourists, as the perfect gift from Hawaii, something that will give each holder "a piece of Aloha".

Your Committee on Ways and Means concurs with the and purpose of S.C.R. No. 94 and recommends its adoption.

Signed by all members of the Committee.
Senator Henderson did not concur.

SCRep. 932-86 (Majority) Ways and Means on S.R. No. 123

The purpose of this resolution is to direct the department of budget and finance to conduct a study on the social, economic, and revenue-generating aspects of a state-run lottery and an Aloha state bond program.

Your Committee heard testimony from a Honolulu law firm in favor of the Aloha state bond program. According to this firm, unlike the traditional lottery ticket concept, the Aloha state bond minimizes the risks to the bond holder since the holder can always demand a full return of the principal amount of the bond, and the holder of the bond is entitled to participate in the drawing as long as the holder retains the bond. Therefore, one of the major drawbacks attributable to the lottery, that a lottery takes money from one segment of the population and gives it to another, and that the segment of the population that would probably purchase the most lottery tickets is that segment that can least afford it, is avoided. Moreover, the bond could be marketed to tourists, as the perfect gift from Hawaii, something that will give each holder "a piece of Aloha".

Your Committee on Ways and Means concurs with the intent and purpose of S.R. No. 123 and recommends its adoption.

Signed by all members of the Committee.
Senator Henderson did not concur.

SCRep. 933-86 (Majority) Ways and Means on S.C.R. No. 105

The purpose of this concurrent resolution is to request that the legislature, through a committee appointed by the Speaker of the House and the President of the Senate, conduct a study on the feasibility of enacting legislation allowing parimutuel wagering in a form permitting the development and operation of a "teletrack" theatre in the State.

"Teletrack" makes possible the viewing of greyhound and horse races in Hawaii on a theater screen, simultaneously with the actual running of the races at a track on the mainland or another country. Concomitant technology also permits remote parimutuel wagering. The presumed economic benefits for the State are the significant capital investment and employment opportunities in the private sector that the enterprise would generate.

Your Committee finds that the feasibility of combining parimutuel wagering with a "teletrack" theatre for the State should be explored.

Your Committee on Ways and Means concurs with the intent and purpose of S.C.R. No. 105 and recommends its adoption.

Signed by all members of the Committee except Senator B. Kobayashi.
Senators Henderson and Soares did not concur.

SCRep. 934-86 (Majority) Ways and Means on S.R. No. 134

The purpose of this resolution is to request that the legislature, through a committee appointed by the Speaker of the House and the President of the Senate, conduct a study on the feasibility of enacting legislation allowing parimutuel wagering in a form permitting the development and operation of a "teletrack" theatre in the State.

"Teletrack" makes possible the viewing of greyhound and horse races in Hawaii on a theater screen, simultaneously with the actual running of the races at a track on the mainland or another country. Concomitant technology also permits remote parimutuel wagering. The presumed economic benefits for the State are significant capital investment and employment opportunities in the private sector that the enterprise would generate.

Your Committee finds that the feasibility of combining parimutuel wagering with a "teletrack" theatre for the State should be explored.

Your Committee on Ways and Means concurs with the intent and purpose of S.R. No. 134 and recommends its adoption.

Signed by all members of the Committee except Senator B. Kobayashi.
Senators Henderson and Soares did not concur.

SCRep. 935-86 Energy on S.C.R. No. 55

The purpose of this Concurrent Resolution is to request the Natural Energy Laboratory of Hawaii (NELH) and the High Technology Development Corporation to develop a plan for providing a back-up system to the cold seawater system serving their facilities at Keahole Point on the Island of Hawaii.

NELH has attained international recognition as the only site in the world with a continuous supply of deep, cold seawater which can and is being used for Ocean Thermal Energy Conversion

(OTEC) and related experiments. Cold seawater has also proven to be especially successful for aquaculture use at NELH and will be a unique and valuable resource at the Hawaii Ocean Science and Technology (HOST) Park being developed at Keahole Point by the High Technology Development Corporation.

Your Committee received testimony in support of this Concurrent Resolution from the Director of Planning and Economic Development, the Executive Director of the Natural Energy Laboratory of Hawaii, the Executive Director of the High Technology Development Corporation, and Hawaiian Abalone Farms, and finds that the present cold seawater system is a twelve-inch diameter interim pipe installed in 1981 with CIP aquaculture funds provided by the Legislature. At that time it was anticipated that the pipe would serve NELH's needs for only a limited period of time; however, in February 1986, heavy seas pounded the Kona Coast of the Big Island and caused considerable damage. Although the pipe was quickly restored to full capability, the event indicated that the projects are in serious jeopardy if they must rely on the temporary system.

Your Committee further finds that the State is joining with the U.S. Department of Energy (DOE) to design and install a permanent cold water pipe, about thirty-six inches in diameter, to serve the needs of HOST Park and DOE experiments at NELH. However, since this pipe will not be in operation until 1987 at the earliest, and since NELH and HOST Park both have plans for additional pipes, your Committee finds that what is really needed is near-term funding of the plans already in existence. Therefore, your Committee has amended the Concurrent Resolution by deleting the second "BE IT FURTHER RESOLVED" clause and inserting a clause calling for state CIP funds to be appropriated for the implementation of the design and construction of a cold-water back-up supply system.

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

Your Committee on Energy concurs with the intent and purpose of S.C.R. No. 55, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 55, S.D. 1.

Signed by all members of the Committee.

SCRep. 936-86 Energy on S.R. No. 78

The purpose of this Resolution is to request the Natural Energy Laboratory of Hawaii (NELH) and the High Technology Development Corporation to develop a plan for providing a back-up system to the cold seawater system serving their facilities at Keahole Point on the Island of Hawaii.

NELH has attained international recognition as the only site in the world with a continuous supply of deep, cold seawater which can and is being used for Ocean Thermal Energy Conversion (OTEC) and related experiments. Cold seawater has also proven to be especially successful for aquaculture use at NELH and will be a unique and valuable resource at the Hawaii Ocean Science and Technology (HOST) Park being developed at Keahole Point by the High Technology Development Corporation.

Your Committee received testimony in support of this Resolution from the Director of Planning and Economic Development, the Executive Director of the Natural Energy Laboratory of Hawaii, the Executive Director of the High Technology Development Corporation, and Hawaiian Abalone Farms, and finds that the present cold seawater system is a twelve-inch diameter interim pipe installed in 1981 with CIP aquaculture funds provided by the Legislature. At that time it was anticipated that the pipe would serve NELH's needs for only a limited period of time; however, in February 1986, heavy seas pounded the Kona Coast of the Big Island and caused considerable damage. Although the pipe was quickly restored to full capability, the event indicated that the projects are in serious jeopardy if they must rely on the temporary system.

Your Committee further finds that the State is joining with the U.S. Department of Energy (DOE) to design and install a permanent cold water pipe, about thirty-six inches in diameter, to serve the needs of HOST Park and DOE experiments at NELH. However, since this pipe will not be in operation until 1987 at the earliest, and since NELH and HOST Park both have plans for additional pipes, your Committee finds that what is really needed is near-term funding of the plans already in existence. Therefore, your Committee has amended the Resolution by deleting the second "BE IT FURTHER RESOLVED" clause and inserting a clause calling for state CIP funds to be appropriated for the implementation of the design and construction of a cold-water back-up supply system.

Your Committee has also amended the Resolution by making technical changes which have no

substantive effect.

Your Committee on Energy concurs with the intent and purpose of S.R. No. 78, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 78, S.D. 1.

Signed by all members of the Committee.

SCRep. 937-86 Energy on S.C.R. No. 82

The purpose of this concurrent resolution is to urge the United States Congress to support the completion of the Department of Energy's MOD-5B research wind turbine at Kahuku, Hawaii.

The State of Hawaii is extremely dependent on imported oil for more than ninety per cent of its energy needs and relies on continued research to develop indigenous alternate energy resources, such as geothermal, ocean thermal, solar and wind energy.

The Director of the Department of Planning and Economic Development testified that the Kahuku area possesses one of the best wind regimes in the State of Hawaii for development of wind-derived electrical energy. It was at this location that the Department of Energy's experimental MOD-OA wind turbine outperformed similar machines tested elsewhere in the United States.

The MOD-5B research wind turbine project, upon completion, will determine the technical and economic viability of large wind turbines as a means of reducing our Nation's dependence on renewable fuels.

Your Committee received testimony from the Hawaiian Electric Industries, Inc. stating that they have already invested \$1.5 million to construct the infrastructure of the MOD-5B at Kahuku, including the concrete pad for the wind turbine. A 240-foot tower has also been erected and almost all the major component parts have been assembled. Congress has also appropriated \$12 million for fiscal year 1986, however, the Department of Energy has recommended deferring \$10.5 million of the \$12 million and the \$3 million requested for fiscal year 1987 to complete the project.

Your Committee finds that the termination of the MOD-5B project would mean the loss of years of effort to determine the viability of wind turbine as an alternative to fossil fuel and is contrary to the State Energy Plan's efforts to reduce Hawaii's dependence on imported oil for energy by seeking alternative means of energy self-sufficiency.

Your Committee on Energy concurs with the intent and purpose of S.C.R. No. 82 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 938-86 Energy on S.R. No. 108

The purpose of this resolution is to urge the United States Congress to support the completion of the Department of Energy's MOD-5B research wind turbine at Kahuku, Hawaii.

The State of Hawaii is extremely dependent on imported oil for more than ninety per cent of its energy needs and relies on continued research to develop indigenous alternate energy resources, such as geothermal, ocean thermal, solar and wind energy.

The Director of the Department of Planning and Economic Development testified that the Kahuku area possesses one of the best wind regimes in the State of Hawaii for development of wind-derived electrical energy. It was at this location that the Department of Energy's experimental MOD-OA wind turbine outperformed similar machines tested elsewhere in the United States.

The MOD-5B research wind turbine project, upon completion, will determine the technical and economic viability of large wind turbines as a means of reducing our Nation's dependence on renewable fuels.

Your Committee received testimony from the Hawaiian Electric Industries, Inc. stating that they have already invested \$1.5 million to construct the infrastructure of the MOD-5B at Kahuku, including the concrete pad for the wind turbine. A 240-foot tower has also been erected and almost all the major component parts have been assembled. Congress has also appropriated \$12 million for fiscal year 1986, however, the Department of Energy has recommended deferring \$10.5 million of the \$12 million and the \$3 million requested for fiscal year 1987 to complete the project.

Your Committee finds that the termination of the MOD-5B project would mean the loss of years of effort to determine the viability of wind turbine as an alternative to fossil fuel and is contrary to the State Energy Plan's efforts to reduce Hawaii's dependence on imported oil for energy by seeking alternative means of energy self-sufficiency.

Your Committee on Energy concurs with the intent and purpose of S.R. No. 108 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 939-86 Agriculture on H.B. No. 1972-86, H.D. 1

The purpose of this bill is to require every carrier, owner, or handler of an animal entering the State to present the animal for inspection to the Department of Agriculture.

Presently, the law requires only domestic animals entering the State to be inspected by the Department. Your Committee finds that because of the numerous seaports and airports that exist throughout our State, it is vital to our enforcement efforts to require that carriers, owners and handlers present for inspection all animals that they bring into the State. This bill would broaden the scope of the law to insure that all non-domestic animals would be subject to inspection procedures.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 1972-86, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 940-86 Judiciary on H.B. No. 2482-86

The purpose of this bill is to require police to issue written citations to abusive persons ordered to leave the premises of a family or household dispute for the twelve hour cooling-off period authorized by section 709-906, Hawaii Revised Statutes.

Currently, when police respond to reports of family or household abuse, the officer may order the person reasonably believed to pose a danger of further physical abuse or harm to another family or household member to leave the premises for a cooling-off period of twelve hours.

The issuance of a written warning citation to the persons ordered to leave accomplishes several purposes intended to increase the effectiveness of police intervention in family and household abuse cases and to provide grater protection for victims.

When the police issue a citation, a copy is retained by the police officer and copies are provided to the victim and the person ordered to leave the premises. The responding police officers are provided with an efficient means of transmitting information to officers who work during an immediately subsequent period and may be resummoned to the same household by the victim. The citation documents the time, place and location of the incident and specifies the penalties for violating the warning. By giving a copy of the citation to the abusive person, he or she is clearly informed of the conditions of the cooling-off period. In the event that the abusive person violates the twelve hour cooling-off period, issuance of the citation eases prosecution by documenting the exact facts of the incident and providing evidence that the defendant was notified of the conditions of the police order.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2482-86, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 941-86 Consumer Protection and Commerce on Gov. Msg. Nos. 135, 143, 146, 150, 229 and 270

Recommending that the Senate advise and consent to the nominations of the following:

JOHN T. RATHJEN, D.C., to the Board of Chiropractic Examiners, for a term ending June 30, 1990;

EDSON HOO to the Board of Massage, for a term ending June 30, 1990;

RODNEY CHUN, N.D., to the Board of Examiners in Naturopathy, for a term ending June 30, 1990;

JOEL A. DUNSTON to the Board of Psychology, for a term ending June 30, 1990;

SHARON M. YOUNG to the Board of Chiropractic Examiners, for a term ending June 30, 1990; and

JEAN ADAIR-LELAND, Ph.D., to the Board of Psychology, for a term ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 942-86 Education on Gov. Msg. Nos. 160, 297, 161, 236, 254, 162, 277 and 158

Recommending that the Senate advise and consent to the nominations of the following:

ETHELREDA R. KAHALEWAI to the Library Advisory Commission, City and County of Honolulu, for a term ending June 30, 1990;

SUZANNE E. CASE to the Library Advisory Commission, City and County of Honolulu, for a term ending June 30, 1988;

ABRAHAM L. KEALOHA, JR., to the Library Advisory Commission, City and County of Honolulu, for a term ending June 30, 1989;

HAZEL KAUAHIKAUA and SALLY ANN HARPER to the Library Advisory Commission, City and County of Honolulu, for terms ending June 30, 1990;

ALYCE B. HAINES to the Library Advisory Commission, County of Maui, for a term ending June 30, 1990;

CALVIN T. YAMAMOTO to the Library Advisory Commission, County of Maui, for a term ending June 30, 1987;

FRANCIS K. GOODNESS to the Library Advisory Commission, County of Maui, for a term ending June 30, 1990;

FRANK N. KANEDA and MARTHA S. NAGAKURA to the Library Advisory Commission, County of Hawaii, for terms ending June 30, 1990;

ARLENE M. WAIAMAU to the Library Advisory Commission, County of Kauai, for a term ending June 30, 1990;

PRISCILLA T. LEONG, GLENN M. MOLANDER, IRENE G. WILHELM, ETHELYN KAUILANI ROSA and BEVERLY C. JOHNSTON to the Library Advisory Commission, County of Kauai, for terms ending June 30, 1990; and

EMIKO KUDO to the Education Commission of the States, for a term ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 943-86 Human Services on Gov. Msg. Nos. 108, 179, 180, 181, 182, 183, 241, 242, 261 and 280

Recommending that the Senate advise and consent to the nominations of the following:

MARLENE K. BURGESS to the Advisory Council for Children and Youth, for a term ending June 30, 1989;

PATRICIA JENKINS to the Advisory Council for Children and Youth, for a term ending June 30, 1988;

JERRY S. HASHIMOTO to the Advisory Council for Children and Youth, for a term ending June 30, 1990;

BEPPIE SHAPIRO and MARILYN JEAN WONG to the Board of Social Services and Housing, for terms ending June 30, 1990;

MICHAEL A. KENGO NAKAMURA to the Board of Social Services and Housing, for a term ending June 30, 1990;

FRANCES D. RIGGS, M.D., and BEVERLY LEE to the Child Abuse and Neglect Secondary Prevention Advisory Committee for terms ending June 30, 1989;

STANLEY S. INKYO to the Child Abuse and Neglect Secondary Prevention Advisory Committee for terms ending June 30, 1989;

ELSIE HIRAI, SHARON N. CHIBA, LOIS J. EVORA and JOAN L. HUSTED to the Commission on the Status of Women, for terms ending June 30, 1990;

NANEA SAI, PATRICE A. TOTTORI, BARBARA B. PETERSON, Ph.D., and MARY K. KAMA to the Commission on the Status of Women, for terms ending June 30, 1990;

LAURA Y. CHOCK AND SALLY ANN PRICE to the Board of Vocational Rehabilitation, for terms ending June 30, 1990; and

KENNETH OKUMA to the Policy Board for Elderly Affairs, for a term ending June 30, 1988.

Signed by all members of the Committee.

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SCRep. 944-86 Labor and Employment on Gov. Msg. Nos. 186, 187, 302, 303 and 313

Recommending that the Senate advise and consent to the nominations of the following:

CLARENCE M. TAKASHIMA to the Civil Service Commission, for a term ending June 30, 1990;

WILLIAM YAMADA, WILLIAM F. MURRAY, Ed.D., and ROWENA BLAISDELL to the Advisory Commission on Employment and Human Resources, for terms ending June 30, 1989;

JOAN M.C. BICKSON to the Civil Service Commission, for a term ending June 30, 1990;

MORIYOSHI HIRATANI to the Board of Trustees of the Hawaii Public Employees Health Fund, for a term ending June 30, 1988; and

RALSTON H. NAGATA to the Board of Trustees of the Deferred Compensation Plan, for a term ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 945-86 Judiciary on Gov. Msg. No. 184

Recommending that the Senate advise and consent to the nomination of JOHN A. CHANIN to the Commission to Promote Uniform Legislation, for a term ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 946-86 Judiciary on Gov. Msg. No. 185

Recommending that the Senate advise and consent to the nomination of GERTRUDE K.P. FRANTZ to the Board of Registration, Maui, Molokai, Lanai and Kahoolawe, for a term ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 947-86 Judiciary on H.B. No. 2361-86

The purpose of this bill is to permit service of process outside of the State by registered or certified mail when the family court exercises jurisdiction over individuals who have conceived a child within the State.

The law currently allows the court to acquire jurisdiction by personal service of process and any other method authorized by statute. Authorized methods presently do not include registered or certified mail.

The bill provides for an effective and expeditious means of establishing paternity and providing for child support in cases that involve an absent parent. Service of process by mail provides adequate notice without undue expense and inconvenience.

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. 948-86 Education on S.R. No. 104

The purpose of this Resolution is to request the Department of Education (DOE) to conduct a feasibility study for establishing an Office of Pupil Services.

Presently, DOE Offices and personnel responsible for pupil services which deal with child abuse and neglect, child study and pupil appraisal, mental and physical health, afterschool care (latch-key students), occupational, physical and speech therapy, school social work, and pupil accounting are scattered throughout the DOE thereby losing the necessary cohesiveness and focus of an efficient and effective delivery system.

This Resolution would request the DOE to conduct a feasibility study to establish an Office of Pupil Services which would consolidate these services administratively under a single authority.

After due consideration, your Committee finds that preliminary to establishing an Office of Pupil Services, the DOE should assess the status of current pupil services, therefore, your Committee has amended the Resolution accordingly. Your Committee has also amended the Resolution by making technical changes which have no substantive effect.

Your Committee on Education concurs with the intent and purpose of S.R. No. 104, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 104, S.D. 1.

Signed by all members of the Committee.

SCRep. 949-86 Labor and Employment on S.C.R. No. 53

The purpose of this concurrent resolution is to request the legislature to approve the report on the final compensation plan submitted by the Conference of Personnel Directors through the Office of the Governor, provided that funds shall have been appropriated in the supplemental budget to implement the adjustments.

Sections 77-4 and 77-5, Hawaii Revised Statutes, requires the Conference of Personnel Directors to meet each odd-numbered year to review the general condition of the compensation plan for civil service employees and make recommendations for adjustment to the Public Employees Compensation Appeals Board (PECAB). This was done in 1985, and PECAB has now made its final adjustments to the tentative compensation plan submitted by the Conference. However, before the plan can go into effect it must be approved by the Legislature by concurrent resolution.

Your Committee received testimony in support of this concurrent resolution from the Director of Personnel Services, the Director of Social Services, and the HGEA, and has reviewed the "Report of Findings on Adjustments to the Compensation Plan", and finds it to be appropriate for adoption by the Legislature.

Your Committee on Labor and Employment concurs with the intent and purpose of S.C.R. No. 53 and recommends its adoption.

Signed by all members of the Committee except Senators Abercrombie and Henderson.

SCRep. 950-86 Labor and Employment on S.C.R. No. 111

The purpose of this Concurrent Resolution is to request the Legislative Auditor to analyze and evaluate the proposed transfer of responsibility for the establishment of minimum standards and the certification of providers of rehabilitation services under workers' compensation law from the Department of Labor and Industrial Relations to the Department of Commerce and Consumer Affairs.

Currently, the establishment of minimum standards for providers of rehabilitation services, and the certification of providers, is done by the Rehabilitation Unit in the Department of Labor and Industrial Relations. However, these kinds of regulatory functions are usually carried out by the Department of Commerce and Consumer Affairs, and your Committee finds that there is no need to make an exception for workers' compensation rehabilitation service provision. Furthermore, your Committee finds that it is contrary to sound regulatory practice for the same agency to both administer a program such as vocational rehabilitation and set the standards for certification. Testimony received from providers is in agreement with this position, and the state agencies involved in the proposed transfer have voiced no objection to this study.

Your Committee on Labor and Employment concurs with the intent and purpose of S.C.R. No.

111 and recommends its adoption.

Signed by all members of the Committee except Senators Abercrombie and Henderson.

SCRep. 951-86 Labor and Employment on S.C.R. No. 110

The purpose of this concurrent resolution is to request the Department of Personnel Services to study the practice of designating newly created public employment positions as civil service exempt and to establish guidelines and criteria for the Legislature to use in determining when and why new public programs and positions should be granted permanent civil service status.

The study would also include an evaluation of each exempt position currently in the state service, including those in the Department of Education, to determine whether it would be in the best interests of the State to convert them to permanent civil service status.

This same request was made of the Department of Budget and Finance in 1985 through S.R. No. 126, but their report indicated that the Department of Personnel Services is the appropriate agency to evaluate each exempt position in the state service. As it did last year, your Committee again finds that there should be a rational basis for classifying a position as exempt in the first instance and then later reclassifying it as civil service. Your Committee heard testimony by the Director of Personnel Services and the HGEA which indicates agreement with this position.

Your Committee on Labor and Employment concurs with the intent and purpose of S.C.R. No. 110 and recommends its adoption.

Signed by all members of the Committee except Senators Abercrombie and Henderson.

SCRep. 952-86 Transportation on S.C.R. No. 103

The purpose of this resolution is to request Hawaii's Congressional delegation to obtain legislative remedy for the misapplication of section 4(f) of the Surface Transportation Act of 1966 which has halted construction of the H-3 freeway, and to request that the State Department of Transportation give highest priority to solving the trans-Koolau traffic problem if it becomes necessary to withdraw H-3 from the interstate system and substitute other projects.

Your Committee has received testimony from the State Department of Transportation, the Land Transportation Committee of the Chamber of Commerce of Hawaii, and the Cement and Concrete Products Industry of Hawaii that the construction of H-3 would help alleviate trans-Koolau traffic congestion. Originally intended to expedite trans-Koolau traffic, H-3 continues to fulfill that purpose given the continuous development on Windward Oahu. As well, in light of the development of Leeward and Central Oahu and the fact that approximately one-third of the morning Likeline highway traffic goes in the direction of Leeward Oahu H-3 will still serve the purpose of expediting trans-Koolau traffic flow. The Hawaii Transportation Association testified that as more and more commercial enterprises are locating in Leeward and Central Oahu, the construction of H-3 would provide another access between Windward Oahu and Leeward and Central Oahu and allow commercial traffic to bypass the congested Honolulu area. Moreover the State Department of Transportation noted that if H-3 is not built, the period of unacceptable traffic congestion will extend to over three hours. The Department noted a similar conclusion was reached by an independent City and County of Honolulu Department of General Planning study. Therefore, your Committee affirms that H-3 is still needed to meet the needs of trans-Koolau traffic which is considered the State's highest transportation priority.

Despite hearing vocal opposition to H-3, your Committee has received evidence indicating widespread public support for the construction of H-3. Reb Bellinger of Citizens for H-3 presented to your Committee photocopies of 35,000 signatures along with photocopies of 15,000 letters addressed to Senator Stafford and Congressman Howard expressing support for H-3. A poll taken by the Kahlau Neighborhood Board No. 29 in March of 1986 shows that over 70 per cent of the Kahlau residents support H-3. Another survey taken by Senator Richard S.H. Wong in April of 1984 found that 83 per cent of his district favored construction of H-3. Your Committee has learned from the State Department of Transportation of numerous surveys with more people for H-3 than against it. In light of these evidence, your Committee finds that construction of H-3 is consistent with public opinion.

A major obstacle preventing the construction of H-3 is the U.S. Court of Appeals for the Ninth Circuit ruling on section 4(f). Section 4(f) was originally intended to prevent the taking of existing parklands due to freeway construction. The State has sought diligently to maintain the integrity of Hoomaluhia Park. The Department of Transportation testified that it studied

17 alternatives to the H-3 route and that H-3 has met over 70 environmental regulations. When originally designed, the H-3 route did not adjoin Hoomaluhia Park. The Park's boundary was subsequently expanded to adjoin the H-3 route to prevent any urban use, thereby ensuring the integrity of the park. Your Committee believes that in light of these facts, section 4(f) has been inappropriately applied to H-3. Your Committee has learned from the State Department of Transportation that the staff attorney who drafted the 4(f) section stated that the court's interpretation was not consistent with the intention of the legislation. Therefore, in light of the pressing transportation needs of Windward Oahu and the State's longstanding commitment to the relieving of trans-Koolau traffic congestion your Committee firmly believes that of foremost importance in dealing with the present situation is the obtaining of legislative relief on the Congressional level.

Your Committee has heard testimony regarding the availability of funding that will be available upon the withdrawal of H-3. Your Committee has received testimony from the State Department of Transportation that funding for substitute projects cannot be guaranteed. The Department's testimony included a letter from U.S. Secretary of Transportation Dole to State Representative James T. Shon dated March 21, 1986, in which Dole noted she could not tell when funding for substitute projects would be available. The State Department of Transportation also noted that the Reagan administration recently proposed a fifty per cent reduction in funding for substitution projects. Moreover, even if funding for substitute projects were guaranteed, it would suffer from two drawbacks: (1) the State's funding responsibility would increase from 1 per cent to 15 per cent, and (2) where H-3 is funded until completion, substitute projects would be funded up to a certain fixed sum, providing little protection against inflation and further adding to the State's financial burden. In light of these drawbacks, your Committee finds that H-3 would provide a more certain source of funding which would provide an estimated 2,500 jobs annually.

Your Committee heard testimony earlier on alternatives to H-3, one of which is a mass transit system. Your Committee is open to mass transit but has serious reservations about any such proposals for the following reasons: (1) the high costs, estimated to exceed one billion dollars, (2) the uncertainty as to source of funding, and (3) the high operating and maintenance costs once such a system is built. Further, your Committee finds that proposals for mass transit are designed to meet the transportation needs of Leeward and Central Oahu but fail to take into account the needs of Windward Oahu. Therefore, your Committee believes that if it becomes necessary to withdraw H-3 from the interstate system and substitute other projects, then first priority should be given to solving the trans-Koolau traffic problem.

Your Committee has made technical and nonsubstantive amendments to this resolution.

Your Committee on Transportation concurs with the intent and purpose of S.C.R. No. 103, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 103, S.D. 1.

Signed by all members of the Committee except Senators Chang and Hagino.

SCRep. 953-86 Transportation on S.R. No. 132

The purpose of this resolution is to request Hawaii's Congressional delegation to obtain legislative remedy for the misapplication of section 4(f) of the Surface Transportation Act of 1966 which has halted construction of the H-3 freeway, and to request that the State Department of Transportation give highest priority to solving the trans-Koolau traffic problem if it becomes necessary to withdraw H-3 from the interstate system and substitute other projects.

Your Committee has received testimony from the State Department of Transportation, the Land Transportation Committee of the Chamber of Commerce of Hawaii, and the Cement and Concrete Products Industry of Hawaii that the construction of H-3 would help alleviate trans-Koolau traffic congestion. Originally intended to expedite trans-Koolau traffic, H-3 continues to fulfill that purpose given the continuous development on Windward Oahu. As well, in light of the development of Leeward and Central Oahu and the fact that approximately one-third of the morning Likeline highway traffic goes in the direction of Leeward Oahu H-3 will still serve the purpose of expediting trans-Koolau traffic flow. The Hawaii Transportation Association testified that as more and more commercial enterprises are locating in Leeward and Central Oahu, the construction of H-3 would provide another access between Windward Oahu and Leeward and Central Oahu and allow commercial traffic to bypass the congested Honolulu area. Moreover the State Department of Transportation noted that if H-3 is not built, the period of unacceptable traffic congestion will extend to over three hours. The Department noted a similar conclusion was reached by an independent City and County of Honolulu Department of General Planning study. Therefore, your Committee affirms that H-3 is still needed to meet the needs of trans-Koolau traffic which is considered the State's highest

transportation priority.

Despite hearing vocal opposition to H-3, your Committee has received evidence indicating widespread public support for the construction of H-3. Reb Bellinger of Citizens for H-3 presented to your Committee photocopies of 35,000 signatures along with photocopies of 15,000 letters addressed to Senator Stafford and Congressman Howard expressing support for H-3. A poll taken by the Kahaluu Neighborhood Board No. 29 in March of 1986 shows that over 70 per cent of the Kahaluu residents support H-3. Another survey taken by Senator Richard S.H. Wong in April of 1984 found that 83 per cent of his district favored construction of H-3. Your Committee has learned from the State Department of Transportation of numerous surveys with more people for H-3 than against it. In light of these evidence, your Committee finds that construction of H-3 is consistent with public opinion.

A major obstacle preventing the construction of H-3 is the U.S. Court of Appeals for the Ninth Circuit ruling on section 4(f). Section 4(f) was originally intended to prevent the taking of existing parklands due to freeway construction. The State has sought diligently to maintain the integrity of Hoomaluhia Park. The Department of Transportation testified that it studied 17 alternatives to the H-3 route and that H-3 has met over 70 environmental regulations. When originally designed, the H-3 route did not adjoin Hoomaluhia Park. The Park's boundary was subsequently expanded to adjoin the H-3 route to prevent any urban use, thereby ensuring the integrity of the park. Your Committee believes that in light of these facts, section 4(f) has been inappropriately applied to H-3. Your Committee has learned from the State Department of Transportation that the staff attorney who drafted the 4(f) section stated that the court's interpretation was not consistent with the intention of the legislation. Therefore, in light of the pressing transportation needs of Windward Oahu and the State's longstanding commitment to the relieving of trans-Koolau traffic congestion your Committee firmly believes that of foremost importance in dealing with the present situation is the obtaining of legislative relief on the Congressional level.

Your Committee has heard testimony regarding the availability of funding that will be available upon the withdrawal of H-3. Your Committee has received testimony from the State Department of Transportation that funding for substitute projects cannot be guaranteed. The Department's testimony included a letter from U.S. Secretary of Transportation Dole to State Representative James T. Shon dated March 21, 1986, in which Dole noted she could not tell when funding for substitute projects would be available. The State Department of Transportation also noted that the Reagan administration recently proposed a fifty per cent reduction in funding for substitution projects. Moreover, even if funding for substitute projects were guaranteed, it would suffer from two drawbacks: (1) the State's funding responsibility would increase from 1 per cent to 15 per cent, and (2) where H-3 is funded until completion, substitute projects would be funded up to a certain fixed sum, providing little protection against inflation and further adding to the State's financial burden. In light of these drawbacks, your Committee finds that H-3 would provide a more certain source of funding which would provide an estimated 2,500 jobs annually.

Your Committee heard testimony earlier on alternatives to H-3, one of which is a mass transit system. Your Committee is open to mass transit but has serious reservations about any such proposals for the following reasons: (1) the high costs, estimated to exceed one billion dollars, (2) the uncertainty as to source of funding, and (3) the high operating and maintenance costs once such a system is built. Further, your Committee finds that proposals for mass transit are designed to meet the transportation needs of Leeward and Central Oahu but fail to take into account the needs of Windward Oahu. Therefore, your Committee believes that if it becomes necessary to withdraw H-3 from the interstate system and substitute other projects, then first priority should be given to solving the trans-Koolau traffic problem.

Your Committee has made technical and nonsubstantive amendments to this resolution.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 132, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 132, S.D. 1.

Signed by all members of the Committee except Senators Chang and Hagino.

SCRep. 954-86 Government Operations on S.C.R. No. 50

The purpose of this concurrent resolution is to request that the Hawaii Congressional Delegation take corrective action, either through a line item in the federal budget or other means, to restore immigration and customs staffing to 1980 levels; and to further request that federal inspection procedures be streamlined to use available staff more efficiently.

Your Committee received testimony from the Honolulu Airlines Committee indicating that

delays to arriving passengers are increasing each year, and that these delays could adversely impact future airport traffic. The Department of Transportation also testified that these delays are the result of an insufficient number of customs personnel and a double check system used by immigration and customs personnel.

Your Committee finds that these delays are unnecessary and should be alleviated through additional personnel and a more efficient inspection system.

Your Committee has amended this concurrent resolution by inserting the words "International Airport" after "Honolulu" in the first BE IT RESOLVED clause.

Your Committee on Government Operations concurs with the intent and purpose of S.C.R. No. 50, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 50, S.D. 1.

Signed by all members of the Committee.

SCRep. 955-86 Government Operations on S.R. No. 74

The purpose of this resolution is to request that the Hawaii Congressional Delegation take corrective action, either through a line item in the federal budget or other means, to restore immigration and customs staffing to 1980 levels; and to further request that federal inspection procedures be streamlined to use available staff more efficiently.

Your Committee received testimony from the Honolulu Airlines Committee indicating that delays to arriving passengers are increasing each year, and that these delays could adversely impact future airport traffic. The Department of Transportation also testified that these delays are the result of an insufficient number of customs personnel and a double check system used by immigration and customs personnel.

Your Committee finds that these delays are unnecessary and should be alleviated through additional personnel and a more efficient inspection system.

Your Committee has amended this resolution by inserting the words "International Airport" after "Honolulu" in the first BE IT RESOLVED clause.

Your Committee on Government Operations concurs with the intent and purpose of S.R. No. 74, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 74, S.D. 1.

Signed by all members of the Committee.

SCRep. 956-86 Government Operations on Gov. Msg. No. 237

Recommending that the Senate advise and consent to the nominations to the Civil Defense Advisory Council of the following:

ALFRED O. SOUZA and FRANK T.S. KIM, for terms ending June 30, 1990; and

SHERMAN THOMPSON, for a term ending June 30, 1987.

Signed by all members of the Committee.

SCRep. 957-86 Transportation on S.C.R. No. 159

The purpose of this resolution is to request the State Department of Transportation to resolve problems experienced by airport lei vendors caused by new traffic patterns at Honolulu International Airport.

Your Committee received testimony from the lei vendors explaining that many of their sales have been generated from traffic passing the lei stands. Due to the new traffic flows at the airport, traffic has been diverted from the lei stands, and lei sales have declined. The lost sales have created financial pressures upon the lei vendors.

The State Department of Transportation testified in support of the resolution's intent. The Department indicated that it has been working with the vendors to address the vendors' concerns, and that the Department will continue in these efforts.

Your Committee finds that the airport lei vendors are a part of the tradition, charm, and aloha spirit of Hawaii. It is in this spirit that your Committee encourages the State Department of Transportation to help the lei vendors.

Your Committee made technical and non-substantive amendments to conform the resolution to accepted drafting style.

Your Committee on Transportation concurs with the intent and purpose of S.C.R. No. 159, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 159, S.D. 1.

Signed by all members of the Committee.

SCRep. 958-86 Transportation on S.R. No. 189

The purpose of this resolution is to request the State Department of Transportation to resolve problems experienced by airport lei vendors caused by new traffic patterns at Honolulu International Airport.

Your Committee received testimony from the lei vendors explaining that many of their sales have been generated from traffic passing the lei stands. Due to the new traffic flows at the airport, traffic has been diverted from the lei stands, and lei sales have declined. The lost sales have created financial pressures upon the lei vendors.

The State Department of Transportation testified in support of the resolution's intent. The Department indicated that it has been working with the vendors to address the vendors' concerns, and that the Department will continue in these efforts.

Your Committee finds that the airport lei vendors are a part of the tradition, charm, and aloha spirit of Hawaii. It is in this spirit that your Committee encourages the State Department of Transportation to help the lei vendors.

Your Committee made technical and non-substantive amendments to conform the resolution to accepted drafting style.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 189, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 189, S.D. 1.

Signed by all members of the Committee.

SCRep. 959-86 Transportation on Gov. Msg. No. 314

Recommending that the Senate advise and consent to the nominations of ANTONE BASQUE, DONALD I. DOI, and ERNEST "CASEY" MONIZ to the Highway Safety Council, for terms ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 960-86 Health on S.C.R. No. 116

The purpose of this concurrent resolution is to request the Department of Health to study the extent of the problem of the medically indigent in Hawaii.

The study would include an estimate of the number of medical indigents in the State and an examination of the distribution and composition of uncompensated and unsponsored care costs, trends affecting the ability of hospitals to subsidize unsponsored care, and the advantages and disadvantages of various alternatives for providing care to medically indigent persons.

It is well established that there is a small yet significant number of "gap group" people in Hawaii whose incomes exceed the limit for public assistance but who cannot afford private health insurance. This concurrent resolution would provide the information necessary to actively address the problem and develop strategies for providing for these people.

Your Committee received testimony from the Director of Health, the Hospital Association of Hawaii, and the Director of Social Services, and finds that this concurrent resolution is consistent with declared state and legislative policies to provide for the public health.

Your Committee has amended this concurrent resolution by requesting the Department of Health to conduct the study to the extent feasible in light of current expenses and staffing, and by making technical changes which have no substantive effect.

Your Committee on Health concurs with the intent and purpose of S.C.R. No. 116, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 116,

S.D. 1.

Signed by all members of the Committee except Senators Kawasaki and Matsuura.

SCRep. 961-86 Health on S.R. No. 149

The purpose of this resolution is to request the Department of Health to study the extent of the problem of the medically indigent in Hawaii.

The study would include an estimate of the number of medical indigents in the State and an examination of the distribution and composition of uncompensated and unsponsored care costs, trends affecting the ability of hospitals to subsidize unsponsored care, and the advantages and disadvantages of various alternatives for providing care to medically indigent persons.

It is well established that there is a small yet significant number of "gap group" people in Hawaii whose incomes exceed the limit for public assistance but who cannot afford private health insurance. This resolution would provide the information necessary to actively address the problem and develop strategies for providing for these people.

Your Committee received testimony from the Director of Health, the Hospital Association of Hawaii, and the Director of Social Services, and finds that this resolution is consistent with declared state and legislative policies to provide for the public health.

Your Committee has amended this resolution by requesting the Department of Health to conduct the study to the extent feasible in light of current expenses and staffing, and by making technical changes which have no substantive effect.

Your Committee on Health concurs with the intent and purpose of S.R. No. 149, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 149, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki and Matsuura.

SCRep. 962-86 Health on S.C.R. No. 75

The purpose of this concurrent resolution is to urge the United States Congress to reject the provision in the tax reform bill which would remove the tax-exempt status of nonprofit health organizations.

Congress is presently considering various methods of raising additional revenues to reduce the federal deficit, among them a proposal, now before the U.S. Senate, which would repeal the tax-exempt status of nonprofit health organizations. If such a measure were to be enacted, it would directly affect eighty-five Blue Cross and Blue Shield Plans with a combined membership of more than eighty million persons throughout the country.

Your Committee received testimony supporting this concurrent resolution from the Hawaii Medical Service Association and finds that repeal of the tax exemption would cause health care premiums to rise dramatically, placing such coverage out of the reach of many subscribers including senior citizens, students, and the unemployed. Your Committee further finds that the revenues which would result from taxing nonprofit carriers would not offset cost increases to the federal and state governments for persons unable to purchase private coverage. Therefore, your Committee finds that the proposed repeal would be contrary to the best interests of the people and counterproductive to the purposes for which it is apparently intended.

Your Committee has amended this concurrent resolution by clarifying throughout, including in the title, that the organizations referred to are health plan organizations rather than health organizations in general, and by making technical changes which have no substantive effect.

Your Committee on Health concurs with the intent and purpose of S.C.R. No. 75, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 75, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki and Matsuura.

SCRep. 963-86 Health on S.R. No. 99

The purpose of this resolution is to urge the United States Congress to reject the provision in the tax reform bill which would remove the tax-exempt status of nonprofit health organizations.

Congress is presently considering various methods of raising additional revenues to reduce the federal deficit, among them a proposal, now before the U.S. Senate, which would repeal the

tax-exempt status of nonprofit health organizations. If such a measure were to be enacted, it would directly affect eighty-five Blue Cross and Blue Shield Plans with a combined membership of more than eighty million persons throughout the country.

Your Committee received testimony supporting this resolution from the Hawaii Medical Service Association and finds that repeal of the tax exemption would cause health care premiums to rise dramatically, placing such coverage out of the reach of many subscribers including senior citizens, students, and the unemployed. Your Committee further finds that the revenues which would result from taxing nonprofit carriers would not offset cost increases to the federal and state governments for persons unable to purchase private coverage. Therefore, your Committee finds that the proposed repeal would be contrary to the best interests of the people and counterproductive to the purposes for which it is apparently intended.

Your Committee has amended this resolution by clarifying throughout, including in the title, that the organizations referred to are health plan organizations rather than health organizations in general, and by making technical changes which have no substantive effect.

Your Committee on Health concurs with the intent and purpose of S.R. No. 99, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 99, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki and Matsuura.

SCRep. 964-86 Health on S.C.R. No. 136

The purpose of this concurrent resolution is to request the Department of Health to review and evaluate two reports entitled "Waimano Training School and Hospital Report" and "Look Behind", for the purposes of informing the Legislature as to what has been or is being done to correct problems and deficiencies at Waimano Training School and Hospital, and to develop legislative strategies for taking corrective actions.

Waimano Training School and Hospital, Hawaii's only state-operated institution for people with developmental disabilities, has recently come under harsh criticism from several sources regarding the quality of its services and treatment procedures. One source of criticism is a report entitled "Waimano Training School and Hospital Report", recently released by the State Planning Council on Developmental Disabilities, and another is the "Look Behind" survey published in February, 1986 by the federal Health Care Financing Administration.

Your Committee received supporting testimony from the Department of Health, the State Planning Council on Developmental Disabilities, and the Commission on the Handicapped, and finds that it is incumbent upon the State to correct deficiencies in the operation of Waimano Training School and Hospital in order to protect substantial federal funding and to discharge declared state and legislative objectives to provide for the public health. Your Committee further finds that the actions proposed in this concurrent resolution are appropriate to the task at hand.

Your Committee on Health concurs with the intent and purpose of S.C.R. No. 136 and recommends its adoption.

Signed by all members of the Committee except Senators Kawasaki and Matsuura.

SCRep. 965-86 Health on S.R. No. 169

The purpose of this resolution is to request the Department of Health to review and evaluate two reports entitled "Waimano Training School and Hospital Report" and "Look Behind", for the purposes of informing the Legislature as to what has been or is being done to correct problems and deficiencies at Waimano Training School and Hospital, and to develop legislative strategies for taking corrective actions.

Waimano Training School and Hospital, Hawaii's only state-operated institution for people with developmental disabilities, has recently come under harsh criticism from several sources regarding the quality of its services and treatment procedures. One source of criticism is a report entitled "Waimano Training School and Hospital Report", recently released by the State Planning Council on Developmental Disabilities, and another is the "Look Behind" survey published in February, 1986 by the federal Health Care Financing Administration.

Your Committee received supporting testimony from the Department of Health, the State Planning Council on Developmental Disabilities, and the Commission on the Handicapped, and finds that it is incumbent upon the State to correct deficiencies in the operation of Waimano Training School and Hospital in order to protect substantial federal funding and to discharge

declared state and legislative objectives to provide for the public health. Your Committee further finds that the actions proposed in this resolution are appropriate to the task at hand.

Your Committee on Health concurs with the intent and purpose of S.R. No. 169 and recommends its adoption.

Signed by all members of the Committee except Senators Kawasaki and Matsuura.

SCRep. 966-86 Health on S.C.R. No. 40

The purpose of this concurrent resolution is to request the Director of Health to convene a committee of experts from both the public and private sectors for the purpose of studying Hawaii's statutes relating to insurance for alcohol dependency, drug abuse, and mental illness, as well as approaches used by other states to address the problem, and to make recommendations of appropriate policy for determining terms of contracts appropriate to meet medical and social goals relating thereto.

Recent years have seen considerable growth in public expenditures for alcoholism, drug abuse, and mental illness, and advancements in practical treatment alternatives, but private health insurers have not expanded their coverage to pay for comprehensive treatment of such diseases. Because of such limited coverage, state governments have been using regulatory authority to require carriers to offer such benefits. In Hawaii the issue is somewhat more complex because of the Prepaid Health Care Act of 1974 which mandates specific benefits and which has never been substantially amended. This concurrent resolution would provide the information and the bases by which Hawaii's laws could be amended to expand insurance coverage and make use of treatments and approaches which have proven successful in other states.

Your Committee received testimony in support of this concurrent resolution from the Department of Health, the Hawaii Commission on Drug Abuse and Controlled Substances, the Mental Health Association in Hawaii, the Hawaii Substance Abuse Association, HMSA, and the Hawaii Psychological Association, and finds that it would be in the public interest and consistent with declared state and legislative policies to seek the best available means to help Hawaii's people who are suffering from alcoholism, drug abuse, and mental illness, and that this concurrent resolution, in principle, provides an appropriate vehicle to advance such objectives. However, your Committee believes that a study of such scope, which relates greatly to legislative matters, should be done by the Legislative Reference Bureau, which is better equipped for such endeavors. Your Committee has amended the concurrent resolution accordingly.

Your Committee has also amended the concurrent resolution by clarifying and expanding the various tasks being requested of the Legislative Reference Bureau in the belief that the results will have substantial and lasting benefit to the people of Hawaii, and by requesting the Legislative Reference Bureau to submit draft legislation to the regular session of 1987 along with its report and recommendations.

Your Committee has also made numerous technical and clarifying language changes which have no substantive effect but which conform this concurrent resolution with recommended drafting style.

Your Committee on Health concurs with the intent and purpose of S.C.R. No. 40, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 40, S.D.1.

Signed by all members of the Committee except Senators Kawasaki, Matsuura and Solomon.

SCRep. 967-86 Health on S.C.R. No. 71

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to conduct a study of the services for schizophrenics which are provided by the Mental Health Division of the Department of Health. The study would identify deficiencies in service provision, examine the kinds of services which are needed, and make recommendations for feasible improvements in service delivery.

Your Committee received testimony in support of this concurrent resolution from the Director of Health, the Mental Health Association in Hawaii, the National Association of Social Workers, and Hawaii Family and Friends of Schizophrenics, and finds that there are apparent inadequacies in the service delivery system for schizophrenics such as underemphasis on prevention and cure, lack of outreach, insufficient staffing, insufficient follow-up, and financial hardship on the part of schizophrenic patients and their families, which need to be addressed

and corrected in order for the State to appropriately discharge its responsibility to provide for the health of these people. Your Committee further finds that the vehicle provided by this concurrent resolution is appropriate to accomplish these tasks.

Upon further consideration, your Committee has amended this concurrent resolution by deleting the study request made of the Legislative Reference Bureau and instead calling for a committee on the seriously mentally ill to be formed, comprised of legislators, advocates, providers, and consumers of mental health services, to study and develop recommendations on the implementation of a report entitled "Community Residential Facilities Plan: A Response to House Resolution 473, 1983 State Legislature." The committee would submit a report of its findings and recommendations for further study of services for seriously mentally ill patients, including schizophrenics, to the Legislature and the Department of Health twenty days before the convening of the Regular Session of 1987.

Your Committee has further amended this concurrent resolution by reflecting in the title the increased scope of the study to encompass all seriously mentally ill patients, rather than just schizophrenics, and by providing for copies to be sent to the President of the Senate, the Speaker of the House of Representatives, and the Director of Health, instead of the Legislative Reference Bureau.

Your Committee on Health concurs with the intent and purpose of S.C.R. No. 71, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 71, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki, Matsuura and Solomon.

SCRep. 968-86 Housing and Community Development on S.R. No. 25

The purpose of this resolution is to request the Legislative Reference Bureau to study ownership patterns of land beneath Hawaii's residential condominiums and cooperative housing corporations.

Your Committee has generally rewritten the resolution to reflect some of the information provided in written testimony to the Committee and other considerations, but kept as its basic purpose the request to the Bureau to study ownership patterns of land beneath Hawaii's residential condominiums and cooperative housing projects.

Your Committee on Housing and Community Development concurs with the intent and purpose of S.R. No. 25, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 25, S.D. 1.

Signed by all members of the Committee.

SCRep. 969-86 Housing and Community Development on Gov. Msg. No. 259

Recommending that the Senate advise and consent to the nominations of WILBERT K. EGUCHI and CALVIN S. NEMOTO to the Hawaii Housing Authority, for terms ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 970-86 Housing and Community Development on Gov. Msg. No. 260

Recommending that the Senate advise and consent to the nominations of STANLEY K. KAWAGUCHI and GARY CAULFIELD to the Hawaii Community Development Authority, for terms ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 971-86 Education on Gov. Msg. No. 159, 253, 271, 309 and 286

Recommending that the Senate advise and consent to the nominations of the following:

ANTOINETTE LEE, RUFINA MOLAKA-LEE, EDITH BANDMANN and GWENDOLYN JOSEPH to the King Kamehameha Celebration Commission, for terms ending June 30, 1990;

ALOHA D. GELLERT, SAMUEL SPENCER and RONALD KIMBALL to the King Kamehameha Celebration Commission, for terms ending June 30, 1990;

THOMAS K. SING to the Board of Public Broadcasting, for a term ending June 30, 1989;

NEIL JACOB KAMO'OKELE HANNAHS and ELROY J. CHUN to the Board of Public Broadcasting, for terms ending June 30, 1990;

JOHN M. HARA to the Board of Public Broadcasting, for a term ending June 30, 1991; and

GLADYS Y. SONOMURA, MILLICENT KIM and ARTHUR A. KOHARA to the State Foundation on Culture and the Arts, for terms ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 972-86 Labor and Employment on S.C.R. No. 67

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to study the potential revenue impact on the State if the inflation rate were to be statutorily indexed into the computation of permanent workers' compensation benefits.

Under current law, permanent total disability benefits are scheduled in accordance with the claimant's earnings at the time of injury, without regard to subsequent inflation or cost of living increases. The amount of weekly compensation determined by the schedule cannot be changed except by legislative action, and this has not been done since 1980, even though the cost of living has increased greatly since then.

Your Committee heard testimony in support of this concurrent resolution by the Director of Labor and Industrial Relations and finds that the current process of raising the benefit schedules by statute is too time consuming considering the fact that less than three percent of Hawaii's workers' compensation claimants qualify for permanent total disability. Furthermore, your Committee finds that the proposal to index benefit schedules has never been studied here, even though such indexing is a major feature of each one of the federal government's major disability programs. Therefore, your Committee finds that any legitimate attempt to suitably provide for Hawaii's permanently disabled workers, as proposed by this concurrent resolution, is considered to be in the public interest and worthy of pursuit.

Upon further consideration, your Committee has amended this concurrent resolution by clarifying and specifying that the study shall encompass alternative methods of statutorily indexing workers' compensation benefits to permanently disabled workers, funding and processing responsibilities for these adjustments, and determining related administrative costs to insurance carriers, adjustors, self-insured employers, and the workers' compensation fund. Your Committee has also made technical changes which have no substantive effect.

Your Committee on Labor and Employment concurs with the intent and purpose of S.C.R. No. 67, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 67, S.D. 1.

Signed by all members of the Committee.

SCRep. 973-86 Labor and Employment on S.R. No. 92

The purpose of this resolution is to request the Legislative Reference Bureau to study the potential revenue impact on the State if the inflation rate were to be statutorily indexed into the computation of permanent workers' compensation benefits.

Under current law, permanent total disability benefits are scheduled in accordance with the claimant's earnings at the time of injury, without regard to subsequent inflation or cost of living increases. The amount of weekly compensation determined by the schedule cannot be changed except by legislative action, and this has not been done since 1980, even though the cost of living has increased greatly since then.

Your Committee heard testimony in support of this resolution by the Director of Labor and Industrial Relations and finds that the current process of raising the benefit schedules by statute is too time consuming considering the fact that less than three percent of Hawaii's workers' compensation claimants qualify for permanent total disability. Furthermore, your Committee finds that the proposal to index benefit schedules has never been studied here, even though such indexing is a major feature of each one of the federal government's major disability programs. Therefore, your Committee finds that any legitimate attempt to suitably provide for Hawaii's permanently disabled workers, as proposed by this resolution, is considered to be in the public interest and worthy of pursuit.

Upon further consideration, your Committee has amended this resolution by clarifying and specifying that the study shall encompass alternative methods of statutorily indexing workers' compensation benefits to permanently disabled workers, funding and processing responsibilities

for these adjustments, and determining related administrative costs to insurance carriers, adjusters, self-insured employers, and the workers' compensation fund. Your Committee has also made technical changes which have no substantive effect.

Your Committee on Labor and Employment concurs with the intent and purpose of S.R. No. 92, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 92, S.D. 1.

Signed by all members of the Committee.

SCRep. 974-86 Labor and Employment on S.R. No. 147

The purpose of this resolution is to request the Board of Trustees of the Employees' Retirement System to recognize and use the Hawaii Supreme Court's definition of "accident" with regard to service-connected disability retirement.

Under current rules, the Board of Trustees defines "accident" as: "...an unlooked for mishap or untoward event which is not expected or designed, occurring while in the actual performance of duty at some definite time and place. It does not mean the unexpected result of routine performance of duties unless it can be shown that such unexpected result occurred because of some unusual strain or exertion or some unusual condition in the employment."

The Hawaii Supreme Court, on the other hand, in at least three recent rulings, including Meyers v. Board of Trustees of ERS, Civ. No. 79302, Sup. Ct. Hawaii, Aug. 12, 1985, has held that "accident" means "an unlooked for mishap or untoward event which is not expected or designed," omitting the standard of unusual strain, exertion, or condition.

Your Committee heard testimony by the Secretary of the Employees' Retirement System and finds that upon receipt of the Supreme Court's ruling on Myers, all of the System's hearings officers and the Medical Board were advised to recognize the decision in the aforementioned case and to now define "accident" as "an unlooked for mishap or untoward event which is not expected or designed, occurring while in the actual performance of duty at some definite time and place". Since the Supreme Court's ruling included the routine performance of duty requirement in the System's definition of "accident", their findings should reflect whether the employee's activity at the time of the injury constituted a function, responsibility, or duty of one's job. Your Committee further finds that the System is currently in the process of amending its rules to reflect the Supreme Court's definition of "accident" and should be completed before year's end. Therefore, your Committee has amended this resolution by requesting the Board of Trustees of the Public Employees' Retirement System to encourage and support the use of the Supreme Court's definition rather than recognize and use it.

Your Committee on Labor and Employment concurs with the intent and purpose of S.R. No. 147, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 147, S.D. 1.

Signed by all members of the Committee.

SCRep. 975-86 Labor and Employment on S.R. No. 145

The purpose of this resolution is to request the Department of Labor and Industrial Relations to develop a uniform definition of "independent contractor" which would be applicable throughout Title 21, Hawaii Revised Statutes.

At present there are four chapters under Title 21 which relate to employer-employee relationships and benefits, to wit the Prepaid Health Care law, Unemployment Compensation (Employment Security) law, Workers' Compensation, and Temporary Disability Insurance. Each lists slightly different exemptions from coverage, giving rise to a situation where, for example, an outside sales representative may be exempt from unemployment coverage because he is independent but still be covered under workers' compensation, prepaid health, and temporary disability insurance.

This study would provide a rational basis for determining who is and who is not an independent contractor, which should improve the ability of the Labor Department to administer its laws and rules uniformly and equitably across the spectrum of its programs.

After further consideration and advice from the Director of Labor and Industrial Relations, and others, your Committee finds that the Legislative Reference Bureau is the appropriate body to conduct this study. Your Committee has amended this resolution accordingly.

Your Committee on Labor and Employment concurs with the intent and purpose of S.R. No.

145, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 145, S.D. 1.

Signed by all members of the Committee.

SCRep. 976-86 Consumer Protection and Commerce on S.C.R. No. 83

The purpose of this concurrent resolution is to invite the increased responsiveness of local commercial television stations to the problem of increased decibel level of television commercials as perceived by viewers.

Your Committee received testimony by officials of two local television stations to the effect that the problem has been recognized by the industry and the Federal Communications Commission for a number of years, and is the subject of continuing efforts to develop corrective instrumentalities and techniques. It was noted that while the decibel level is inherent in the problem, other factors such as personal aversion and vocal timbre and stridency may also influence viewer perception.

Your Committee elected to amend S.C.R. No. 83 by modifying the initial WHEREAS clause to read:

"WHEREAS, television commercials have on occasion exceeded in volume the decibel level of the program being interrupted for the commercials; and".

Your Committee also made nonsubstantive amendments in the fourth WHEREAS clause, and added the following WHEREAS clauses for enhanced problem definition:

"WHEREAS, the procedure for filing complaints about the television industry is outlined in a Federal Communications Commission pamphlet entitled: "The Public and Broadcasting, a Procedural Manual," which is required to be available to the public at all television stations; and

WHEREAS, television broadcasting stations have devices such as suppressors or limiters which automatically monitor decibel levels; and".

Your Committee finds that the problem persists despite good faith efforts by the television industry to resolve it, and therefore continued attention and action is warranted.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.C.R. No. 83, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 83, S.D. 1.

Signed by all members of the Committee except Senators Cayetano and Matsuura.

SCRep. 977-86 Consumer Protection and Commerce on S.R. No. 109

The purpose of this resolution is to invite the increased responsiveness of local commercial television stations to the problem of increased decibel level of television commercials as perceived by viewers.

Your Committee received testimony by officials of two local television stations to the effect that the problem has been recognized by the industry and the Federal Communications Commission for a number of years, and is the subject of continuing efforts to develop corrective instrumentalities and techniques. It was noted that while the decibel level is inherent in the problem, other factors such as personal aversion and vocal timbre and stridency may also influence viewer perception.

Your Committee elected to amend S.R. No. 109 by modifying the initial WHEREAS clause to read:

"WHEREAS, television commercials have on occasion exceeded in volume the decibel level of the program being interrupted for the commercials; and".

Your Committee also made nonsubstantive amendments in the fourth WHEREAS clause, and added the following WHEREAS clauses for enhanced problem definition:

"WHEREAS, the procedure for filing complaints about the television industry is outlined in a Federal Communications Commission pamphlet entitled: "The Public and Broadcasting, a Procedural Manual," which is required to be available to the public at all television stations; and

WHEREAS, television broadcasting stations have devices such as suppressors or limiters

which automatically monitor decibel levels; and".

Your Committee finds that the problem persists despite good faith efforts by the television industry to resolve it, and therefore continued attention and action is warranted.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.R. No. 109, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 109, S.D. 1.

Signed by all members of the Committee except Senator Matsuura.

SCRep. 978-86 Consumer Protection and Commerce on Gov. Msg. No. 103

Recommending that the Senate advise and consent to the nominations to the Board of Physical Therapy of the following:

MARK K. ONO, for a term ending June 30, 1987;

ELROY K. CHONG and RONALD Y. HONDA, for terms ending June 30, 1988; and

DENNIS M. CROWLEY, M.D., and JONIS. KANAZAWA, for terms dending June 30, 1989.

Signed by all members of the Committee except Senator Matsuura.

SCRep. 979-86 Agroculture on Gov. Msg. No. 272

Recommending that the Senate advise and consent to the nominations of CARL KOBASHIGAWA and RAY T. NISHIYAMA to the Advisory Committee on Flowers and Foliage, for terms ending June 30, 1990.

Signed by all members of the Committee except Senator Matsuura.

SCRep. 980-86 Agriculture on Gov. Msg. No. 331

Recommending that the Senate advise and consent to the nominations of JAMES K. AHLOY, EUSEBIO LAPENIA, JR., and ROY A. OYAMA to the Board of Agriculture, for terms ending June 30, 1990.

Signed by all members of the Committee except Senator Matsuura.

SCRep. 981-86 Consumer Protection and Commerce on H.B. No. 1938-86

The purpose of this bill is to exclude from the computation of "indebtedness" to a bank under Section 403-92 the amount of any "acceptance" liabilities created pursuant to Section 403-93 and the amount of any "deposit" liabilities created pursuant to Section 403-74.

This is a technical revision and is not believed to be a substantive change in existing law. Limitations regarding acceptance liabilities and deposits are separately provided for in Sections 403-93 and 403-74.

This bill also excludes from the computation of "indebtedness" to a bank under Section 403-92 the amount of "Federal funds" sold by a bank to another bank with a maturity of one business day or under a continuing contract.

"Sales of federal funds" are transactions among depository institutions involving the transfer of immediately available funds resulting from credits to deposit balances at Federal Reserve Banks or from credits to deposit balances due from a correspondent depository institution. A "continuing contract" refers to an agreement that remains in effect for more than one business day but has no specified maturity and requires no advance notice for termination.

These transactions are made by national banks without regard to "loan limitations," and are not permitted to state banks. Generally, these are one-day, interbank loans of a bank's excess reserves and the benefit to the lending bank is that it may, with an extremely small if any risk, earn interest at relatively good rates on its excess reserves. This bill would provide for more commerce by allowing state banks to initiate these transactions and compete with national banks.

Your Committee on Consumer Protection and Commerce is in accord with the intent of H.B. No. 1938-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Matsuura.

SCRep. 982-86 Economic Development on H.B. No. 2016-86, H.D.1

The purpose of this bill is to allow fishermen to use firearms in subduing certain large gamefish.

Currently, Section 188-25, Hawaii Revised Statutes, prohibits the use of firearms for the killing and taking of fish, except sharks.

Your Committee received testimony from the Department of Land and Natural Resources indicating that many Hawaiian fishermen with small boats pursue large gamefish, such as billfish and tuna. These small-boat fishermen often risk injury and death and damage to their boats, in their attempt to land these fish by striking the head of these fish with a club, spike, or gaff.

This bill allows the use of firearms to subdue a landed tuna or billfish to reduce or eliminate the risk of injury to fishermen. Your Committee however, approves of the use of firearms only after a fish has been caught and gaffed.

Your Committee on Economic Development is in accord with the intent and purpose of H.B. No. 2016-86, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 983-86 Agriculture on H.B. No. 2299-86

The purpose of this bill is to include farming operations conducted on non-agricultural zoned land within the protection from nuisance lawsuits under the Hawaii Right to Farm (HRF) Act, and to clarify provisions relating to nuisance and nuisance claims under this Act.

Your Committee finds that in 1984 a nuisance lawsuit was brought against a sugar mill located on industrially zoned land. The plaintiff argued that since the HRF Act covered only farming operations on land zoned for agricultural use, the protection from nuisance lawsuits under the HRF Act did not extend to the sugar mill. Although the Circuit Court ruled against the plaintiff, this ruling is not binding on any other action that might be brought.

This bill proposes to specifically include processing or aquaculture farming operations located on non-agricultural zoned land within the coverage of the HRF Act. This bill also amends the definition of nuisance claims to include all claims that meet the existing definition of nuisance even though the claim may be brought under another claim; clarifies the process of assessing the established date of operation for expansions of farming operations; adds a definition of "expansion"; and amends the conditions under which a farming operation can be declared a nuisance.

Your Committee is in agreement with the Hawaii Sugar Planters' Association, the Hawaii Farm Bureau Federation, and the College of Tropical Agriculture and Human Resources of the University of Hawaii, that the amendments proposed by this bill will aid in encouraging the maintenance of agriculture as a major sector of Hawaii's economy, without impeding the authority of the State to protect the public health, safety and welfare.

Your Committee notes that there is a drafting error on page 6, line 14. The proposed subsection (b) refers to subsection (a)(1), (2), and (3) when in fact there is no subsection (a)(3) and reference should be made only to subsection (a)(1) and (2). The Revisor of Statutes is requested to make the appropriate correction and notation when incorporating this measure into the Hawaii Revised Statutes.

Your Committee on Agriculture is in accord with the intent and purpose of H.B. No. 2299-86, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senator Matsuura.

SCRep. 984-86 Economic Development on S.C.R. No. 37

The purpose of this concurrent resolution is to support the development of a program for improving the quality of large fresh tuna delivered to domestic and foreign markets.

Your Committee received testimony from the Department of Land and Natural Resources

and the University of Hawaii College of Tropical Agriculture and Human Resources indicating that there is a problem with the quality of fresh tuna, known as "burnt tuna syndrome", which results in lower quality and shorter shelf life. The Department and the University have been conducting a study related to the cause of "burnt tuna syndrome" and are developing methods to prevent its occurrence. This program will emphasize the proper handling of fish by fisherman, wholesalers, and shippers.

Your Committee finds that a program for the improvement of the quality of large fresh tuna will result in the recognition of high quality of local fish and enhance its marketability.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 37 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 985-86 Economic Development on S.R. No. 66

The purpose of this resolution is to support the development of a program for improving the quality of large fresh tuna delivered to domestic and foreign markets.

Your Committee received testimony from the Department of Land and Natural Resources and the University of Hawaii College of Tropical Agriculture and Human Resources indicating that there is a problem with the quality of fresh tuna, known as "burnt tuna syndrome", which results in lower quality and shorter shelf life. The Department and the University have been conducting a study related to the cause of "burnt tuna syndrome" and are developing methods to prevent its occurrence. This program will emphasize the proper handling of fish by fisherman, wholesalers, and shippers.

Your Committee finds that a program for the improvement of the quality of large fresh tuna will result in the recognition of high quality local fish and enhance its marketability.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 66 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 986-86 Agriculture on S.C.R. No. 74

The purpose of this concurrent resolution is to request that a study be conducted on the maintenance and operation of the Molokai Irrigation System, including an assessment of whether the System is being utilized to its fullest capacity and what corrective steps can be taken to remedy the present inadequate water supply. This concurrent resolution further requests the establishment of an irrigation district on Molokai for the maintenance and operation of the Molokai Irrigation System.

Your Committee finds that the Molokai Irrigation System has played a large part in the growth of diversified agriculture on Molokai during the last five years, and that the continued growth of agriculture is directly correlated with the availability of water provided by the Molokai Irrigation System. However, during the past couple of years, the Molokai Irrigation System has not been able to provide a consistent guaranteed supply of water due to questionable water supply and serious operational problems.

Your Committee received testimony from the Chairperson of the Board of Land and Natural Resources that the Board has taken steps to address the problems of the Molokai Irrigation System. The Chairperson further indicated that other state irrigation systems also have problems unique to their locations.

The farmers on Molokai believe they should be allowed to participate in management decision-making of the Molokai Irrigation System since their livelihood is directly affected by the System, and supports the establishment of a water district user board to maintain and govern the system by direct mutual participation by the users, government agencies and the Department of Land and Natural Resources. Such irrigation districts have been established on the mainland of the United States and would serve as a model to encourage participation by the users of the Molokai Irrigation System, and may eventually apply to other irrigation systems throughout the State, such as the Waimanalo State Irrigation System and the Waimea State Irrigation System.

Your Committee has amended this concurrent resolution to request the Legislative Reference Bureau to conduct the management study of Molokai Irrigation System and to submit their findings and recommendations to the Legislature prior to the convening of the Regular Session

of 1987.

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

Your Committee on Agriculture concurs with the intent and purpose of S.C.R. No. 74, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 74, S.D. 1.

Signed by all members of the Committee except Senator Matsuura.

SCRep. 987-86 Transportation on H.B. No. 420

The purpose of this bill is to require that driver's license renewal applicants who are sixty-five years of age and older need not take a written examination of the rules of the road more than once every four years.

Your Committee has heard testimony in support of the bill from the Honolulu Police Department. The police department feels that the testing of applicant's sixty-five years of age or older, on the rules of the road, every four years will not be detrimental to the public safety of the roads. Their primary concern is with traffic safety as it applies to the applicant's physical ability.

Your Committee also received favorable testimony from the Hawaii State Association of Counties.

Your Committee on Transportation is in accord with the intent and purpose of H.B. No. 420 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 988-86 Agriculture on S.R. No. 98

The purpose of this resolution is to request that a study be conducted on the maintenance and operation of the Molokai Irrigation System, including an assessment of whether the System is being utilized to its fullest capacity and what corrective steps can be taken to remedy the present inadequate water supply. This resolution further requests the establishment of an irrigation district on Molokai for the maintenance and operation of the Molokai Irrigation System.

Your Committee finds that the Molokai Irrigation System has played a large part in the growth of diversified agriculture on Molokai during the last five years, and that the continued growth of agriculture is directly correlated with the availability of water provided by the Molokai Irrigation System. However, during the past couple of years, the Molokai Irrigation System has not been able to provide a consistent guaranteed supply of water due to questionable water supply and serious operational problems.

Your Committee received testimony from the Chairperson of the Board of Land and Natural Resources that the Board has taken steps to address the problems of the Molokai Irrigation System. The Chairperson further indicated that other state irrigation systems also have problems unique to their locations.

The farmers on Molokai believe they should be allowed to participate in management decision-making of the Molokai Irrigation System since their livelihood is directly affected by the System, and supports the establishment of a water district user board to maintain and govern the system by direct mutual participation by the users, government agencies and the Department of Land and Natural Resources. Such irrigation districts have been established on the mainland of the United States and would serve as a model to encourage participation by the users of the Molokai Irrigation System, and may eventually apply to other irrigation systems throughout the State, such as the Waimanalo State Irrigation System and the Waimea State Irrigation System.

Your Committee has amended this resolution to request the Legislative Reference Bureau to conduct the management study of Molokai Irrigation System and to submit their findings and recommendations to the Legislature prior to the convening of the Regular Session of 1987.

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

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 98, as

amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 98, S.D. 1.

Signed by all members of the Committee except Senator Matsuura.

SCRep. 989-86 Government Operations on S.C.R. No. 35

The purpose of this concurrent resolution is to proclaim June 14, 1986 as Negros Food and Freedom Day in support of mass efforts to collect donations and contributions on that day for the people of Negros, Philippines and to designate the following week as Negros Food and Freedom Fund Week for special activities to demonstrate our aloha and support for the people of Negros.

Your Committee received testimony from various groups which represent and support efforts to assist the people of Negros, indicating that this rural area of the Philippines is plagued with extreme poverty and malnutrition. The testimony portrayed a situation in which the people do not have enough money to buy food, nor are they allowed to use available lands upon which to grow food for their consumption. Church leaders and visiting clergy to the area submit that without any government support, these people's survival depends upon the efforts and contributions of such actions as Negros Food and Freedom Day.

Your Committee concurs with the statements and findings of these representatives in support of Negros, and further hopes that this effort will be a way in which the people of Hawaii will express their aloha and concern for their Philippine neighbors.

Your Committee on Government Operations concurs with the intent and purpose of S.C.R. No. 35 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 990-86 Government Operations on S.R. No. 64

The purpose of this concurrent resolution is to proclaim June 14, 1986 as Negros Food and Freedom Day in support of mass efforts to collect donations and contributions on that day for the people of Negros, Philippines and to designate the following week as Negros Food and Freedom Fund Week for special activities to demonstrate our aloha and support for the people of Negros.

Your Committee received testimony from various groups which represent and support efforts to assist the people of Negros, indicating that this rural area of the Philippines is plagued with extreme poverty and malnutrition. The testimony portrayed a situation in which the people do not have enough money to buy food, nor are they allowed to use available lands upon which to grow food for their consumption. Church leaders and visiting clergy to the area submit that without any government support, these people's survival depends upon the efforts and contributions of such actions as Negros Food and Freedom Day.

Your Committee concurs with the statements and findings of these representatives in support of Negros, and further hopes that this effort will be a way in which the people of Hawaii will express their aloha and concern for their Philippine neighbors.

Your Committee on Government Operations concurs with the intent and purpose of S.R. No. 64 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 991-86 Government Operations on S.C.R. No. 130

The purpose of this concurrent resolution is to request that all State departments and the Legislative Reference Bureau report the volume of correspondence mailed through the U.S. Postal Service (USPS), and that the Department of Accounting and General Services conduct a study of the cost-benefit of implementing the ZIP+4 system for state government based on the reported volume.

Your Committee heard testimony from the USPS which indicates that the ZIP+4 system is designed to provide cost-savings for first-class business mail through the use of automated marking and sorting of letters. The major incentive for using this system is more reliable delivery and discounted postal rates. Upon receipt at the post office, the envelope is marked with the ZIP+4 number and then scanned to place it within the assigned route. The additional four digits can identify a city block, post office box, individual building or floors within a building. The customers who choose to use the ZIP+4 system will receive discounts per letter

and have their mail processed by a machine which is capable of sorting 10,000 letters per hour, compared to 850 letters per hour sorted by hand. The USPS also indicated that businesses and governments currently using the ZIP+4 system have realized immediate savings, after their initial investment, as a result of more accurate mailing lists and decreased amounts of returned mailings.

Your Committee finds that the use of the ZIP+4 system could be a way to reduce the costs of government operations and provide more reliable, accurate mail service.

Your Committee on Government Operations concurs with the intent and purpose of S.C.R. No. 130 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 992-86 Government Operations on S.R. No. 163

The purpose of this resolution is to request that all State departments and the Legislative Reference Bureau report the volume of correspondence mailed through the U.S. Postal Service (USPS), and that the Department of Accounting and General Services conduct a study of the cost-benefit of implementing the ZIP+4 system for state government based on the reported volume.

Your Committee heard testimony from the USPS which indicates that the ZIP+4 system is designed to provide cost-savings for first-class business mail through the use of automated marking and sorting of letters. The major incentive for using this system is more reliable delivery and discounted postal rates. Upon receipt at the post office, the envelope is marked with the ZIP+4 number and then scanned to place it within the assigned route. The additional four digits can identify a city block, post office box, individual building or floors within a building. The customers who choose to use the ZIP+4 system will receive discounts per letter and have their mail processed by a machine which is capable of sorting 10,000 letters per hour, compared to 850 letters per hour sorted by hand. The USPS also indicated that businesses and governments currently using the ZIP+4 system have realized immediate savings, after their initial investment, as a result of more accurate mailing lists and decreased amounts of returned mailings.

Your Committee finds that the use of the ZIP+4 system could be a way to reduce the costs of government operations and provide more reliable, accurate mail service.

Your Committee on Government Operations concurs with the intent and purpose of S.R. No. 163 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 993-86 Government Operations on S.C.R. No. 81

The purpose of this concurrent resolution is to formally protest the government policy of apartheid in South Africa and the tremendous increase in violence associated with the pass book laws system which enforces the policy of apartheid in South Africa.

Your Committee received testimony from Amnesty International, Hawaii Committee for Africa, and the Hawaii Council of Churches, which formally protest the apartheid system in South Africa. Their testimony indicates that the use of the pass laws, the Internal Security Act, and preventive detention has increased in the past two years and resulted in more injuries and deaths each year. Further, these groups request that Hawaii join with other members of the international community to protest this discriminatory policy of government known as apartheid.

Your Committee concurs with the findings reflecting human rights abuses in South Africa, and joins in the formal protest of the apartheid system by requesting the government of South Africa to abolish the pass book laws and associated laws of detention.

Your Committee on Government Operations concurs with the intent and purpose of S.C.R. No. 81 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 994-86 Government Operations on S.R. No. 106

The purpose of this resolution is to formally protest the government policy of apartheid in South Africa and the tremendous increase in violence associated with the pass book laws system

which enforces the policy of apartheid in South Africa.

Your Committee received testimony from Amnesty International, Hawaii Committee for Africa, and the Hawaii Council of Churches, which formally protest the apartheid system in South Africa. Their testimony indicates that the use of the pass laws, the Internal Security Act, and preventive detention has increased in the past two years and resulted in more injuries and deaths each year. Further, these groups request that Hawaii join with other members of the international community to protest this discriminatory policy of government known as apartheid.

Your Committee concurs with the findings reflecting human rights abuses in South Africa, and joins in the formal protest of the apartheid system by requesting the government of South Africa to abolish the pass book laws and associated laws of detention.

Your Committee on Government Operations concurs with the intent and purpose of S.R. No. 106 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 995-86 Government Operations on S.C.R. No. 113

The purpose of this concurrent resolution is to request that the Department of Labor and Industrial Relations, with the assistance of the Department of Commerce and Consumer Affairs and the Department of Taxation, study the alleged unequal treatment and unfair practices of mainland contractors in obtaining federal public works contracts at military bases in Hawaii.

Your Committee received testimony from a representative of Hawaii independent contractors indicating that at one time, local firms received approximately 80 percent of the federal public works contracts at military bases in Hawaii, but that number has decreased to approximately 40 percent. Your Committee concurs that there is a need to study alleged unfair treatment in the awarding of federal contracts, but finds that perhaps this study should be conducted by the appropriate federal agency. Thus, your Committee has amended this concurrent resolution to request that the federal General Services Administration conduct a study into possible unfair treatment and practices related to public works contracts at military bases in Hawaii.

Your Committee on Government Operations concurs with the intent and purpose of S.C.R. No. 113, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 113, S.D. 1.

Signed by all members of the Committee.

SCRep. 996-86 Government Operations on S.R. No. 141

The purpose of this resolution is to request that the Department of Labor and Industrial Relations, with the assistance of the Department of Commerce and Consumer Affairs and the Department of Taxation, study the alleged unequal treatment and unfair practices of mainland contractors in obtaining federal public works contracts at military bases in Hawaii.

Your Committee received testimony from a representative of Hawaii independent contractors indicating that at one time, local firms received approximately 80 percent of the federal public works contracts at military bases in Hawaii, but that number has decreased to approximately 40 percent. Your Committee concurs that there is a need to study alleged unfair treatment in the awarding of federal contracts, but finds that perhaps this study should be conducted by the appropriate federal agency. Thus, your Committee has amended this resolution to request that the federal General Services Administration conduct a study into possible unfair treatment and practices related to public works contracts at military bases in Hawaii.

Your Committee on Government Operations concurs with the intent and purpose of S.R. No. 141, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 141, S.D. 1.

Signed by all members of the Committee.

SCRep. 997-86 Government Operations on S.C.R. No. 107

The purpose of this concurrent resolution is to request the Department of Accounting and General Services (DAGS) to undertake a feasibility study of moving certain executive agencies to the Armed Services Y.M.C.A. property, and of consolidating all legislative support agencies

into the state capitol building.

Your Committee finds that the function of the state capitol building is to house the state Legislature, its affiliated agencies, and the offices of the Governor and Lieutenant Governor. The growth in size of the Legislature's affiliated agencies since 1969 has resulted in a decreased amount of office space in the capitol building.

Your Committee finds further that the state Attorney General, the Department of Budget and Finance, and the Office of Affirmative Action are all located in the capitol although they are not considered agencies of the Legislature.

Currently, the Armed Services Y.M.C.A. property adjacent to the capitol is being offered for sale. This property would seem to be an advantageous location for those administrative agencies presently housed in the capitol, thereby allowing additional space in the capitol for the Legislature and its affiliated agencies, or other legislative support agencies currently located outside the capitol.

Your Committee heard testimony in support of this concurrent resolution from the state Judiciary and DAGS. DAGS suggested that an overall analysis of both executive and legislative agencies be considered, to decide which agencies would be best suited for transfer to the Y.M.C.A. site. Your Committee, however, finds that at this time consideration is best given to moving of executive agencies and consolidation of legislative functions at the capitol building.

Your Committee on Government Operations concurs with the intent and purpose of S.C.R. No. 107 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 998-86 Government Operations on S.R. No. 136

The purpose of this resolution is to request the Department of Accounting and General Services (DAGS) to undertake a feasibility study of moving certain executive agencies to the Armed Services Y.M.C.A. property, and of consolidating all legislative support agencies into the state capitol building.

Your Committee finds that the function of the state capitol building is to house the state Legislature, its affiliated agencies, and the offices of the Governor and Lieutenant Governor. The growth in size of the Legislature's affiliated agencies since 1969 has resulted in a decreased amount of office space in the capitol building.

Your Committee finds further that the state Attorney General, the Department of Budget and Finance, and the Office of Affirmative Action are all located in the capitol although they are not considered agencies of the Legislature.

Currently, the Armed Services Y.M.C.A. property adjacent to the capitol is being offered for sale. This property would seem to be an advantageous location for those administrative agencies presently housed in the capitol, thereby allowing additional space in the capitol for the Legislature and its affiliated agencies, or other legislative support agencies currently located outside the capitol.

Your Committee heard testimony in support of this resolution from the state Judiciary and DAGS. DAGS suggested that an overall analysis of both executive and legislative agencies be considered, to decide which agencies would be best suited for transfer to the Y.M.C.A. site. Your Committee, however, finds that at this time consideration is best given to moving of executive agencies and consolidation of legislative functions at the capitol building.

Your Committee on Government Operations concurs with the intent and purpose of S.R. No. 136 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 999-86 Government Operations on S.C.R. No. 84

The purpose of this concurrent resolution is to recognize the problem of MIAs and POWs and to urge the U.S. Congress to continue active negotiations and inquiries until all are identified and returned.

Your Committee received testimony from the Hawaii POW-MIA Committee indicating that the U.S. Congress has been slow to take action to investigate and determine the location and status of MIAs and POWs still unaccounted for. Further, the Chairman of the Asian and Pacific

Affairs Subcommittee has been successful in stopping resolutions urging Congress and the President to seek a full accounting of those still missing. Hopefully, this legislative resolution from Hawaii will increase awareness of the problem of POWs and MIAs and stimulate further action by the U.S. Congress.

Your Committee on Government Operations concurs with the intent and purpose of S.C.R. No. 84 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1000-86 Government Operations on S.R. No. 110

The purpose of this resolution is to recognize the problem of MIAs and POWs and to urge the U.S. Congress to continue active negotiations and inquiries until all are identified and returned.

Your Committee received testimony from the Hawaii POW-MIA Committee indicating that the U.S. Congress has been slow to take action to investigate and determine the location and status of MIAs and POWs still unaccounted for. Further, the Chairman of the Asian and Pacific Affairs Subcommittee has been successful in stopping resolutions urging Congress and the President to seek a full accounting of those still missing. Hopefully, this legislative resolution from Hawaii will increase awareness of the problem of POWs and MIAs and stimulate further action by the U.S. Congress.

Your Committee on Government Operations concurs with the intent and purpose of S.R. No. 110 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1001-86 (Majority) Government Operations on S.C.R. No. 54

The purpose of this concurrent resolution is to request the Governor to initiate negotiations with the U.S. Coast Guard and the Department of Interior for the return of Tern Island and its facilities to the State.

Your Committee received testimony from the Department of Land and Natural Resources indicating that they had been involved in discussions and correspondence with these federal agencies regarding the jurisdiction and use of Tern Island as a fishery and research support base. Additional testimony submitted by the U.S. Department of the Interior, the Hawaii Audubon Society, and the Sierra Club indicates that fishery resources in this area evidence stress and depletion which, if fishing efforts are intensified, could in turn affect the entire surrounding ecosystem.

Your Committee has considered the testimony given and finds that the return of Tern Island and its facilities to the State is an appropriate action at this time. However, your Committee also finds that intensified fishing activity should not be undertaken, until formal studies have been conducted to assure that this activity will not harm the surrounding ecosystem of Tern Island.

Your Committee on Government Operations concurs with the intent and purpose of S.C.R. No. 54 and recommends its adoption.

Signed by all members of the Committee.
Senators Hee and McMurdo did not concur.

SCRep. 1002-86 (Majority) Government Operations on S.R. No. 77

The purpose of this resolution is to request the Governor to initiate negotiations with the U.S. Coast Guard and the Department of Interior for the return of Tern Island and its facilities to the State.

Your Committee received testimony from the Department of Land and Natural Resources indicating that they had been involved in discussions and correspondence with these federal agencies regarding the jurisdiction and use of Tern Island as a fishery and research support base. Additional testimony submitted by the U.S. Department of the Interior, the Hawaii Audubon Society, and the Sierra Club indicates that fishery resources in this area evidence stress and depletion which, if fishing efforts are intensified, could in turn affect the entire surrounding ecosystem.

Your Committee has considered the testimony given and finds that the return of Tern Island and its facilities to the State is an appropriate action at this time. However, your Committee

also finds that intensified fishing activity should not be undertaken, until formal studies have been conducted to assure that this activity will not harm the surrounding ecosystem of Tern Island.

Your Committee on Government Operations concurs with the intent and purpose of S.R. No. 77 and recommends its adoption.

Signed by all members of the Committee.
Senators Hee and McMurdo did not concur.

SCRep. 1003-86 Higher Education on S.C.R. No. 108

The purpose of this concurrent resolution is to urge the Legislature to reaffirm its support for and commitment to the Pacific International Center for High Technology Research (PITCHR), and to urge President Reagan to enter into an agreement with Japan on behalf of PITCHR to conduct collaborative research projects in high technology in Hawaii.

PITCHR was established in 1983 to help meet the technological challenges of the "Information Age" faced by the Asian and Pacific communities, and one of its major activities has been the promotion of technological interchange between students and scholars of the United States and other nations. The 1985 Hawaii State Legislature appropriated \$2 million for PITCHR research projects, and the Japan Ministry of Foreign Affairs has recently sent an official Fact Finding Mission to Hawaii and Washington, D.C. to determine whether PITCHR's status and level of support in Hawaii is amenable to the initiation of joint projects.

Your Committee finds that PITCHR is a key element in Hawaii's efforts to participate fully and broadly in activities jointly affecting the Pacific and Asian communities. Your Committee further finds that the initiation of appropriate projects jointly with Japan, in the area of high technology research, is consistent with state and legislative policies to strengthen and diversify Hawaii's economic base and congruent with Hawaii's broadly-based goals and objectives relating to higher education leadership in the Pacific and Asia.

Your Committee on Higher Education concurs with the intent and purpose of S.C.R. No. 108 and recommends its adoption.

Signed by all members of the Committee except Senators Chang, Abercrombie and Mizuguchi.

SCRep. 1004-86 (Majority) Government Operations on S.C.R. No. 141

The purpose of this concurrent resolution is to urge the United States and the Soviet Union to reaffirm their commitments to the 1972 Antiballistic Missile (ABM) Treaty and to undertake serious negotiations to immediately ban further development of anti-satellite weapon systems and other space offense and defense systems, and instead to promote peaceful uses of space.

Your Committee finds that there are many current and potential uses of space, including planetary exploration, resources survey, search and rescue surveillance, weather and military surveillance, communications, energy production, and other systems that would be endangered by the development and operation of space warfare systems. Space warfare systems could also endanger the civilian population on earth, and would violate the 1972 ABM Treaty.

Your Committee further finds that in 1981 and 1983, the Soviet Union submitted to the United Nations a draft treaty that sought to prohibit stationing of weapons of any kind in outer space. However, the Reagan Administration has not responded to this Soviet initiative and has instead proceeded with research and development of space defense systems and the testing of an anti-satellite weapon system.

In July 1983, the U.S. Senate Foreign Relations Committee approved a bipartisan resolution calling for negotiations on a mutual and verifiable ban on weapons in space. In the spring of 1984, the U.S. Congress also adopted joint resolutions to support cooperative East-West ventures in space.

Your Committee is in agreement that negotiations between the United States and the Soviet Union to ban the further development of anti-satellite and other space offense and defense weapons systems and to instead promote cooperative ventures in the peaceful uses of space, as urged by this concurrent resolution, are necessary steps towards the attainment of a peaceful future for all the people of planet earth.

Your Committee on Government Operations concurs with the intent and purpose of S.C.R. No. 141 and recommends its adoption.

Signed by all members of the Committee except Senators Kuroda and George.
Senator Soares did not concur.

SCRep. 1005-86 (Majority) Government Operations on S.R. No. 173

The purpose of this concurrent resolution is to urge the United States and the Soviet Union to reaffirm their commitments to the 1972 Antiballistic Missile (ABM) Treaty and to undertake serious negotiations to immediately ban further development of anti-satellite weapon systems and other space offense and defense systems, and instead to promote peaceful uses of space.

Your Committee finds that there are many current and potential uses of space, including planetary exploration, resources survey, search and rescue surveillance, weather and military surveillance, communications, energy production, and other systems that would be endangered by the development and operation of space warfare systems. Space warfare systems could also endanger the civilian population on earth, and would violate the 1972 ABM Treaty.

Your Committee further finds that in 1981 and 1983, the Soviet Union submitted to the United Nations a draft treaty that sought to prohibit stationing of weapons of any kind in outer space. However, the Reagan Administration has not responded to this Soviet initiative and has instead proceeded with research and development of space defense systems and the testing of an anti-satellite weapon system.

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Your Committee is in agreement that negotiations between the United States and the Soviet Union to ban the further development of anti-satellite and other space offense and defense weapons systems and to instead promote cooperative ventures in the peaceful uses of space, as urged by this concurrent resolution, are necessary steps towards the attainment of a peaceful future for all the people of planet earth.

Your Committee on Government Operations concurs with the intent and purpose of S.R. No. 173 and recommends its adoption.

Signed by all members of the Committee except Senators Kuroda and George.
Senator Soares did not concur.

SCRep. 1006-86 Education on H.C.R. No. 2

The purpose of this concurrent resolution is to encourage the Department of Education (DOE) to provide for foreign language study in the schools.

Your Committee finds that as a result of jet travel and advanced telecommunications, the world is becoming a global community. As more people travel and communicate internationally, and as more countries build economical, political, and social dependencies on one another, the importance of Hawaii's geographic location and the value of cultural communication become self-evident.

As the crossroads of the Pacific, Hawaii stands to benefit from this increased intercultural activity if it can effectively communicate and understand other peoples and their cultures.

Basic to understanding any culture, is the language of the people. This concurrent resolution seeks to encourage the DOE to provide for foreign language study in the schools, thereby preparing Hawaii's students to play an integral part in Hawaii's future as the center of Pacific Asian activity.

Your Committee has amended the concurrent resolution and the title by requesting the Board of Education rather than the DOE to expand rather than provide foreign language classes. Since the request for this concurrent resolution is made of the Board of Education in the "BE IT RESOLVED" clause, the amendment conforms the title to the concurrent resolution. Additionally, the Board is requested to "expand" rather than "provide" foreign language classes because the DOE presently offers foreign language classes, therefore, the expansion of the classes is a more accurate description of the request being made. Your Committee has also amended the concurrent resolution by making technical changes which have no substantive effect.

Your Committee on Education concurs with the intent and purpose of H.C.R. No. 2, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 2,

H.D. 1, S.D. 1.

Signed by all members of the Committee.

SCRep. 1007-86 Human Services on S.C.R. No. 142

The purpose of this concurrent resolution is to encourage all state, county, and private victim and witness assistance programs to work towards improving relationships and coordinating resources, to better serve victims and witnesses of crimes, and to request the Legislative Reference Bureau to augment the review it is currently conducting on victim-witness legislation to include a review of state criminal injuries compensation laws and a comparative survey of other states' victim compensation laws.

Your Committee finds that the State of Hawaii was one of the first states in the country to enact a victim compensation law in 1967, establishing a criminal injuries compensation commission to hear claims for compensation and grant monetary awards to victims of certain personal crimes. Victim and witness assistance programs were also established in each county to respond to the variety of problems that victims and witnesses encounter during the adjudication process. Currently, each county prosecuting attorney's office is responsible for developing, structuring, supervising and maintaining that county's victim and witness assistance program.

Your Committee further finds that there appear to be areas of conflict and disagreement between the various victim and witness assistance entities, which detract from and hinder the provision of the best victim and witness assistance services the State can offer.

The Legislative Reference Bureau is currently conducting, pursuant to H.R. No. 304 adopted in 1983, a review of victim-witness legislation and programs in the State. This concurrent resolution requests the Bureau, with the cooperation of the Criminal Injuries Compensation Commission, to also review state criminal injuries compensation laws and conduct a comparative survey of other states' victim compensation laws.

Your Committee is in agreement that it is imperative for all victim and witness assistance administrators and personnel and criminal injuries compensation commissioners to work toward developing a means of identifying and solving their areas of contention in order to attain better working relationships with one another, to provide services most needed by victims and witnesses of crime in the State.

Your Committee on Human Services concurs with the intent and purpose of S.C.R. No. 142 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1008-86 Human Services on S.R. No. 175

The purpose of this resolution is to encourage all state, county, and private victim and witness assistance programs to work towards improving relationships and coordinating resources, to better serve victims and witnesses of crimes, and to request the Legislative Reference Bureau to augment the review it is currently conducting on victim-witness legislation to include a review of state criminal injuries compensation laws and a comparative survey of other states' victim compensation laws.

Your Committee finds that the State of Hawaii was one of the first states in the country to enact a victim compensation law in 1967, establishing a criminal injuries compensation commission to hear claims for compensation and grant monetary awards to victims of certain personal crimes. Victim and witness assistance programs were also established in each county to respond to the variety of problems that victims and witnesses encounter during the adjudication process. Currently, each county prosecuting attorney's office is responsible for developing, structuring, supervising and maintaining that county's victim and witness assistance program.

Your Committee further finds that there appear to be areas of conflict and disagreement between the various victim and witness assistance entities, which detract from and hinder the provision of the best victim and witness assistance services the State can offer.

The Legislative Reference Bureau is currently conducting, pursuant to H.R. No. 304 adopted in 1983, a review of victim-witness legislation and programs in the State. This resolution requests the Bureau, with the cooperation of the Criminal Injuries Compensation Commission, to also review state criminal injuries compensation laws and conduct a comparative survey of other states' victim compensation laws.

Your Committee is in agreement that it is imperative for all victim and witness assistance administrators and personnel and criminal injuries compensation commissioners to work toward developing a means of identifying and solving their areas of contention in order to attain better working relationships with one another, to provide services most needed by victims and witnesses of crime in the State.

Your Committee on Human Services concurs with the intent and purpose of S.R. No. 175 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1009-86 Human Services on S.C.R. No. 120

The purpose of this concurrent resolution is to request foster child placement agencies to provide mandatory training, including preplacement orientation and ongoing training, to incoming licensed foster parents, and to provide funding to cover the cost of this training.

Your Committee finds that new policies and philosophies of child welfare include the importance of specialized training and the development of a model of professionalism for foster parents. In addition, due to changing policies and philosophies of child welfare, children currently entering foster care are apt to have more serious difficulties than children placed in earlier years, including abused or neglected children, profoundly or multiply handicapped children, and juvenile status offenders.

Your Committee finds further that foster parents often request clarification of their roles, rights, and responsibilities, including preplacement orientation to the foster care system and ongoing training in many aspects of foster care, in the interests of professional responsibility and better serving the children placed in their care.

Your Committee heard testimony in favor of this concurrent resolution from the Department of Social Services and Housing (DSSH). The DSSH testified that, due to fiscal constraints, training has often been seen as the item of lowest priority. The DSSH testified that of the eight foster child placement agencies currently in Hawaii, all provide orientation, counseling, and consultation. However, only four currently provide ongoing training of a comprehensive nature, as requested by this concurrent resolution. The DSSH also testified that until training funds are budgeted and accepted by the Legislature, the DSSH supports the intent of this resolution but would not be able to honor it.

Your Committee is in agreement with the DSSH that foster parent training as requested by this concurrent resolution will contribute to increasing the satisfaction of being a foster parent, and increasing the quality of services to Hawaii's children that are placed in foster care.

Your Committee on Human Services concurs with the intent and purpose of S.C.R. No. 120 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1010-86 Human Services on S.R. No. 153

The purpose of this resolution is to request foster child placement agencies to provide mandatory training, including preplacement orientation and ongoing training, to incoming licensed foster parents, and to provide funding to cover the cost of this training.

Your Committee finds that new policies and philosophies of child welfare include the importance of specialized training and the development of a model of professionalism for foster parents. In addition, due to changing policies and philosophies of child welfare, children currently entering foster care are apt to have more serious difficulties than children placed in earlier years, including abused or neglected children, profoundly or multiply handicapped children, and juvenile status offenders.

Your Committee finds further that foster parents often request clarification of their roles, rights, and responsibilities, including preplacement orientation to the foster care system and ongoing training in many aspects of foster care, in the interests of professional responsibility and better serving the children placed in their care.

Your Committee heard testimony in favor of this resolution from the Department of Social Services and Housing (DSSH). The DSSH testified that, due to fiscal constraints, training has often been seen as the item of lowest priority. The DSSH testified that of the eight foster child placement agencies currently in Hawaii, all provide orientation, counseling, and consultation. However, only four currently provide ongoing training of a comprehensive nature, as requested

by this concurrent resolution. The DSSH also testified that until training funds are budgeted and accepted by the Legislature, the DSSH supports the intent of this resolution but would not be able to honor it.

Your Committee is in agreement with the DSSH that foster parent training as requested by this resolution will contribute to increasing the satisfaction of being a foster parent, and increasing the quality of services to Hawaii's children that are placed in foster care.

Your Committee on Human Services concurs with the intent and purpose of S.R. No. 153 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1011-86 Human Services on S.C.R. No. 65

The purpose of this concurrent resolution is to request the Department of Social Services and Housing (DSSH) to study the reasonableness of the child care laws and rules as they relate to different types of child care programs, soliciting the input of child care providers in the conduct of the study.

Your Committee finds that under Act 208, Session Laws of Hawaii 1985, the child care laws of the State were revised, to regulate child care facilities in the interest of protecting children against abuse and other detrimental consequences of inadequate care. Under this Act, child care facilities are differentiated by the number of children cared for, which orients regulation from the standpoint of the number of children enrolled, rather than the type of program provided.

Your Committee further finds that many different types of child care programs operate in Hawaii, including regular day-care during working hours of parents, after school programs, summer school, and vacation programs. Regulations applicable to and justifiable for one type of program may not be pertinent to another type. Thus, regulatory standards should be examined to avoid the imposition of unnecessary, inappropriate, and inflexible requirements on child care programs.

Your Committee heard testimony in favor of this concurrent resolution from the DSSH, People Attentive to Children, the Nuuanu Congregational Church, the Hawaii Association for the Education of Young Children, Hawaii Child Centers, and the Kahaluu Christian Church.

Your Committee is in agreement that a study of the reasonableness of child care laws and rules as they relate to different types of child care programs, as requested by this concurrent resolution, is necessary to avoid the detrimental effects of unnecessary, inappropriate and inflexible regulation, in the interests of increasing the availability of affordable child care programs for the children of Hawaii.

Your Committee on Human Services concurs with the intent and purpose of S.C.R. No. 65 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1012-86 Human Services on S.R. No. 90

The purpose of this resolution is to request the Department of Social Services and Housing (DSSH) to study the reasonableness of the child care laws and rules as they relate to different types of child care programs, soliciting the input of child care providers in the conduct of the study.

Your Committee finds that under Act 208, Session Laws of Hawaii 1985, the child care laws of the State were revised, to regulate child care facilities in the interest of protecting children against abuse and other detrimental consequences of inadequate care. Under this Act, child care facilities are differentiated by the number of children cared for, which orients regulation from the standpoint of the number of children enrolled, rather than the type of program provided.

Your Committee further finds that many different types of child care programs operate in Hawaii, including regular day-care during working hours of parents, after school programs, summer school, and vacation programs. Regulations applicable to and justifiable for one type of program may not be pertinent to another type. Thus, regulatory standards should be examined to avoid the imposition of unnecessary, inappropriate, and inflexible requirements on child care programs.

Your Committee heard testimony in favor of this resolution from the DSSH, People Attentive to Children, the Nuuanu Congregational Church, the Hawaii Association for the Education of Young Children, Hawaii Child Centers, and the Kahaluu Christian Church.

Your Committee is in agreement that a study of the reasonableness of child care laws and rules as they relate to different types of child care programs, as requested by this resolution, is necessary to avoid the detrimental effects of unnecessary, inappropriate and inflexible regulation, in the interests of increasing the availability of affordable child care programs for the children of Hawaii.

Your Committee on Human Services concurs with the intent and purpose of S.R. No. 90 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1013-86 Ways and Means on S.C.R. No. 165

The purpose of this resolution is to request that the state director of taxation and the finance directors of the various counties convene as soon as possible to expedite the refund or remission of taxes allowed by the Tax Relief for National Disaster Losses law chapter 234, Hawaii Revised Statutes, to victims of the designated natural disaster areas.

Your Committee has amended the resolution by deleting the provision that the final remission of taxes to victims of natural disaster losses shall be allocated proportionally between the real property tax and the taxes due under the general excise tax law, chapter 237, Hawaii Revised Statutes. Your Committee has also amended this resolution by substituting "loan" for "advance", and specifying that it is pursuant to the management of state funds law, loans to state and county agencies provision, section 36-24, Hawaii Revised Statutes, that the state director of finance loan sufficient state funds to the county of Hawaii to be used to refund the real property taxes paid by the claimants as certified by the natural disaster claims commission. Your Committee further amended this resolution by adding a requirement that this resolution be transmitted to the state director of finance, in addition to the state director of taxation.

Your Committee has also made technical, nonsubstantive changes.

Your Committee on Ways and Means concurs with the intent and purpose of S.C.R. No. 165, and recommends its adoption in the form attached hereto as S.C.R. No. 165, S.D. 1.

Signed by all members of the Committee.

SCRep. 1014-86 Ways and Means on S.R. No. 203

The purpose of this resolution is to request that the state director of taxation and the finance directors of the various counties convene as soon as possible to expedite the refund or remission of taxes allowed by the Tax Relief for National Disaster Losses law chapter 234, Hawaii Revised Statutes, to victims of the designated natural disaster areas.

Your Committee has amended the resolution by deleting the provision that the final remission of taxes to victims of natural disaster losses shall be allocated proportionally between the real property tax and the taxes due under the general excise tax law, chapter 237, Hawaii Revised Statutes. Your Committee has also amended this resolution by substituting "loan" for "advance", and specifying that it is pursuant to the management of state funds law, loans to state and county agencies provision, section 36-24, Hawaii Revised Statutes, that the state director of finance loan sufficient state funds to the county of Hawaii to be used to refund the real property taxes paid by the claimants as certified by the natural disaster claims commission. Your Committee further amended this resolution by adding a requirement that this resolution be transmitted to the state director of finance, in addition to the state director of taxation.

Your Committee has also made technical, nonsubstantive changes.

Your Committee on Ways and Means concurs with the intent and purpose of S.R. No. 203, and recommends its adoption in the form attached hereto as S.R. No. 203, S.D. 1.

Signed by all members of the Committee.

SCRep. 1015-86 Ways and Means on S.R. No. 17

The purpose of this Resolution is to request the President of the Senate to appoint an interim

committee to study the current executive budget format and to make recommendations to improve its effectiveness.

Upon consideration of this matter, your Committee has amended the Resolution to require that the study be conducted by a committee composed of legislative and executive staff organized by the Department of Budget and Finance rather than a Senate interim committee. The Department of Budget and Finance is also requested to develop an agenda for the committee to follow in carrying out the review.

Your Committee on Ways and Means concurs with the intent and purpose of S.R. No. 17, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 17, S.D. 1.

Signed by all members of the Committee.

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SCRep. 1016-86 Tourism and Recreation on S.C.R. No. 49

The purpose of this concurrent resolution is to request that an area within the ahupuaa of Kealahou, North Kona, Hawaii, be designated for use as a Regional Sports Complex under the County of Hawaii.

Your Committee finds that the West Hawaii region, which includes North Kona, is considered an ideal location for sports activities due to its excellent weather conditions. Many sporting events held in the area have gained national recognition. This region has also experienced rapid growth and urbanization, which has underscored the need for major recreational facilities.

In 1976, the County of Hawaii prepared a Kealahou Regional Sports Complex Plan, and requested a one hundred acre portion of the ahupuaa of Kealahou in North Kona, to develop a sports complex, from the Department of Land and Natural Resources (DLNR). The DLNR gave the County a right of entry for planning and surveying purposes.

A majority of five members out of nine on the County Council of Hawaii have indicated that the Kealahou Regional Sports Complex continues to be a viable, much needed facility for West Hawaii. Although fiscal constraints and the magnitude of the project mandate incremental development, the designation of lands within the ahupuaa of Kealahou for the Regional Sports Complex is considered to be a necessary initial step for future development commitments.

In the interim, the County of Hawaii has also planned a recreation facility on thirty-five acres of state land adjacent to the old Kona Airport, to help meet the immediate recreation needs of the community. The Kealahou Regional Sports Complex and the Airport facility together are expected to enhance the Department of Education's future plans for a second high school in West Hawaii.

Your Committee heard testimony in favor of this concurrent resolution from the Council of the County of Hawaii, the DLNR, the Hawaii Housing Authority (HHA), and Mrs. Kiyono Kunitake who submitted a petition in favor of the concurrent resolution with seventy-three signatures.

The HHA testified that development of low and moderate income housing is being planned in the vicinity of Kealahou. The HHA considers the planned Regional Sports Complex to be of benefit to present and future residents of the area, and does not foresee any conflict. The HHA requested that the area be designated as a "credit" for the State in terms of park dedication requirements, to allow the HHA to utilize this "credit" in lieu of providing park space or having to pay park dedication fees when the HHA does develop housing in this locality.

Your Committee also finds that there are some concerns over the status of the Kealahou Regional Sports Complex in light of the planned development of the recreation facility at the old Kona Airport. To address these concerns, your Committee has amended the concurrent resolution to clarify the separate but complementary status of these two planned facilities. Your Committee has also amended the concurrent resolution to clarify that the Kealahou Regional Sports Complex is planned for the district of North Kona, not North Kohala.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.C.R. No. 49, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 49, S.D. 1.

Signed by all members of the Committee.

SCRep. 1017-86 Tourism and Recreation on S.R. No. 72

The purpose of this resolution is to request that an area within the ahupuaa of Kealahou, North Kona, Hawaii, be designated for use as a Regional Sports Complex under the County of Hawaii.

Your Committee finds that the West Hawaii region, which includes North Kona, is considered an ideal location for sports activities due to its excellent weather conditions. Many sporting events held in the area have gained national recognition. This region has also experienced rapid growth and urbanization, which has underscored the need for major recreational facilities.

In 1976, the County of Hawaii prepared a Kealahou Regional Sports Complex Plan, and requested a one hundred acre portion of the ahupuaa of Kealahou in North Kona, to develop a sports complex, from the Department of Land and Natural Resources (DLNR). The DLNR gave the County a right of entry for planning and surveying purposes.

A majority of five members out of nine on the County Council of Hawaii have indicated that the Kealahou Regional Sports Complex continues to be a viable, much needed facility for West Hawaii. Although fiscal constraints and the magnitude of the project mandate incremental development, the designation of lands within the ahupuaa of Kealahou for the Regional Sports Complex is considered to be a necessary initial step for future development commitments.

In the interim, the County of Hawaii has also planned a recreation facility on thirty-five acres of state land adjacent to the old Kona Airport, to help meet the immediate recreation needs of the community. The Kealahou Regional Sports Complex and the Airport facility together are expected to enhance the Department of Education's future plans for a second high school in West Hawaii.

Your Committee heard testimony in favor of this resolution from the Council of the County of Hawaii, the DLNR, the Hawaii Housing Authority (HHA), and Mrs. Kiyono Kunitake who submitted a petition in favor of the resolution with seventy-three signatures.

The HHA testified that development of low and moderate income housing is being planned in the vicinity of Kealahou. The HHA considers the planned Regional Sports Complex to be of benefit to present and future residents of the area, and does not foresee any conflict. The HHA requested that the area be designated as a "credit" for the State in terms of park dedication requirements, to allow the HHA to utilize this "credit" in lieu of providing park space or having to pay park dedication fees when the HHA does develop housing in this locality.

Your Committee also finds that there are some concerns over the status of the Kealahou Regional Sports Complex in light of the planned development of the recreation facility at the old Kona Airport. To address these concerns, your Committee has amended the resolution to clarify the separate but complementary status of these two planned facilities. Your Committee has also amended the resolution to clarify that the Kealahou Regional Sports Complex is planned for the district of North Kona, not North Kohala.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.R. No. 72, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 72, S.D. 1.

Signed by all members of the Committee.

SCRep. 1018-86 (Majority) Tourism and Recreation on S.C.R. No. 77

The purpose of this concurrent resolution is to request the United States Department of the Navy to release federal Navy controlled lands to the State of Hawaii Department of Land and Natural Resources (DLNR) for the development of the Aiea Bay State Park.

Your Committee finds that since the early 1970's, representatives of the Navy, Pearl Harbor, and the DLNR have agreed that a state park on both federal and state lands along the shores of Aiea Bay, East Loch, Pearl Harbor, Hawaii, would be in the best public interest. From this agreement, a conceptual plan was developed in 1974. A Memorandum of Understanding between the State and the Navy was executed in 1981, outlining the responsibilities of each party in the establishment of the park.

Your Committee further finds that in order for the DLNR to administer the park in its entirety as planned, the Navy agreed to make available to the DLNR approximately eighteen acres of federal lands under Navy control and the State agreed to contribute approximately seven acres of land.

Your Committee heard testimony in favor of the concurrent resolution from the DLNR. The DLNR testified that the Navy, citing security concerns, has recently reevaluated their position

on the park to restrict development to an area known as Phase I of the master plan for the park, and to eliminate recreational boating use.

Your Committee is in agreement with the DLNR that if the scope of the Aiea Bay State Park master plan is to be realized, federal lands need to be eventually released by the Navy.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.C.R. No. 77 and recommends its adoption.

Signed by all members of the Committee.
Senator McMurdo did not concur.

SCRep. 1019-86 (Majority) Tourism and Recreation on S.R. No. 102

The purpose of this resolution is to request the United States Department of the Navy to release federal Navy controlled lands to the State of Hawaii Department of Land and Natural Resources (DLNR) for the development of the Aiea Bay State Park.

Your Committee finds that since the early 1970's, representatives of the Navy, Pearl Harbor, and the DLNR have agreed that a state park on both federal and state lands along the shores of Aiea Bay, East Loch, Pearl Harbor, Hawaii, would be in the best public interest. From this agreement, a conceptual plan was developed in 1974. A Memorandum of Understanding between the State and the Navy was executed in 1981, outlining the responsibilities of each party in the establishment of the park.

Your Committee further finds that in order for the DLNR to administer the park in its entirety as planned, the Navy agreed to make available to the DLNR approximately eighteen acres of federal lands under Navy control and the State agreed to contribute approximately seven acres of land.

Your Committee heard testimony in favor of the resolution from the DLNR. The DLNR testified that the Navy, citing security concerns, has recently reevaluated their position on the park to restrict development to an area known as Phase I of the master plan for the park, and to eliminate recreational boating use.

Your Committee is in agreement with the DLNR that if the scope of the Aiea Bay State Park master plan is to be realized, federal lands need to be eventually released by the Navy.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.R. No. 102 and recommends its adoption.

Signed by all members of the Committee.
Senator McMurdo did not concur.

SCRep. 1020-86 Housing and Community Development on S.C.R. No. 99

The Neighborhood Housing Services, Inc. (NHS) programs are developed and supported by the national public nonprofit corporation, Neighborhood Reinvestment Corporation (NRC). NRC was established by an Act of Congress in 1978 and is charged with implementing and expanding neighborhood revitalization demonstration activities. A major focus of the NRC is to assist local communities in revitalizing declining neighborhoods for the benefit of local residents. That goal is achieved primarily through NHS programs.

Each NHS is a locally initiated and funded, private nonprofit corporation. It is governed by a working partnership of residents, business leaders, and government representatives. Through a broad range of organizational development assistance, training and on-site technical services, NRC assists each NHS neighborhood. The goal is to create a stable neighborhood characterized by a healthy real estate market, sound housing and other physical conditions, a positive community image, and a core of neighbors committed to, and capable of, managing the continuing health of their neighborhood once NHS phases out.

The first NHS project in Hawaii is currently being developed. A site selection committee composed of community, business, and government representatives has been formed to help identify the first neighborhood in which NHS will operate.

Your Committee finds that State support of the intent and activities of the Neighborhood Housing Services program should be expressed and consideration for the establishment of NHS neighborhoods on a statewide basis should also be supported.

Your Committee on Housing and Community Development concurs with the intent and

purpose of S.C.R. No. 99 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1021-86 Housing and Community Development on S.R. No. 128

The Neighborhood Housing Services, Inc. (NHS) programs are developed and supported by the national public nonprofit corporation, Neighborhood Reinvestment Corporation (NRC). NRC was established by an Act of Congress in 1978 and is charged with implementing and expanding neighborhood revitalization demonstration activities. A major focus of the NRC is to assist local communities in revitalizing declining neighborhoods for the benefit of local residents. That goal is achieved primarily through NHS programs.

Each NHS is a locally initiated and funded, private nonprofit corporation. It is governed by a working partnership of residents, business leaders, and government representatives. Through a broad range of organizational development assistance, training and on-site technical services, NRC assists each NHS neighborhood. The goal is to create a stable neighborhood characterized by a healthy real estate market, sound housing and other physical conditions, a positive community image, and a core of neighbors committed to, and capable of, managing the continuing health of their neighborhood once NHS phases out.

The first NHS project in Hawaii is currently being developed. A site selection committee composed of community, business, and government representatives has been formed to help identify the first neighborhood in which NHS will operate.

Your Committee finds that State support of the intent and activities of the Neighborhood Housing Services program should be expressed and consideration for the establishment of NHS neighborhoods on a statewide basis should also be supported.

Your Committee on Housing and Community Development concurs with the intent and purpose of S.R. No. 128 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1022-86 Education on S.R. No. 135

The purpose of this resolution is to request a status report on the Philosophy in the Schools Program of the University of Hawaii Department of Philosophy and the State Department of Education, to include an evaluation of the objectives, methods of program delivery, and effectiveness of the program.

The Philosophy in the Schools program was established within Hawaii's educational system to develop and cultivate an intelligent and informed citizenry by providing a systematic and complete curriculum which fosters the improvement of reasoning skills through the discussion of philosophical topics. Your Committee finds that a report on the general status of the Philosophy in the Schools Program and the positive changes related to participation in the project would greatly assist the Legislature in determining the importance of the program in Hawaii's education system.

Your Committee has amended this resolution for the purposes of clarity, by deleting the phrase "Philosophy in the Schools program" immediately succeeding the phrase "University of Hawaii Department of Philosophy" in the first and second BE IT RESOLVED clauses and by requesting that the report be submitted sixty days prior to the convening of the Regular Session of 1987.

Your Committee on Education concurs with the intent and purpose of S.R. No. 135, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 135, S.D. 1.

Signed by all members of the Committee.

SCRep. 1023-86 Education on S.R. No. 125

The purpose of this resolution is to request the Department of Education (DOE) to conduct a study on the feasibility of establishing an intermediate school sports league, including an examination of the fiscal ramifications of providing coaches, equipment, uniforms, bus transportation, referees, and other related expenses, and also an assessment of the possibility of incorporating such an intermediate school league into the Oahu Interscholastic Association (OIA).

Currently, some intermediate schools participate in inter-school games. Although intermediate schools in all school districts have shown interest in an athletics program, some schools are not able to participate in inter-school games because they must raise their own funds and solicit volunteer coaches.

Your Committee finds that introducing students to an athletic program at the intermediate school level will enable them to learn the fundamentals of athletics and the discipline necessary to participate in group activities. In addition, this participation will prepare students for high school and college, encourage better relationships among intermediate schools, and will provide instructive activity for students at this critical age of their development.

Your Committee further finds that there is sufficient interest in an intermediate school athletics program or league to warrant a study of the costs and concerns involved in establishing such a program.

Your Committee upon consideration has made the following amendments to the resolution:

- 1) Amended the title to request the DOE to conduct the study which is consistent with the BE IT RESOLVED clause;
- 2) Substituted the word "athletics" for the word "sports" throughout the resolution for purposes of consistency;
- 3) Deleted the second WHEREAS clause referring to a recent memorandum by the Superintendent of Education;
- 4) Deleted the words "on Oahu" in the third WHEREAS clause so as not to exclude outer island schools;
- 5) Deleted reference to the Oahu Interscholastic Association (OIA) in the eighth WHEREAS clause; and
- 6) Made technical changes which have no substantive effect.

Your Committee on Education concurs with the intent and purpose of S.R. No. 125, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 125, S.D. 1.

Signed by all members of the Committee.

SCRep. 1024-86 Education on S.R. No. 140

The purpose of this resolution is to seek public support to encourage furtherance of the efforts of the Public Schools of Hawaii Foundation.

The purpose of the Foundation is to seek funds to improve standards of instruction in the public schools and to secure lecturers, writers, and others of outstanding ability to participate in public education and support other purposes that would benefit students and the public school system. Your Committee finds these to be worthy pursuits consistent with state and legislative policies to provide quality public education to the people of Hawaii.

Your Committee on Education concurs with the intent and purpose of S.R. No. 140 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1025-86 Education on Gov. Msg. No. 337

Recommending that the Senate advise and consent to the nominations of BARBARA J. FURSTENBERG, Ph.D., JOYCE S. TSUNODA, Ph.D., VIVIAN S.P. ING and MAGDALINE LUNA KAWATACHI to the Hawaii Education Council, for terms ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 1026-86 Labor and Employment on S.R. No. 146

The purpose of this resolution is to request the Department of Labor and Industrial Relations, and its operators of programs under the Job Training and Partnership Act (JTPA), to give due consideration to the inclusion of teenage parents and single heads of households as priority targets.

Under JTPA, employment and training opportunities are required to be provided to those persons who can benefit from and who are most in need of such opportunities. Groups of persons needing such services are identified in the Act and include teenage parents and single heads of households with dependent children.

Your Committee heard supporting testimony by the Director of Labor and Industrial Relations which indicated that the Department, pursuant to this resolution, will request its operators of JTPA programs to give these target groups due consideration for priority designation.

Your Committee on Labor and Employment concurs with the intent and purpose of S.R. No. 146 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1027-86 Labor and Employment on S.R. No. 144

The purpose of this resolution is to request the Department of Labor and Industrial Relations (DLIR) to conduct a study on the necessity of specific legislation to include accent as an unlawful discriminatory employment factor.

Your Committee finds that current language in the state Employment Practices Law prohibits discrimination because of ancestry or national origin, and rules adopted under Title VII of the federal Civil Rights Act of 1964 make it illegal to discriminate against foreign accents unless fluency in English is a requirement of the job.

Your Committee heard testimony from the Department of Personnel Services and the DLIR. The DLIR testified that the state Employment Practices Law is currently interpreted to include an individual's accent as an unlawful discriminatory employment factor. Therefore, the DLIR suggested that the resolution be amended to request the DLIR to incorporate this interpretation into administrative rules.

Your Committee has accordingly amended the resolution by deleting the request that the DLIR conduct a study, and has added language requesting the DLIR to incorporate this interpretation into administrative rules, to be adopted before the convening of the Regular Session of 1987.

Your Committee on Labor and Employment concurs with the intent and purpose of S.R. No. 144, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 144, S.D. 1.

Signed by all members of the Committee.

SCRep. 1028-86 Labor and Employment on S.R. No. 139

The purpose of this resolution is to request the Department of Labor and Industrial Relations to develop a comprehensive employment plan for Hawaii.

The Commission on Employment and Human Resources has been actively involved in the development of a comprehensive, statewide Hawaii Employment Plan and has been assisted through appropriations by the Legislature in conducting a variety of activities, including the 1984 Hawaii Employment Plan Conference, the 1985 Hawaii Employment Plan Conference, and a series of five Employment Plan Workshops on the Neighbor Islands. This year, the Commission plans to follow up by establishing an action group to implement some of the key recommendations resulting from the last Conference.

Your Committee heard testimony in support of this resolution by the Executive Director of the Commission on Employment and Human Resources and the Director of Labor and Industrial Relations and finds that the development of a comprehensive employment plan for Hawaii is consistent with state and legislative policies which seek to ensure the orderly and productive growth of Hawaii's economy. It will also be of invaluable assistance in assuring that all of Hawaii's people will have the opportunity to achieve self-sufficiency, attain personal goals, and fulfill satisfying careers while contributing to the society.

Your Committee on Labor and Employment concurs with the intent and purpose of S.R. No. 139 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1029-86 Labor and Employment on S.R. No. 87

The purpose of this resolution is to request the Board of Trustees of the Employees' Retirement System to review its present post retirement allowance and to propose recommendations to the Legislature which would allow retirees on a fixed income to receive adequate compensation for inflation.

Your Committee heard supporting testimony by the Secretary of the Employees' Retirement System and the Coalition of Hawaii State-Counties Retirees Association and finds that the present post retirement allowance of 2.5 percent per annum is inadequate, and that this position is supported by the fact that the Legislature has, from time to time, enacted ad hoc adjustments to the statutory allowance in the form of special cost of living bonus payments. This resolution would eliminate the need for the Legislature to address the problem on a piecemeal basis and would help Hawaii's retirees to maintain purchasing power in the face of inflation and other factors which increase the cost of living.

Your Committee has amended this resolution by adding a new "BE IT FURTHER RESOLVED" clause calling for the Board of Trustees of the Employees' Retirement System to submit a report of actions taken, including draft legislation, if appropriate, to the Legislature twenty days before convening of the Regular Session of 1987. Your Committee has also made numerous technical and language changes, including correcting references to the "Trustees" to read "Board of Trustees", none of which have substantive effect but which conform the language of the resolution with recommended drafting style.

Your Committee on Labor and Employment concurs with the intent and purpose of S.R. No. 87, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 87, S.D. 1.

Signed by all members of the Committee.

SCRep. 1030-86 Economic Development on S.C.R. No. 146

The purpose of this concurrent resolution is to encourage the Department of Hawaiian Home Lands (DHHL) to study alternative means to resolve the Anahola Village Park issue, especially through a land exchange involving the Department of Land and Natural Resources (DLNR) and the County of Kauai.

Your Committee finds that the DHHL is mandated by the Hawaiian Homes Commission Act of 1920 to award to native Hawaiians ninety-nine-year leases of parcels of land to be used for residential, agricultural, and pastoral purposes. However, since 1921, only 3,000 lots have been awarded, and there are more than 9,300 qualified applicants on the DHHL's waiting list. A federal-state task force in 1983 recommended that the DHHL accelerate its awards to native Hawaiians.

Your Committee further finds that one parcel of land available to the DHHL is a seven-acre site in Anahola, Kauai, which is planned to be subdivided into a twenty-six lot residential development. However, for approximately fifty years, both homesteaders as well as residents who hold their lots in fee have used this vacant parcel as a neighborhood playground and have informally designated the site as the Anahola Village Park. Accordingly, Anahola residents have strongly opposed any plans to replace this neighborhood park.

Your Committee heard testimony in favor of this concurrent resolution from the DHHL and the DLNR. The DHHL testified that, while sympathetic to the Anahola community, allowing the property to remain open to the general public would be a breach of trust. The County of Kauai has proposed several alternative sites which could be exchanged for the Anahola Village Park. These sites are under the jurisdiction of the DLNR. Thus, a three-way land exchange between the County of Kauai and the DLNR, then subsequently between the DHHL and the County of Kauai, would be necessary to carry out this proposal.

Your Committee amended the concurrent resolution by adding the word "VILLAGE" after the word "ANAHOLA" in the title, for purposes of clarity.

Your Committee is in agreement that creative solutions, including a land exchange, as encouraged by this concurrent resolution, must be sought to satisfactorily address the needs of the Anahola community as well as the eligible applicants waiting for Hawaiian homestead lands.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 146, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 146, S.D. 1.

Signed by all members of the Committee.

SCRep. 1031-86 Economic Development on S.R. No. 179

The purpose of this resolution is to encourage the Department of Hawaiian Home Lands (DHHL) to study alternative means to resolve the Anahola Village Park issue, especially through a land exchange involving the Department of Land and Natural Resources (DLNR) and the County of Kauai.

Your Committee finds that the DHHL is mandated by the Hawaiian Homes Commission Act of 1920 to award to native Hawaiians ninety-nine-year leases of parcels of land to be used for residential, agricultural, and pastoral purposes. However, since 1921, only 3,000 lots have been awarded, and there are more than 9,300 qualified applicants on the DHHL's waiting list. A federal-state task force in 1983 recommended that the DHHL accelerate its awards to native Hawaiians.

Your Committee further finds that one parcel of land available to the DHHL is a seven-acre site in Anahola, Kauai, which is planned to be subdivided into a twenty-six lot residential development. However, for approximately fifty years, both homesteaders as well as residents who hold their lots in fee have used this vacant parcel as a neighborhood playground and have informally designated the site as the Anahola Village Park. Accordingly, Anahola residents have strongly opposed any plans to replace this neighborhood park.

Your Committee heard testimony in favor of this resolution from the DHHL and the DLNR. The DHHL testified that, while sympathetic to the Anahola community, allowing the property to remain open to the general public would be a breach of trust. The County of Kauai has proposed several alternative sites which could be exchanged for the Anahola Village Park. These sites are under the jurisdiction of the DLNR. Thus, a three-way land exchange between the County of Kauai and the DLNR, then subsequently between the DHHL and the County of Kauai, would be necessary to carry out this proposal.

Your Committee amended the resolution by adding the word "VILLAGE" after the word "ANAHOLA" in the title, for purposes of clarity.

Your Committee is in agreement that creative solutions, including a land exchange, as encouraged by this resolution, must be sought to satisfactorily address the needs of the Anahola community as well as the eligible applicants waiting for Hawaiian homestead lands.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 179, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 179, S.D. 1.

Signed by all members of the Committee.

SCRep. 1032-86 Economic Development on S.C.R. No. 78

The purpose of this concurrent resolution is to request the military in Hawaii to cooperate with the state and county governments with respect to the military's use and development of Hawaii's limited water resources. It also requests that the military accommodate local water needs when using and developing such resources.

Recent population growth and increased water consumption on the part of Hawaii's residents have generated concern about our future water supply, and litigation over water rights and a proposed Water Code before the Legislature indicate that ownership and distribution of water resources is a key issue of the times. Therefore, your Committee finds that it is incumbent upon our state and county governments, and the military in Hawaii, to use and develop Hawaii's limited water resources in a spirit of cooperation, with emphasis placed on Hawaiian interests when doing feasibility and engineering studies, laying new water lines, or increasing pipe sizes to accommodate civilian populations living near military projects.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 78 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1033-86 Economic Development on S.R. No. 103

The purpose of this resolution is to request the military in Hawaii to cooperate with the state and county governments with respect to the military's use and development of Hawaii's limited water resources. It also requests that the military accommodate local water needs when using and developing such resources.

Recent population growth and increased water consumption on the part of Hawaii's residents have generated concern about our future water supply, and litigation over water rights and a proposed Water Code before the Legislature indicate that ownership and distribution of water resources is a key issue of the times. Therefore, your Committee finds that it is incumbent upon our state and county governments, and the military in Hawaii, to use and develop Hawaii's limited water resources in a spirit of cooperation, with emphasis placed on Hawaiian interests when doing feasibility and engineering studies, laying new water lines, or increasing pipe sizes to accommodate civilian populations living near military projects.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 103 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1034-86 Higher Education on S.R. No. 37

The purpose of this resolution is to request the University of Hawaii to examine the feasibility of adding a Hawaiian Studies complement to the University's undergraduate core requirements.

Your Committee finds that the addition of a Hawaiian Studies complement to the University's undergraduate core requirements is consistent with the intent of the Hawaii State Constitution and the role of the University to promote, preserve, and perpetuate the Hawaiian culture, history, and language.

Your Committee received favorable testimony on this resolution from Anthony J. Marsella, Acting Vice President for Academic Affairs of the University of Hawaii, emphasizing that the University plays a major role in insuring the revitalization of the Hawaiian culture and language.

Your Committee has amended this resolution by including an additional WHEREAS clause following the fifth paragraph, which recognizes the University's recent efforts in this direction by appointing a task force to review the extent of Hawaiian culture and participation at the University. Your Committee has also included an additional BE IT RESOLVED clause following the first, which sets forth that the University in conducting its feasibility study incorporate the assistance of as many affected individuals and programs as possible. This will provide the University with a broader and more diverse overview in their examination.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 37, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 37, S.D. 1.

Signed by all members of the Committee.

SCRep. 1035-86 Agriculture on S.R. No. 80

The purpose of this resolution is to request the Western Regional Supervisor of the United States Department of Agriculture (USDA) Packers and Stockyards Administration to maintain continued supervision and enforcement of the Packers and Stockyards Act, with particular regard to the provisions for prompt payment, to ensure that all packers in Hawaii are in compliance with these provisions.

In 1921, Congress enacted the Packers and Stockyards Act, to assure fair competition and fair trade practices in the livestock, meat, and poultry industries, and to protect farmers, ranchers, and consumers from the effects of unfair, deceptive, and unjustly discriminatory and monopolistic practices in the marketing of livestock, meat, and poultry.

In 1976, Congress amended this Act to provide specific requirements as to prompt payment for livestock purchased by dealers, market agencies, and packers whose operations are subject to this Act, and these requirements apply to all purchases whether direct or from the owner or at an auction market or terminal stockyard. The Administrator of the USDA's Packers and Stockyards Administration is delegated to enforce this Act.

Your Committee finds that in spite of the prompt payment provisions of the Packers and Stockyards Act, livestock owners in Hawaii continue to experience difficulties with certain packers who refuse to comply with these provisions.

After a recent visit by the Western Regional Supervisor of the Packers and Stockyards Administration, a considerable improvement had been made in packers' compliance with the prompt payment provisions. Your Committee believes continued monitoring by the Western

Regional Supervisor in the enforcement of the prompt payment provisions will facilitate the intent of this provision.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 80 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1036-86 Agriculture on S.R. No. 100

The purpose of this resolution is to request the College of Agriculture at the University of Hawaii-Hilo to analyze the maile industry and, if necessary, propose a research project on the culture of maile.

The maile vine, scientifically known as the *Alyxia olivae-formis*, is widely used for leis in Hawaii and is symbolic of Hawaiian culture. The market demand, in addition to the decreasing ability to gather these vines in the wild, have caused horticulturalists to examine cultivating maile in greenhouses.

Your Committee received testimony from the Dean of the College of Tropical Agriculture and Human Resources at the University of Hawaii and the Dean of the College of Agriculture at the University of Hawaii-Hilo in support of this resolution. A leading horticulturalist at the College of Agriculture at the University of Hawaii-Hilo has done research on fruit bearing characteristics, seed germination, and fertilizer and shade requirements of the maile vine; however, more research is needed.

Your Committee believes continued support for research on the culture of maile will greatly assist the local maile producers, and may become a developing industry for Hawaii in the future.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 100 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1037-86 Agriculture on S.R. No. 168

The purpose of this resolution is to request the President of the Senate to appoint a Senate interim committee to review and conduct neighbor island hearings on the recommendations of the Land Evaluation and Site Assessment Commission.

In 1983 the Legislature established the Hawaii Land Evaluation and Site Assessment Commission to identify and recommend for adoption important agricultural lands according to land evaluation and site assessment standards developed by the Commission, recommend standards and criteria needed to change the designation of "important agricultural lands" to urban or other uses, and examine and recommend means to integrate the proposed land evaluation and site assessment system with the present legal framework.

The Commission submitted their findings and recommendations to the Legislature in February 1986 in A Report on the State of Hawaii Land Evaluation and Site Assessment System which involves highly technical and complex criteria of the agricultural potential of lands and the assessment of the suitability and applicability of lands for agricultural use.

Your Committee finds that these recommendations require substantial amendments to current law and practices, and the ramifications, effects, and consistency with legislative goals cannot be known without further consideration.

Your Committee received testimony and a copy of a draft of a bill relating to land use from the Chairman of the Land Evaluation and Site Assessment Commission which incorporates the recommendations of the Commission. This draft may be utilized by the Senate interim committee during the interim hearings as a reference in developing appropriate legislation.

Your Committee hopes that the final outcome of the Land Evaluation and Site Assessment Commission's recommendations provides availability of agricultural lands at a price based on agricultural uses rather than on a price based on up-zoning potential to encourage diversified agricultural development in Hawaii.

Your Committee on Agriculture concurs with the intent and purpose of S.R. No. 168 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1038-86 Health on S.R. No. 95

The purpose of this resolution is to request the Department of Health to present to the Legislature a specific two-year plan and budget for implementing the Residential Facilities Plan. The submission would include the priority for mental health community residential facilities, in relation to other Department budget requests, and the budget for implementing the plan would be incorporated into the executive budget request.

Your Committee heard supporting testimony by the Mental Health Association in Hawaii, the Mental Services Task Force, and the National Association of Social Workers, and finds that the Residential Facilities Plan, adopted in 1984, has been only minimally funded and implemented to date. Your Committee further finds that community-based care is an effective and cost-efficient approach to treatment of mental health problems and should be encouraged and assisted wherever and whenever possible. Therefore, your Committee finds that this resolution would be a significant advancement of goals and objectives to provide for the public health and is in the public interest.

Your Committee on Health concurs with the intent and purpose of S.R. No. 95 and recommends its adoption.

Signed by all members of the Committee except Senators Kawasaki and Solomon.

SCRep. 1039-86 Housing and Community Development on S.R. No. 131

The purpose of this resolution is to request that public utility companies petition the Honolulu City Council to implement Act 201, Session Laws of Hawaii 1985.

The Hawaii Community Development Authority (HCDA) has implemented a district-wide improvement program to develop public improvements in the Kakaako Community Development District. Public improvements costs have been allocated to government, benefiting property owners, and affected utility companies in accordance with HCDA rules.

HCDA testified that since inception of the Improvement District Program, public utilities have requested that HCDA follow City and County of Honolulu improvement district public utility cost-sharing policies. These policies provide that: (1) Aerial to underground relocation costs less betterments, depreciation, and salvage value are shared equally by government, benefiting property owners, and the affected utility company. (2) Underground to underground relocation costs are paid by the applicable utility company. (3) Overhead to overhead relocation costs are paid by the affected utility company.

Act 201, SLH 1985, provides the counties enabling legislation to establish an allocation formula for utility relocation costs in improvement districts.

The utility companies contend that the intent of Act 201 is to require the State as well as the counties share in costs of relocating underground utility lines in improvement districts, and that as a result of the Act, current City and County cost-sharing policies and Authority rules no longer are applicable to the Kakaako Improvement District. The utility companies believe an allocation formula remains negotiable until the City Council adopts an allocation formula which reflects the intent of Act 201.

The Authority holds that the City Council has not chosen to amend its current utilities cost-sharing policies despite the enabling legislation of Act 201, and that since Authority rules adhere to current City and County policies, it does not impose unreasonable or exceptional demands on the utility companies.

Your Committee finds it necessary to clarify City and County of Honolulu utility relocation cost-sharing policies by requesting that the public utility companies ensure the cost-sharing issue is formally addressed by the City Council.

Your Committee has amended this resolution by adding the phrase "facilities required shall be borne by the utility" to correct a drafting error in the first BE IT RESOLVED clause.

Your Committee on Housing and Community Development concurs with the intent and purpose of S.R. No. 131, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 131, S.D. 1.

Signed by all members of the Committee.

SCRep. 1040-86 Housing and Community Development on S.C.R. No. 93

The purpose of this concurrent resolution is to request a study to determine the number of elderly, disabled, poor, and jobless who are homeless in Hawaii; the availability of housing units, vacancy rate of existing housing structures, and prospects for additional housing units as well as the costs of such housing; and further requests that the State devise a coordinated and comprehensive plan to address the housing needs of the homeless.

Your Committee received testimony in support of this resolution from various community social services advocacy groups, and finds that there is an urgent need to address the housing needs of the elderly, disabled, and poor who are homeless. However, your Committee further finds that the scope of this resolution is extremely comprehensive and requests not only a study to address the needs of the homeless, but also the availability of affordable housing, in order to develop a plan to address both immediate and long-term housing needs. Thus, your Committee has amended this concurrent resolution to limit the scope of this study to specifically address the needs of the elderly, disabled, poor, and jobless who are homeless. Your Committee has further amended this concurrent resolution by deleting the responsibility of the Legislative Reference Bureau for this study and placing this responsibility with the Department of Social Services and Housing.

Your Committee on Housing and Community Development concurs with the intent and purpose of S.C.R. No. 93, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 93, S.D. 1.

Signed by all members of the Committee.

SCRep. 1041-86 Housing and Community Development on S.R. No. 122

The purpose of this resolution is to request a study to determine the number of elderly, disabled, poor, and jobless who are homeless in Hawaii; the availability of housing units, vacancy rate of existing housing structures, and prospects for additional housing units as well as the costs of such housing; and further requests that the State devise a coordinated and comprehensive plan to address the housing needs of the homeless.

Your Committee received testimony in support of this resolution from various community social services advocacy groups, and finds that there is an urgent need to address the housing needs of the elderly, disabled, and poor who are homeless. However, your Committee further finds that the scope of this resolution is extremely comprehensive and requests not only a study to address the needs of the homeless, but also the availability of affordable housing, in order to develop a plan to address both immediate and long-term housing needs. Thus, your Committee has amended this resolution to limit the scope of this study to specifically address the needs of the elderly, disabled, poor, and jobless who are homeless. Your Committee has further amended this resolution by deleting the responsibility of the Legislative Reference Bureau for this study and placing this responsibility with the Department of Social Services and Housing.

Your Committee on Housing and Community Development concurs with the intent and purpose of S.R. No. 122, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 122, S.D. 1.

Signed by all members of the Committee.

SCRep. 1042-86 Consumer Protection and Commerce on S.C.R. No. 138

The purpose of this concurrent resolution is to request the Insurance Commissioner, in consultation with the Department of Health and the University of Hawaii School of Public Health, to conduct a study to determine appropriate criteria and factors that the Legislature should consider in evaluating whether a mandatory health care coverage proposal is in the public interest.

This resolution further requests that the study give special consideration to the Arizona and Washington laws relating to submission of reports assessing social and financial impacts of mandatory coverage and that the findings and recommendations of the study, including recommendations regarding statutory requirements for conducting systematic reviews of proposals for mandatory health care coverage and draft legislation, if appropriate, be submitted to the Legislature no later than twenty days prior to the convening of the Regular Session of 1987.

Over the years various health care providers and proponents have introduced legislative proposals to mandate coverage of their specific service in health insurance or health plan contracts to allow consumers freedom to choose practitioners at lower costs. However, health plan carriers and business groups counter that such mandatory benefits add to the cost of health care and take away the right of consumers to bargain and decide what kind of health insurance

they want.

Your Committee finds that Arizona and Washington have already enacted legislation requiring proponents of mandatory benefit proposals to submit to their Legislatures reports assessing both the social and financial impacts of such mandatory coverage.

This resolution provides for a systematic review of proposed mandatory health coverages, evaluating all ramifications of the proposed legislation, to assist Legislators in determining whether mandating coverage of a particular health service is in the public's best interest.

Your Committee has amended this concurrent resolution to provide that this study to determine appropriate criteria and factors to evaluate mandatory health care coverage proposals also include benefits to consumers as well as costs, and that the Insurance Commissioner also consult with alternative health care representatives for the purposes of this study.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 138, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 138, S.D. 1.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Chang and Young.

SCRep. 1043-86 Consumer Protection and Commerce on S.C.R. No. 152

The purpose of this concurrent resolution is to request the Hawaii Real Estate Commission, with the assistance of other interested parties, to review problems and issues relating to the relationship of a real estate licensee who serves as an employee or independent contractor salesperson to the principal broker or employer.

Your Committee received testimony from the Real Estate Commission stating that the Commission has received numerous calls and complaints from licensees adversely affected by either bankrupt companies or companies that have left the State regarding failure to pay licensees' earned commissions. The Commission believes these uncompensated commission situations are related to the status of most licensees as "independent contractors".

Your Committee finds that there are a number of parties requesting that the Real Estate Commission have jurisdiction over these disputes relating to the nonpayment of commissions owed by these economically distressed real estate companies, and a study of this matter appears timely.

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

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 152, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 152, S.D. 1.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Chang and Young.

SCRep. 1044-86 Consumer Protection and Commerce on S.R. No. 188

The purpose of this resolution is to request the Hawaii Real Estate Commission, with the assistance of other interested parties, to review problems and issues relating to the relationship of a real estate licensee who serves as an employee or independent contractor salesperson to the principal broker or employer.

Your Committee received testimony from the Real Estate Commission stating that the Commission has received numerous calls and complaints from licensees adversely affected by either bankrupt companies or companies that have left the State regarding failure to pay licensees' earned commissions. The Commission believes these uncompensated commission situations are related to the status of most licensees as "independent contractors".

Your Committee finds that there are a number of parties requesting that the Real Estate Commission have jurisdiction over these disputes relating to the nonpayment of commissions owed by these economically distressed real estate companies, and a study of this matter appears timely.

Your Committee has amended this resolution by making technical changes which have no

substantive effect.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 188, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 188, S.D. 1.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Chang and Young.

SCRep. 1045-86 Consumer Protection and Commerce on Gov. Msg. No. 318, 332, 333 and 334

Recommending that the Senate advise and consent to the nominations of the following:

GREGG K. NATORI to the Board of Dental Examiners, for a term ending June 30, 1990;

ELMER D. PHILLIPS to the Board of Registration of Professional Engineers, Architects, Landsurveyors and Landscape Architects, for a term ending June 30, 1990;

CAROL E. SUZAWA to the Board of Cosmetology, for a term ending June 30, 1989; and

MARY SHIGEKO MONDEN to the Consumer Advisory Council, for a term ending June 30, 1990.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Chang and Young.

SCRep. 1046-86 Consumer Protection and Commerce on Gov. Msg. No. 102

Recommending that the Senate advise and consent to the nominations to the Board of Acupuncture of the following:

BENNY K.P. FAN, WILLIAM E. PICKARD, D.C., and YAACOV TZROR, for terms ending June 30, 1987; and

RANDY KOOK DO CHUN and PAUL W. CONDRY, for terms ending June 30, 1988.

Signed by all members of the Committee except Senators B. Kobayashi, Cayetano, Chang, McMurdo and Young.

SCRep. 1047-86 Economic Development on S.C.R. No. 147

The purpose of this concurrent resolution is to request the Division of Aquatic Resources of the Department of Land and Natural Resources to adopt rules regarding use of Fish Aggregation Devices (FAD); to conduct studies to identify the social and economic importance of the recreational and commercial components of the fishing industry; after analyzing data from these studies, to consider designating certain fisheries resources as recreational only; to reexamine current methods of licensing commercial and recreational fishermen; and to develop and distribute informational pamphlets or conduct mandatory education sessions to inform all licensees about current fishing regulations.

Your Committee finds that conflicts have been occurring at the sites of the various Hawaii State Sport Fishing Project FADs, primarily between large-scale commercial aku fishermen using live bait and smaller-scale commercial and recreational fishermen using jigs, lures, and dead bait.

In order to make fisheries management decisions that will contribute to resolving these conflicts, more information on the commercial and recreational fishing industries and the various fisheries resources available in the State are needed. Such information would include numbers of fishermen; types, sizes, and numbers of fish caught; types of fishing gear and methods used; frequency of fishing trips; and expenditures per each fishing trip.

Your Committee is in agreement that the studies and other informational activities requested by this concurrent resolution will aid in making fisheries management decisions that will conserve fishery stock as well as provide the greatest benefit to the majority of those who use these resources.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 147 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 1048-86 Economic Development on S.R. No. 180

The purpose of this resolution is to request the Division of Aquatic Resources of the Department of Land and Natural Resources to adopt rules regarding use of Fish Aggregation Devices (FAD); to conduct studies to identify the social and economic importance of the recreational and commercial components of the fishing industry; after analyzing data from these studies, to consider designating certain fisheries resources as recreational only; to reexamine current methods of licensing commercial and recreational fishermen; and to develop and distribute informational pamphlets or conduct mandatory education sessions to inform all licensees about current fishing regulations.

Your Committee finds that conflicts have been occurring at the sites of the various Hawaii State Sport Fishing Project FADs, primarily between large-scale commercial aku fishermen using live bait and smaller-scale commercial and recreational fishermen using jigs, lures, and dead bait.

In order to make fisheries management decisions that will contribute to resolving these conflicts, more information on the commercial and recreational fishing industries and the various fisheries resources available in the State are needed. Such information would include numbers of fishermen; types, sizes, and numbers of fish caught; types of fishing gear and methods used; frequency of fishing trips; and expenditures per each fishing trip.

Your Committee is in agreement that the studies and other informational activities requested by this resolution will aid in making fisheries management decisions that will conserve fishery stock as well as provide the greatest benefit to the majority of those who use these resources.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 180 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 1049-86 Economic Development on S.C.R. No. 158

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources and the University of Hawaii Sea Grant Program to study the impact of regulating recreational salt-water shoreline fishing through licensing and instituting catch limits.

Under current law, commercial fishermen must be licensed and file monthly fish catch reports with the Department, and only such licensees are allowed to sell their catches. However, recreational fishermen are rapidly depleting Hawaii's shoreline marine life because they are unregulated and may legally take as many fish as they can. Other states have enacted strict licensing, and your Committee believes that such regulation may be needed to protect Hawaii's marine resources, but before such a step is taken it is incumbent upon the State to first monitor recreational fishing areas and practices and gather stock assessment data to ensure that regulation, if initiated, is necessary and would be effective.

Your Committee received testimony on this concurrent resolution from the Sea Grant College Program at the University of Hawaii which evinces complete support for this proposal and a willingness to provide much of the expertise needed to complete the study. Therefore, your Committee believes this project to be feasible and appropriate to further state and legislative objectives relating to the protection of our shoreline marine resources.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 158 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 1050-86 Economic Development on S.R. No. 197

The purpose of this resolution is to request the Department of Land and Natural Resources and the University of Hawaii Sea Grant Program to study the impact of regulating recreational salt-water shoreline fishing through licensing and instituting catch limits.

Under current law, commercial fishermen must be licensed and file monthly fish catch reports with the Department, and only such licensees are allowed to sell their catches. However, recreational fishermen are rapidly depleting Hawaii's shoreline marine life because they are unregulated and may legally take as many fish as they can. Other states have enacted strict licensing, and your Committee believes that such regulation may be needed to protect

Hawaii's marine resources, but before such a step is taken it is incumbent upon the State to first monitor recreational fishing areas and practices and gather stock assessment data to ensure that regulation, if initiated, is necessary and would be effective.

Your Committee received testimony on this resolution from the Sea Grant College Program at the University of Hawaii which evinces complete support for this proposal and a willingness to provide much of the expertise needed to complete the study. Therefore, your Committee believes this project to be feasible and appropriate to further state and legislative objectives relating to the protection of our shoreline marine resources.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 197 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 1051-86 Economic Development on S.C.R. No. 157

The purpose of this concurrent resolution is to request interested State agencies, the County of Hawaii, Kamehameha Schools/Bishop Estates, Alu Like Incorporated, and the Bishop Museum to explore ways the State might acquire Waipi'o Valley, giving consideration for the best appropriate potential uses for the Valley consistent with the cultural and historical concerns of the people of Hawaii.

Waipi'o Valley, situated in the Kohala Mountains on the island of Hawaii, was left to the Bishop Museum to provide funds (from rental income) for the support of the Museum's operating expenses and to ensure protection of important historic sites at the Valley. The Valley holds significant historical evidence of ruins of house platforms, stone walls, garden plots and heiaus which indicate that the Valley once served as a residence for ancient Hawaiians. It is also the residence of the hoary bat, which is on the Rare and Endangered Species list of the U.S. Department of the Interior. The Valley is also one of the richest sources of water on the island of Hawaii.

The Trustees of the Bishop Museum continue to support Charles Bishop's wishes to preserve the precious cultural heritage, natural resources, and unequalled beauty of the Valley for future generations, however, the Trustees realize the difficulties in adequately and effectively managing the Valley from another island.

Your Committee finds that if the State could acquire Waipi'o Valley for preservation and public use, the result would be desirable because it would place a historic landmark under public jurisdiction.

Your Committee has amended this concurrent resolution to designate the Department of Land and Natural Resources as the lead agency to coordinate and submit the report of the findings and recommendations to the Legislature twenty days prior to the convening of the Regular Session of 1987 and has made technical changes which have no substantive effect.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 157, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 157, S.D. 1.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 1052-86 Economic Development on S.R. No. 196

The purpose of this resolution is to request interested State agencies, the County of Hawaii, Kamehameha Schools/Bishop Estates, Alu Like Incorporated, and the Bishop Museum to explore ways the State might acquire Waipi'o Valley, giving consideration for the best appropriate potential uses for the Valley consistent with the cultural and historical concerns of the people of Hawaii.

Waipi'o Valley, situated in the Kohala Mountains on the island of Hawaii, was left to the Bishop Museum to provide funds (from rental income) for the support of the Museum's operating expenses and to ensure protection of important historic sites at the Valley. The Valley holds significant historical evidence of ruins of house platforms, stone walls, garden plots and heiaus which indicate that the Valley once served as a residence for ancient Hawaiians. It is also the residence of the hoary bat, which is on the Rare and Endangered Species list of the U.S. Department of the Interior. The Valley is also one of the richest sources of water on the island of Hawaii.

The Trustees of the Bishop Museum continue to support Charles Bishop's wishes to preserve

the precious cultural heritage, natural resources, and unequalled beauty of the Valley for future generations, however, the Trustees realize the difficulties in adequately and effectively managing the Valley from another island.

Your Committee finds that if the State could acquire Waipi'o Valley for preservation and public use, the result would be desirable because it would place a historic landmark under public jurisdiction.

Your Committee has amended this resolution to designate the Department of Land and Natural Resources as the lead agency to coordinate and submit the report of the findings and recommendations to the Legislature twenty days prior to the convening of the Regular Session of 1987 and has made technical changes which have no substantive effect.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 196, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 196, S.D. 1.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 1053-86 Economic Development on S.C.R. No. 131

The purpose of this concurrent resolution is to urge the four county governments of the State of Hawaii to continue to work closely with the Department of Hawaiian Home Lands (DHHL) to enable homestead lessees to seek and acquire building permits and water meters.

The Hawaiian Homes Commission Act, 1920, as amended, authorizes the DHHL to lease to native Hawaiians the right to the use and occupancy of land for residential, agricultural, or pastoral purposes. The DHHL has attempted to accelerate the awarding of homestead lands to native Hawaiians and has succeeded in the past few years, however, the list of applicants has also increased considerably.

In order to prepare lots for homesteads, the DHHL has been working with the various county governments to assist in reducing the costs to comply with county ordinances and to minimize impacts on the county governments by filing a Letter of Intent with each county prior to developing its lands to specify where the land and improvements will be located, land use designation and the type of improvements to be made.

The county reviews and issues building permits and water meters to homestead lessees, then the DHHL provides the appropriate infrastructure and initial improvements. The DHHL maintains the infrastructure and improvements of the homesteads until such time funds are available to conform and upgrade the improvements to county standards, at which time the maintenance and operation is turned over to the county.

This concurrent resolution encourages the DHHL and counties to continue to work closely together to support the acceleration of awarding homestead lands to native Hawaiians.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 131 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 1054-86 Economic Development on S.R. No. 165

The purpose of this resolution is to urge the four county governments of the State of Hawaii to continue to work closely with the Department of Hawaiian Home Lands (DHHL) to enable homestead lessees to seek and acquire building permits and water meters.

The Hawaiian Homes Commission Act, 1920, as amended, authorizes the DHHL to lease to native Hawaiians the right to the use and occupancy of land for residential, agricultural, or pastoral purposes. The DHHL has attempted to accelerate the awarding of homestead lands to native Hawaiians and has succeeded in the past few years, however, the list of applicants has also increased considerably.

In order to prepare lots for homesteads, the DHHL has been working with the various county governments to assist in reducing the costs to comply with county ordinances and to minimize impacts on the county governments by filing a Letter of Intent with each county prior to developing its lands to specify where the land and improvements will be located, land use designation and the type of improvements to be made.

The county reviews and issues building permits and water meters to homestead lessees, then

the DHHL provides the appropriate infrastructure and initial improvements. The DHHL maintains the infrastructure and improvements of the homesteads until such time funds are available to conform and upgrade the improvements to county standards, at which time the maintenance and operation is turned over to the county.

This resolution encourages the DHHL and counties to continue to work closely together to support the acceleration of awarding homestead lands to native Hawaiians.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 165 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 1055-86 Economic Development on S.C.R. No. 150

The purpose of this concurrent resolution is to request that the Division of Aquatic Resources, Department of Land and Natural Resources, conduct a study of their current gillnet mesh-size regulations and revise such regulations to provide that these nets will capture fish that have reached reproductive capability and allow smaller, prereproductive fish to evade being caught.

Your Committee received testimony from the Department indicating that the use of gillnets is generally non-selective as to the species of fish caught in the net, and thus it is impractical to establish mesh-size regulations on a species specific basis. Additionally, pursuant to Act 253, Session Laws of Hawaii 1985, gillnet mesh-size restrictions were increased from one and one-half inches to two inches to protect prereproductive fish from being taken.

Your Committee finds that while efforts have been made to protect prereproductive fish, the Department should study the situation to ascertain whether further actions relative to restrictions on gillnet mesh-size and the taking of prereproductive fish are warranted.

Your Committee has amended this concurrent resolution for the purposes of clarity, by replacing the word "fishes" with the word "fish" in the fourth WHEREAS clause.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 150, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 150, S.D. 1.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 1056-86 Economic Development on S.R. No. 183

The purpose of this resolution is to request that the Division of Aquatic Resources, Department of Land and Natural Resources, conduct a study of their current gillnet mesh-size regulations and revise such regulations to provide that these nets will capture fish that have reached reproductive capability and allow smaller, prereproductive fish to evade being caught.

Your Committee received testimony from the Department indicating that the use of gillnets is generally non-selective as to the species of fish caught in the net, and thus it is impractical to establish mesh-size regulations on a species specific basis. Additionally, pursuant to Act 253, Session Laws of Hawaii 1985, gillnet mesh-size restrictions were increased from one and one-half inches to two inches to protect prereproductive fish from being taken.

Your Committee finds that while efforts have been made to protect prereproductive fish, the Department should study the situation to ascertain whether further actions relative to restrictions on gillnet mesh-size and the taking of prereproductive fish are warranted.

Your Committee has amended this resolution for the purposes of clarity, by replacing the word "fishes" with the word "fish" in the fourth WHEREAS clause.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 183, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 183, S.D. 1.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 1057-86 Economic Development on S.C.R. No. 114

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to study possible civilian industrial uses for existing industrial and manpower resources at Pearl

Harbor Naval Shipyard.

Hawaii's economy depends, to a great extent, on military and federal expenditures, and Pearl Harbor Naval Shipyard is the largest single industrial employer in the State, employing over 6,000 civilian workers. However, it has always been subject to layoffs and reductions-in-force, and since there is presently no alternative industry that would employ the highly skilled workers there if such events were to occur, it would be in Hawaii's economic best interest if alternative uses of the existing facilities could be developed. Therefore, your Committee finds that the study requested by this concurrent resolution is consistent with state and legislative policies to protect and expand Hawaii's economic base and the economic well-being of its people.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 114 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 1058-86 Economic Development on S.R. No. 142

The purpose of this resolution is to request the Legislative Reference Bureau to study possible civilian industrial uses for existing industrial and manpower resources at Pearl Harbor Naval Shipyard.

Hawaii's economy depends, to a great extent, on military and federal expenditures, and Pearl Harbor Naval Shipyard is the largest single industrial employer in the State, employing over 6,000 civilian workers. However, it has always been subject to layoffs and reductions-in-force, and since there is presently no alternative industry that would employ the highly skilled workers there if such events were to occur, it would be in Hawaii's economic best interest if alternative uses of the existing facilities could be developed. Therefore, your Committee finds that the study requested by this resolution is consistent with state and legislative policies to protect and expand Hawaii's economic base and the economic well-being of its people.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 142 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 1059-86 Higher Education on S.C.R. No. 135

The purpose of this concurrent resolution is to express the Legislature's support for the Cooperative Extension Service, recognize its importance to Hawaii's agricultural and rural development, and urge its continued funding.

Your Committee finds this program to be one of the major reasons for increased agricultural productivity in the United States and Hawaii. Your Committee also finds that future funding of this vital program is in jeopardy under the 1987 budget proposed by President Reagan, and that it is appropriate for this body to urge the President and Congress to do everything in their power to prevent a major reduction in the federal commitment to the Cooperative Extension Service and the Land-Grant system.

Your Committee on Higher Education concurs with the intent and purpose of S.C.R. No. 135 and recommends its adoption.

Signed by all members of the Committee except Senator Mizuguchi.

SCRep. 1060-86 Higher Education on S.R. No. 186

The purpose of this resolution is to express the Legislature's support for the Cooperative Extension Service, recognize its importance to Hawaii's agricultural and rural development, and urge its continued funding.

Your Committee finds this program to be one of the major reasons for increased agricultural productivity in the United States and Hawaii. Your Committee also finds that future funding of this vital program is in jeopardy under the 1987 budget proposed by President Reagan, and that it is appropriate for this body to urge the President and Congress to do everything in their power to prevent a major reduction in the federal commitment to the Cooperative Extension Service and the Land-Grant system.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 186 and recommends its adoption.

Signed by all members of the Committee except Senator Mizuguchi.

SCRep. 1061-86 Economic Development on S.C.R. No. 101

The purpose of this concurrent resolution is to request the Senate Committee on Economic Development and the House Committee on Water, Land Use, Development and Hawaiian Affairs to jointly conduct an interim study on the administration of the Hawaiian Homes Trust within the Department of Hawaiian Homes Lands (DHHL), in order to suggest an alternative administrative structure as a possible means of providing creative solutions to current constraints and problems.

In 1983, the Federal-State Task Force on the Hawaiian Homes Commission Act recommended that utilization of a "public authority device" might present a feasible means of providing creative solutions to constraints and problems besetting the administering of the Hawaiian Homes Trust. A public authority is a semi-autonomous government corporation which is established by law for a particular purpose. In this case, the Task Force indicated that such a device might aid in generating revenue to carry out the purposes of the Hawaiian Homes Commission Act, provide an effective mechanism for development, and add flexibility in hiring practices to more effectively accommodate the personnel needs of the Department. The Task Force went on to recommend that if the public authority device is not adopted, methods of achieving the objectives of hiring and bonding authority, as well as the ability for the Hawaiian Homes Commission and the DHHL to invest their own income, should be vigorously pursued.

Your Committee received testimony supporting this concurrent resolution from the Office of Hawaiian Affairs and finds that the study proposed therein is consistent with state and legislative policies relating to Hawaiian affairs, and in line with federal thinking on the subject, and is therefore a proper subject for study during the upcoming interim. Your Committee further finds that the results of the study would be invaluable in determining the future administration and destiny of Hawaii's vital Hawaiian Homes programs.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 101 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 1062-86 Economic Development on S.C.R. No. 132

The purpose of this concurrent resolution is to request the Legislative Auditor to conduct an audit of public land trust funds managed and expended by certain state departments.

Pursuant to Section 10-3(1), Hawaii Revised Statutes, the Office of Hawaiian Affairs (OHA) is to receive a pro rata portion of all the funds derived from the sale, lease, or other disposition of ceded lands, to be held and used as a public trust for the betterment of conditions of native Hawaiians.

The Office of Hawaiian Affairs, since the transfer of funds from the Department of Transportation for revenues generated from ceded lands, has conducted independent financial audits of public land trust funds transferred to OHA and published those findings in OHA annual reports for public viewing. However, other state departments which also manage, generate, receive, and expend revenues from public land trusts are not audited for review by OHA beneficiaries and the general public.

In 1982, Act 121, Session Laws of Hawaii 1982, required the Legislative Auditor to conduct a study and analysis of the inventory of public lands with an emphasis on the lands included within the public land trust, identify the legal and fiscal issues in the use of the lands and the proceeds and income from the lands in the public land trust and determine the implication of these issues, and to ascertain the accuracy and propriety of the use and distribution of the proceeds of, and income from, the public land trusts. The audit requested by this concurrent resolution will ensure that the state agencies which manage, generate, receive, and expend revenues from public land trusts are financially accountable to the general public and native Hawaiians.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 132 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 1063-86 Economic Development on S.R. No. 7

The purpose of this resolution is to request the U.S. Congress to amend the Jones Act to exclude commercial fishers, and to amend the Longshoremen's and Harbor Worker's

Compensation Act to include commercial fishers.

The Jones Act, unlike the Longshoremen's and Harbor Worker's Compensation Act, compensates crews and masters for injuries received outside work-related activities aboard ship. Additionally, the Jones Act, unlike the Longshoremen's and Harbor Worker's Compensation Act, has no provision rendering inoperative state laws which create parallel remedies such as workers' compensation. Thus, the cost of coverage under the Jones Act is more expensive than the Longshoremen's and Harbor Worker's Compensation Act.

Your Committee finds that rising insurance rates for commercial fishers has slowed expansion of the industry and that insurance rates would be more affordable if commercial fishers were covered under the Longshoremen's and Harbor Worker's Compensation Act.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 7 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 1064-86 Economic Development on S.R. No. 181

The purpose of this resolution is to request the Division of Aquatic Resources of the Department of Land and Natural Resources to conduct a survey to evaluate the economic benefits accruing from the recreational and commercial components of native Hawaiian stream fauna fisheries; to establish regulations necessary to conserve these fisheries resources; and to adopt rules designating certain of these fisheries as strictly recreational if such designation would enhance the prospect of achieving optimum, sustainable yield.

Your Committee finds that native Hawaiian stream fauna are primarily endemic only to Hawaii and are therefore biologically and ecologically significant. Native Hawaiian stream fauna are also of historical, cultural, and economic significance to the people and the State of Hawaii.

Your Committee finds further that the relative abundance of native Hawaiian stream fauna has decreased over the last twenty years, and has been associated with habitat degradation, particularly the diversion of water from streams. Your Committee also finds that in order to conserve threatened resources and to provide the greatest benefits to the majority of users, fish and wildlife managers nationwide have restricted the taking of certain species to recreational users only.

Your Committee is in agreement that a survey of native Hawaiian stream fauna, as requested by this resolution, will aid in making fisheries management decisions that will conserve fisheries resources and provide optimum benefits to the majority of users.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 181 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 1065-86 Higher Education on S.R. No. 114

The purpose of this resolution is to request the University of Hawaii to conduct a study on improving access to public higher education programs and support services for minority students.

Your Committee finds that the purpose of this resolution is consistent with the objectives of the State Higher Education Functional Plan and the University's Strategic Plan in addressing the educational needs of minority students. The resolution addresses the problem of recruitment, retention, and the successful completion of post-secondary education programs by minority students.

Your Committee has received supportive testimony on this resolution from Benjamin B.C. Young, Vice President for Student Affairs at the University of Hawaii. The testimony from the University indicates that there are special programs at the University which help minority students exclusively or as part of their overall services for the entire student body, yet there still exists a large population whose needs have not been met and to which greater efforts must be expended. The University's testimony also identifies and describes minority students as those who are under-represented in terms of racial proportions or who come from disadvantaged backgrounds.

In light of the testimony received, your Committee has made the following amendments to this Resolution:

(1) A "WHEREAS" clause has been added following the sixth "WHEREAS" clause which recognizes the University's efforts to identify and address the educational needs for minority students,

(2) A "WHEREAS" clause has been added following the seventh "WHEREAS" clause which recognizes the University's recent actions in revising academic standards and the negative consequences which this action may have on minority students;

(3) The words "which shall include, but not limited to," have been incorporated into the "BE IT RESOLVED" clause in order to broaden the scope of the University's study and recommendations; and

(4) A "BE IT FURTHER RESOLVED" clause has been added which sets forth that the University incorporate the efforts of other affected individuals and programs in conducting its study and making its recommendations.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 114, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 114, S.D. 1.

Signed by all members of the Committee except Senator Mizuguchi.

SCRep. 1066-86 Economic Development on S.C.R. No. 148

The purpose of this concurrent resolution is to request the Division of Aquatic Resources of the Department of Land and Natural Resources to conduct a survey to evaluate the economic benefits accruing from the recreational and commercial components of native Hawaiian stream fauna fisheries; to establish regulations necessary to conserve these fisheries resources; and to adopt rules designating certain of these fisheries as strictly recreational if such designation would enhance the prospect of achieving optimum, sustainable yield.

Your Committee finds that native Hawaiian stream fauna are primarily endemic only to Hawaii and are therefore biologically and ecologically significant. Native Hawaiian stream fauna are also of historical, cultural, and economic significance to the people and the State of Hawaii.

Your Committee finds further that the relative abundance of native Hawaiian stream fauna has decreased over the last twenty years, and has been associated with habitat degradation, particularly the diversion of water from streams. Your Committee also finds that in order to conserve threatened resources and to provide the greatest benefits to the majority of users, fish and wildlife managers nationwide have restricted the taking of certain species to recreational users only.

Your Committee is in agreement that a survey of native Hawaiian stream fauna, as requested by this concurrent resolution, will aid in making fisheries management decisions that will conserve fisheries resources and provide optimum benefits to the majority of users.

Your Committee on Economic Development concurs with the intent and purpose of S.C.R. No. 148 and recommends its adoption.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 1067-86 Economic Development on H.C.R. No. 50

The purpose of this House concurrent resolution is to request an exchange of state-owned land for the current site of the Maui County Fairgrounds owned by Alexander and Baldwin, Inc.

Your Committee received testimony from the Department of Land and Natural Resources indicating that Alexander and Baldwin, Inc. currently leases state-owned land in Puunene for sugar cane cultivation, and is the lessor of the Maui County Fairgrounds site in Kahului. The Department further testified that they object to the exchange of state land currently under lease, as the State would be losing revenues from lands that are probably ceded to the State and, therefore, contribute moneys to the public trust. The County of Maui testified that their current lease with Alexander and Baldwin, Inc. expires on December 6, 1986, and that in order to continue the tradition of operating the fair on the current site, they are requesting an exchange of lands with Alexander and Baldwin, Inc. They further testified that this exchange would enable them to make permanent improvements to the site, which would benefit the community by enabling events to be held year-round on the site.

Your Committee has considered the testimony presented and finds that this proposed

exchange would be premature at this time, and therefore has amended this House concurrent resolution to request that the County of Maui conduct a study to identify possible alternative sites for the fair and to further request that Alexander and Baldwin consider a long-term lease for a nominal sum at the present site in Kahului.

Your Committee on Economic Development concurs with the intent and purpose of H.C.R. No. 50, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 50, S.D. 1.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 1068-86 Economic Development on Gov. Msg. No. 336

Recommending that the Senate advise and consent to the nomination of CLYDE S. DUPONT to the Public Utilities Commission, for a term ending June 30, 1992.

Signed by all members of the Committee except Senator Kawasaki.

SCRep. 1069-86 Transportation on Gov. Msg. No. 330

Recommending that the Senate advise and consent to the nomination of ROSE T. OHASHI to the State Highway Safety Council, for a term ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 1070-86 Higher Education on S.R. No. 115

The purpose of this resolution is to request the University of Hawaii to examine the Oregon State University/Western Oregon State College of Education (OSU-WOSC) School of Education Quality Assurance Program, and similar programs at other institutions, and conduct a study to assess the feasibility of implementing a similar teacher education warranty assurance program at the University of Hawaii College of Education.

A teacher preparation quality assurance program has been established at the School of Education of Oregon State University and Western Oregon State College of Education. The success and effectiveness of the OSU-WOSC Quality Assurance Program has been nationally recognized with two national awards and has served as a model for federal legislation for a national warranty of beginning teachers as reported in the Congressional Records, Vol. 131, No. 10.

Your Committee has received supportive testimony on this resolution from Anthony J. Marsella, Acting Vice President for Academic Affairs at the University of Hawaii and additional testimony from Francis M. Hatanaka, Superintendent of Education, which expressed the Department of Education's willingness to cooperate with the University in this study.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 115 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1071-86 Higher Education on Gov. Msg. No. 106

Recommending that the Senate advise and consent to the nomination of HERBERT M. RICHARDS, JR., to the Board of Regents, University of Hawaii, for a term ending June 30, 1987.

Signed by all members of the Committee.

SCRep. 1072-86 Judiciary on S.C.R. No. 139

The purpose of this concurrent resolution is to request the Board of Social Services of the Department of Social Services and Housing, with the assistance of the Department of Health, to conduct a study of the feasibility of establishing a forensic center.

Hawaii Revised Statutes section 704-400, prohibits the trial, conviction, and sentencing of a person who suffers from physical or mental disease, disorder, or defect. Presently, such a person acquitted on the grounds of physical or mental disease, disorder, or defect remains in the custody of the Director of Health until the person is no longer a danger to self or others and in need of care, supervision, or treatment.

A report of the Commission on Criminal Justice and Mental Health, published in 1980, recommended the creation of a Forensic Center, to be responsible for the care and treatment of all persons acquitted because of mental disease, disorder or defect, as well as all mentally disordered patients, persons found unfit to proceed, or criminally irresponsible at the time of the crime. Similarly, a report of the Hawaii Crime Commission, published in 1982, recommended the establishment of the Hawaii State Forensic Center, which would be responsible for examining and treating all persons raising a mental illness issue in a criminal proceeding, as well as conducting research, establishing educational programs and supervising persons conditionally released.

Your Committee finds that a central and comprehensive forensic center may greatly improve the treatment and care of mentally ill defendants in our criminal justice system. A feasibility study for a forensic center should be implemented and undertaken.

Your Committee on Judiciary concurs with the extent and purpose of S.C.R. No. 139 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1073-86 Judiciary on S.R. No. 172

The purpose of this resolution is to request the Board of Social Services of the Department of Social Services and Housing, with the assistance of the Department of Health, to conduct a study of the feasibility of establishing a forensic center.

Hawaii Revised Statutes section 704-400, prohibits the trial, conviction, and sentencing of a person who suffers from physical or mental disease, disorder, or defect. Presently, such a person acquitted on the grounds of physical or mental disease, disorder, or defect remains in the custody of the Director of Health until the person is no longer a danger to self or others and in need of care, supervision, or treatment.

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Your Committee finds that a central and comprehensive forensic center may greatly improve the treatment and care of mentally ill defendants in our criminal justice system. A feasibility study for a forensic center should be implemented and undertaken.

Your Committee on Judiciary concurs with the extent and purpose of S.R. No. 172 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1074-86 Judiciary on S.C.R. No. 118

The purpose of this concurrent resolution is to request the Family Court to conduct a comprehensive study and evaluation of mediation in divorce cases.

Mediation is a method of dispute resolution uniquely suited to the emotional issues involved in divorces. As more interest and attention is focused on mediation, it has become apparent that mandatory mediation in all divorces may be the answer to relieve the adversarial nature of the judicial process, which often leads to enduring bitter feelings between warring spouses. Before mandatory mediation is instituted, however, several areas must be explored: 1) the appropriateness of mediation in spouse abuse cases; 2) the necessary qualifications, training and evaluation or certification of mediators; 3) the availability of adequate numbers of qualified mediators; and 4) the cost of requiring mediation in divorce cases. Your Committee finds that such a study is timely and necessary.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 118 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1075-86 Judiciary on S.R. No. 151

The purpose of this concurrent resolution is to request the Family Court to conduct a comprehensive study and evaluation of mediation in divorce cases.

Mediation is a method of dispute resolution uniquely suited to the emotional issues involved in divorces. As more interest and attention is focused on mediation, it has become apparent that mandatory mediation in all divorces may be the answer to relieve the adversarial nature of the judicial process, which often leads to enduring bitter feelings between warring spouses. Before mandatory mediation is instituted, however, several areas must be explored: 1) the appropriateness of mediation in spouse abuse cases; 2) the necessary qualifications, training and evaluation or certification of mediators; 3) the availability of adequate numbers of qualified mediators; and 4) the cost of requiring mediation in divorce cases. Your Committee finds that such a study is timely and necessary.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 118 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1076-86 Judiciary on S.C.R. No. 117

The purpose of this concurrent resolution is to have the Legislative Auditor monitor the social impact and effectiveness of the Act which will give the Family Court discretionary authority to order the parents of unmarried minor parents to pay support to the minor's children.

Because the concept is so new and untried in all the states of the Union, your Committee thought it important to maintain some form of supervision of the Act's impact, especially on the relationships of the children, the adolescent parents, and the grandparents to each other.

Your Committee also deemed it valuable to have the Legislative Auditor assess the effectiveness of the Act, particularly since no evidence yet exists as to the effectiveness of two similar laws in Wisconsin and Connecticut.

Your Committee amended this resolution by deleting the former title and contents having to do with a request for an evaluation of alternate methods of dispute resolution and replacing it with the title and substance described above.

Your Committee on Judiciary is in accord with the intent and purpose of S.C.R. No. 117, S.D. 1, as amended herein, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1077-86 Judiciary on S.R. No. 150

The purpose of this concurrent resolution is to have the Legislative Auditor monitor the social impact and effectiveness of the Act which will give the Family Court discretionary authority to order the parents of unmarried minor parents to pay support to the minor's children.

Because the concept is so new and untried in all the states of the Union, your Committee thought it important to maintain some form of supervision of the Act's impact, especially on the relationships of the children, the adolescent parents, and the grandparents to each other.

Your Committee also deemed it valuable to have the Legislative Auditor assess the effectiveness of the Act, particularly since no evidence yet exists as to the effectiveness of two similar laws in Wisconsin and Connecticut.

Your Committee amended this resolution by deleting the former title and contents having to do with a request for an evaluation of alternate methods of dispute resolution and replacing it with the title and substance described above.

Your Committee on Judiciary is in accord with the intent and purpose of S.R. No. 150, S.D. 1, as amended herein, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1078-86 Judiciary on S.C.R. No. 30

The purpose of this concurrent resolution is to request that the Legislative Reference Bureau, in consultation with the Corrections Division of the Department of Social Services and Housing, the Hawaii Paroling Authority, the Intake Service Center, the Judiciary, and other agencies from the criminal justice system, conduct a study to develop a formula to project inmate population and the accompanying capacity requirements of the State's correctional facilities for five to ten year time frames. In developing the formula, consideration should be given to trends in such factors as inmate characteristics, sentencing, conviction rates, alternatives to incarceration, and parole rates.

Currently, a medium security facility at Halawa is under construction. This facility was designed to relieve the persistent overcrowding problems which have existed for years. However, if the inmate population continues to increase at the same rate, even after completion of the Halawa Medium Security Facility, prison overcrowding problems will continue to occur. For the State to keep pace with the rise in inmate population, a long-range study is urgently needed to develop a formula to predict inmate population and the necessary requirements for housing such inmates.

Your Committee amended the concurrent resolution to request that the Intake Service Center, rather than the Legislative Reference Bureau, conduct the study. The Intake Service Center is the more appropriate agency because it is better equipped to conduct the study.

Your Committee also amended the concurrent resolution to request that the Intake Service Center study the fiscal impact of the new amendments to the Hawaii Penal Code, as well as conduct an analysis of the present number of offenders and the types of offenses committed.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 30, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 30, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki, Kuroda and Young.

SCRep. 1079-86 Judiciary on S.R. No. 53

The purpose of this resolution is to request that the Legislative Reference Bureau, in consultation with the Corrections Division of the Department of Social Services and Housing, the Hawaii Paroling Authority, the Intake Service Center, the Judiciary, and other agencies from the criminal justice system, conduct a study to develop a formula to project inmate population and the accompanying capacity requirements of the State's correctional facilities for five to ten year time frames. In developing the formula, consideration should be given to trends in such factors as inmate characteristics, sentencing, conviction rates, alternatives to incarceration, and parole rates.

Currently, a medium security facility at Halawa is under construction. This facility was designed to relieve the persistent overcrowding problems which have existed for years. However, if the inmate population continues to increase at the same rate, even after completion of the Halawa Medium Security Facility, prison overcrowding problems will continue to occur. For the State to keep pace with the rise in inmate population, a long-range study is urgently needed to develop a formula to predict inmate population and the necessary requirements for housing such inmates.

Your Committee amended the resolution to request that the Intake Service Center, rather than the Legislative Reference Bureau, conduct the study. The Intake Service Center is the more appropriate agency because it is better equipped to conduct the study.

Your Committee also amended the resolution to request that the Intake Service Center study the fiscal impact of the new amendments to the Hawaii Penal Code, as well as conduct an analysis of the present number of offenders and the types of offenses committed.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 53, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 53, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki, Kuroda and Young.

SCRep. 1080-86 Judiciary on S.C.R. No. 7

The purpose of this concurrent resolution is to request Congress to amend the relevant provisions of the Bankruptcy Code of 1978 to exempt as preferential transfers the proceeds of money market certificates which mature during the 90-day period before the filing of a bankruptcy petition.

Recently, in bankruptcy cases of financial institutions, depositors who had withdrawn proceeds of money market certificates which had matured within the 90-day period before the filing of bankruptcy, were compelled to return such proceeds to the trustees in bankruptcy. Presently the Bankruptcy Code of 1978, 11 U.S.C.A. section 547 (c) (2) (C), prohibits a trustee from avoiding a transfer made in the ordinary course of business of the debtor and transferee. However, under the Bankruptcy Code of 1978, 11 U.S.C.A. section 547 (b) (4) (A), the trustee may avoid any transfer of property of the debtor made on or within a 90-day period before the filing of the bankruptcy petition. These transfers are termed preferential transfers. The purpose of avoiding such transfers is to discourage unusual action by either the debtor or creditors as the debtor approaches bankruptcy and to provide equality of distribution among creditors. Preferential transfer treatment also should be extended to depositors whose money market certificates matured within the 90-day period and who withdrew them.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 7 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1081-86 Judiciary on S.R. No. 30

The purpose of this concurrent resolution is to request Congress to amend the relevant provisions of the Bankruptcy Code of 1978 to exempt as preferential transfers the proceeds of money market certificates which mature during the 90-day period before the filing of a bankruptcy petition.

Recently, in bankruptcy cases of financial institutions, depositors who had withdrawn proceeds of money market certificates which had matured within the 90-day period before the filing of bankruptcy, were compelled to return such proceeds to the trustees in bankruptcy. Presently the Bankruptcy Code of 1978, 11 U.S.C.A. section 547 (c) (2) (C), prohibits a trustee from avoiding a transfer made in the ordinary course of business of the debtor and transferee. However, under the Bankruptcy Code of 1978, 11 U.S.C.A. section 547 (b) (4) (A), the trustee may avoid any transfer of property of the debtor made on or within a 90-day period before the filing of the bankruptcy petition. These transfers are termed preferential transfers. The purpose of avoiding such transfers is to discourage unusual action by either the debtor or creditors as the debtor approaches bankruptcy and to provide equality of distribution among creditors. Preferential transfer treatment also should be extended to depositors whose money market certificates matured within the 90-day period and who withdrew them.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 7 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1082-86 (Majority) Judiciary on S.R. No. 192

The purpose of this resolution is to request that an interim committee of the Senate Judiciary Committee investigate the alleged harassment and punishment of Mr. Stuart Silva, an inmate, by officials at Oahu Community Correctional Center. The interim committee is requested to ascertain whether harassment has occurred, and if it has, to determine whether it is connected to Mr. Silva's testimony about prison beatings before the Senate Judiciary Committee. The Committee is also requested to make any recommendations that it finds appropriate.

During the confirmation hearings for the Attorney General in 1985, Mr. Silva testified before the Senate Judiciary Committee regarding prison beatings at the Oahu Community Correctional Center (OCCC). Charges have now been brought to the Committee's attention that Mr. Silva may be subjected to discriminatory and unfair treatment at OCCC due to his testimony.

The Senate's important function in conducting investigations of alleged misconduct by state officials is seriously and detrimentally impeded when witnesses who provide the Senate with crucial evidence are allowed to be intimidated by retaliatory state officials. Serious allegations of retaliation by state officials should be investigated thoroughly and promptly.

Your Committee received favorable testimony on the resolution from the John Howard Association of Hawaii, the American Friends Service Committee, and others.

Your Committee amended the resolution to delete several provisions as unnecessary.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 192, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 192, S.D. 1.

Signed by all members of the Committee.
Senator George did not concur.

SCRep. 1083-86 Judiciary on H.C.R. No. 8

The purpose of this concurrent resolution is to support the Court-Annexed Arbitration Program as a beneficial and effective dispute resolution method.

Because our court system is presently heavily overburdened with civil cases, the Chief Justice of the Hawaii Supreme Court has proposed a Court-Annexed Arbitration program. The intent of the program is to move specific civil cases to a speedier resolution and to reduce acrimony between litigants. In 1985, sixteen state and federal jurisdictions authorized such arbitration.

Your Committee on Judiciary concurs with the intent and purpose of H.C.R. No. 8 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1084-86 Judiciary on H.B. No. 2214-86

The purpose of this bill is to extend the statute of limitations from one year to two years after discovery for offenses which have fraud or breach of fiduciary duty as an element.

Cases involving fraud or breach of fiduciary duty are difficult to prosecute because evidence of the criminal activity is often hidden in misleading bookkeeping and fraudulent records. Extending the statute of limitations allows more time to complete the extensive investigation required to gather and analyze records and documents in order to discover the exact nature and extent of criminal activity.

Your Committee finds that in the majority of fraud or breach of fiduciary obligation cases prosecution has commenced within two years after discovery of the crime. Therefore, your Committee is in accord with the extension of the statute of limitations from one to two years after discovery. The extension of the maximum time for commencement of prosecution to six years is commensurate with the statute of limitations which governs similar fraud cases under civil law.

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

Signed by all members of the Committee.

SCRep. 1085-86 Judiciary on H.B. No. 2045-86

The purpose of this bill is to authorize the Department of Commerce and Consumer Affairs to collect fines that it imposes in the same manner that civil judgments are collected.

Your Committee finds that the department imposes fines as one form of sanction in disciplinary matters. Such fines are imposed only after providing sufficient notice and opportunity to be heard under Hawaii's Administrative Procedure Act. The fines are accordingly legally eligible for and deserving of full enforcement.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2045-86, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1086-86 Judiciary on H.B. No. 2178-86

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

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 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 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 Committee on Judiciary is in accord with the intent and purpose of H.B. No. 2178-86, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1087-86 Judiciary on H.B. No. 1992-86

The purpose of this bill is to revise the Uniform Unclaimed Property Act to increase its effectiveness in restoring property to its owner.

The bill provides that the property held by a business association undergoing dissolution be reported and remitted as part of the final dissolution. The statute currently requires a one year

waiting period, which may increase the difficulty of locating the owner.

It also allows property valued at under fifty dollars (\$50.00), instead of at twenty-five dollars (\$25.00) or less, to be reported in the aggregate. Since the State must publish notice for all property having value of \$50.00 or more, the new provision will simplify administration of the Act.

Another amendment increases from one hundred twenty days to six months the amount of time a holder of unclaimed property is allowed between notifying apparent property owners and filing their reports. The longer interval will give holders more time to prepare reports, and will give owners more time to respond to notices.

The bill also amends the existing statute by limiting the charges assessed by locators of unclaimed property to no more than twenty percent of the value of the property. The existing statute contains no limit, and fees charged by locators of unclaimed property can be exorbitant.

Your Committee finds that this bill simplifies the responsibilities imposed by the act and facilitates the statutory goal of returning lost, misplaced, or forgotten property to its owner.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1992-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Senators Cayetano, Abercrombie and Aki.

SCRep. 1088-86 Ways and Means 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 on Ways and Means is in accord with the intent and purpose of H.B. No. 2395-86, H.D. 2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1089-86 Ways and Means 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 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 Ways and Means is in accord with the intent and purpose of H.B. No. 2106-86 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1090-86 Ways and Means on H.B. No. 2204-86

The purpose of this bill is to improve the availability and reliability of the civil identification issued by the office of the attorney general.

The bill amends section 846-29, Hawaii Revised Statutes, to allow the office to demand documentation of the information provided by applicants for identification. The bill also appropriates funds to enable the attorney general's office to send staff to the neighbor islands to assist applicants for civil identification.

Your Committee on Ways and Means 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.

SCRep. 1091-86 Ways and Means on H.B. No. 2574-86

The purpose of this bill is to appropriate the sum of \$1,829,781.30 to pay a judgment entered against the State Department of Education and in favor of the federal Department of Education. The federal government's suit against the State alleged that the State spent federal funds for expenses that should have been met by state revenues, and that the State did not provide the required level of services in some schools.

The State of Hawaii appealed the adverse decision and succeeded in obtaining a reduction in the amount of the judgment. Any further legal action would not be likely to diminish the amount owed.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2574-86, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1092-86 Ways and Means on H.B. No. 2446-86

The purpose of this bill is to provide the funds necessary to plan and design a statewide computerized system for sharing information pertaining to juveniles. Information sharing among the police, prosecutor, family court, and the youth correctional facility would facilitate the handling of cases involving juveniles. A statewide computerized information system would simultaneously provide prompt, accurate, and comprehensive information about these juveniles to appropriate officials on all islands. The information would be used to maintain contact with and control over such juveniles, assuring continuity in their supervision and treatment.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2446-86, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1093-86 Ways and Means on H.B. No. 2589-86

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

Hawaii experiences a continuous and substantial influx of aliens and nationals from Asia and the Pacific Basin. Most of these persons have no or only limited ability in speaking and understanding the English language. The bilingual health education aide program, which has been a temporary program for the past eleven years and which this bill makes permanent, assists these persons in obtaining health education and public health services.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2589-86, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1094-86 Ways and Means on H.B. No. 2199-86

The purpose of this bill is to appropriate \$350,000 as a grant-in-aid to Saint Francis Hospital to relocate its Maui renal dialysis facility.

Saint Francis Hospital is the only provider of dialysis treatment on the island of Maui. Its facility, however, which is located on the grounds of Maui Memorial Hospital is overcrowded and has deficiencies which cannot be corrected. This bill would permit Saint Francis Hospital to move and upgrade its facility elsewhere on the grounds of Maui Memorial Hospital.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2199-86, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1095-86 Ways and Means 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 finds that the promotion of Hawaii as a sports center will complement and enhance its service based economy and believes that a master plan is necessary prior to the

implementation of any programs related to this activity.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1927-86, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1096-86 Ways and Means on H.B. No. 2430-86

The purpose of this bill is to appropriate \$100,000 out of the state highway fund to study the creation of high occupancy vehicle (HOV) lanes in leeward and central Oahu.

Your Committee finds that increasing development in these areas would cause greater traffic demands, resulting in severely congested highways. However, with constraints on state and federal funds, environmental concerns, and scarcity of land, there are limits to highway construction. Therefore, alternate means of reducing congestion are needed.

Your Committee further finds that HOV lanes would alleviate transportation problems caused by new development in leeward and central Oahu and that up to three-quarters of the vehicles presently on the highways are occupied by only one person. Creation of HOV lanes would encourage people to ride together, thereby reducing traffic congestion.

Your Committee understands that the funds for the study would be used to examine the creation of HOV lanes for leeward and central Oahu, and would include the advantages and disadvantages of HOV lanes, recommendations on physical improvements necessary for HOV lanes, and specific suggestions for implementation.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2430-86, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1097-86 Ways and Means on H.B. No. 2429-86

The purpose of this bill is to appropriate \$30,000 out of the state highway fund for a study investigating the creation of a ridesharing authority.

Your Committee finds that ridesharing would alleviate transportation problems caused by new development in leeward and central Oahu and that up to three-quarters of the vehicles presently on the highways are occupied by only one person. By having more people ride together, traffic congestion would be reduced.

Your Committee further finds that the ridesharing concept could be promoted through a ridesharing authority. Funds appropriated through this bill would be used to study the feasibility of a ridesharing authority and would include the advantages and disadvantages of ridesharing; the organization and duties of the ridesharing authority; the infrastructure needed for a ridesharing program; identification of conflicts with other programs or laws and the changes needed to establish a ridesharing program; the costs of such a program, along with a cost-benefit analysis and suggestions how to fund the program; an action plan with specific methods to encourage ridesharing; and preparation of suggested legislation.

Your Committee understands that creation of a ridesharing authority was part of an overall proposal to answer traffic needs for leeward and central Oahu. This proposal, to be done in phases, includes highway widening, use of contraflow and high-occupancy vehicle (HOV) lanes, provision of exclusive busways convertible to rail systems, encouragement of transportation improvement districts, and development of commercial and employment centers in leeward and central Oahu.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2429-86, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1098-86 Ways and Means on H.B. No. 2428-86

The purpose of this bill is to provide \$120,000 out of the state highway fund for a study investigating the creation of a transportation improvement district.

The City and County of Honolulu has approved 51,500 additional dwellings in Leeward and Central Oahu. Furthermore, an average of one thousand homes a year were built in these areas

over the past five years. The 1986 amendments to the City and County's development plans proposed another 60,000 new units. Although some of these units were not approved, these units could come up for consideration again.

Creation of a transportation improvement district would alleviate transportation problems caused by new development in Leeward and Central Oahu, and would make the private sector partially responsible for solving transportation problems caused by new development. Under this arrangement, an area would be designated as a transportation improvement district. The district would participate in programs to minimize highway congestion, such as ridesharing or highway widening. Those wishing to develop in the district would be required to support the district's transportation programs, either through partial subsidy or other means.

Funds appropriated by this bill would be used to study the feasibility of a transportation improvement district, analyze similar districts elsewhere, obtain reactions from developers, and draft suggested legislation.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2428-86, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1099-86 Ways and Means 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 assessed upon termination of the account, if they marry an individual who has had or has any interest in residential real property.

Currently, section 235-5.5, Hawaii Revised Statutes, 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 purposes of purchasing the individual's first primary residence. Any present or prior interest in residential real property by the taxpayer or spouse makes the individual ineligible to establish or retain such an account.

Your Committee finds the ten per cent tax liability places an undue burden on holders of the housing account should they marry an individual with an interest in residential property. The proposed amendment conforms with the intent of the statute to assist Hawaii residents in purchasing homes.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 55, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1100-86 Ways and Means on H.B. No. 2209-86

The purpose of this bill is to appropriate \$25,000 for the support of the Main Street Task Force.

The Main Street Program is a cooperative effort by private and public sectors to revitalize small towns. Each participating community develops its own program in accordance with established guidelines under the program. Coordination of the State's overall program and the general direction of the local programs are provided by the Historic Hawaii Foundation.

Your Committee is in accord with the intent and purpose of H.B. No. 2209-86, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1101-86 Ways and Means on H.B. No. 1891-86

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 power plant.

Your Committee supports the intent of this bill to increase energy self-sufficiency on the island of Kauai via the issuance of special purpose revenue bonds to provide moneys for hydroelectric projects.

Your Committee on Ways and Means 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.

SCRep. 1102-86 Ways and Means on H.B. No. 2535-86

The purpose of this bill is to authorize the issuance of special purpose revenue bonds in a total amount not to exceed \$12,000,000 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.

If special purpose revenue bonds are used to enhance the profitability and economic feasibility of such projects, the public utilities commission should consider this factor when investigating rate schedules. Savings realized by the developers of these projects should be passed on to the public consumers in the form of rate reductions or moderation of increases.

The proposed Hanalei hydroelectric development project could help Kauai and its people to move toward the goal of energy self-sufficiency.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2536-86, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1103-86 Ways and Means on H.B. No. 2254-86

The purpose of this bill is to establish a program under which the school of medicine of the University of Hawaii recommends the filling of two positions in the medical residency program for persons who agree to serve for two years after licensure to practice medicine as physicians in rural communities for the department of health or in correctional facilities for the department of social services and housing. This bill is intended to alleviate the shortage of physicians in rural communities and correctional facilities by providing an incentive for persons who need residency training to qualify to take the examination to practice medicine.

Your Committee notes that a similar bill, H.B. No. 905, was passed by the Legislature during the Regular Session of 1985, but vetoed by the Governor. The provisions of this bill are intended to meet the objections of the Governor to H.B. No. 905.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2254-86, H.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1104-86 Ways and Means on H.B. No. 1708-86

The purpose of this bill is to establish a statewide kapu system for ocean resources. The bill appropriates \$50,000 to the department of land and natural resources to establish and implement a statewide kapu system which shall include a permanent ban on all net fishing, except for the netting of Nehu or bait fish, within state harbors under the jurisdiction of the state department of transportation. The bill also requires the board of land and natural resources to adopt rules and regulations to administer the program.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 1708-86, H.D. 2, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1105-86 Ways and Means on H.B. No. 2506-86

The purpose of this bill is to: authorize the Department of Health to regulate adult foster care homes; define "adult foster care homes" as private homes providing care on a twenty-four hour basis for not more than two developmentally disabled adults; make the rules relating to child foster boarding homes applicable to adult foster boarding homes for one year; authorize child foster boarding homes caring for developmentally disabled children who will turn eighteen years of age by June 30, 1987, to operate as adult foster boarding homes; and require the Department of Health to conduct a study of the problem of displacement from child foster

boarding homes of developmentally disabled persons who reach eighteen years of age.

Child foster boarding homes technically cannot provide foster care for adults. Developmentally disabled children who receive care in child foster boarding homes must leave the homes upon reaching adulthood. The situation may result in the forced separation of developmentally disabled persons from their foster families, even if strong attachments have been developed. By creating the new classification of adult foster boarding homes and grandfathering child foster boarding homes which provide care to developmentally disabled children who will turn eighteen years of age by June 30, 1987, this bill in effect allows those developmentally disabled children to remain in the same homes.

Furthermore, this bill promotes the deinstitutionalization of developmentally disabled persons by establishing a new classification of community-based residences.

Your Committee on Ways and Means is in accord with the intent and purpose of H.B. No. 2506-86, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1106-86 Judiciary on Gov. Msg. No. 110

Recommending that the Senate advise and consent to the nomination of CORINNE K.A. WATANABE as Attorney General, for a term ending December 1, 1986.

Signed by all members of the Committee except Senator Cobb.

SCRep. 1107-86 Judiciary on Gov. Msg. No. 111

Recommending that the Senate advise and consent to the nominations to the Criminal Justice Data Interagency Board of the following:

WAYNE CARVALHO, for a term ending June 30, 1988;

JOSEPH E. CARDOZA, ROBERT WON BAE CHANG and WARREN FERREIRA, for terms ending June 30, 1989;

MAX GRAHAM and ROBERT GRAHAM, for terms ending June 30, 1988;

BOB KITA, for a term ending June 30, 1989;

RICHARD M.C. LUM, for a term ending June 30, 1988; and

NORMAN OKAMURA, Ph.D., ALFRED SUGA and PAUL TOYOZAKI, for terms ending June 30, 1987.

Signed by all members of the Committee.

SCRep. 1108-86 Judiciary on Gov. Msg. No. 327

Recommending that the Senate advise and consent to the nomination of VICTOR C. MON to the Board of Registration, Island of Oahu, for a term ending June 30, 1990.

Signed by all members of the Committee except Senators Kawasaki, Kuroda and Young.

SCRep. 1109-86 Judiciary on Gov. Msg. No. 281

Recommending that the Senate advise and consent to the nomination of LESLIE CHANG to the Board of Registration, Kauai and Niihau, for a term ending June 30, 1990.

Signed by all members of the Committee except Senators Kawasaki, Kuroda and Young.

SCRep. 1110-86 Judiciary on Gov. Msg. No. 262

Recommending that the Senate advise and consent to the nomination of MABEL ISHII to the Board of Registration, Island of Hawaii, for a term ending June 30, 1990.

Signed by all members of the Committee except Senators Kawasaki, Kuroda and Young.

SCRep. 1111-86 Judiciary on Gov. Msg. No. 243

Recommending that the Senate advise and consent to the nominations to the Criminal Justice Data Interagency Board of the following:

TAMARA LOY HORCAJO, for a term ending June 30, 1990; and

JON R. ONO, for a term ending June 30, 1987.

Signed by all members of the Committee.

SCRep. 1112-86 Judiciary on Gov. Msg. No. 212

Recommending that the Senate advise and consent to the nominations of THOMAS R. COLE, Esq., TERENCE T. YOSHIOKA, Esq., and DONALD FUJIMOTO to the Defender Council, for terms ending June 30, 1987.

Signed by all members of the Committee.

SCRep. 1113-86 Judiciary on S.C.R. No. 9

The purpose of this concurrent resolution is to request the Legislative Auditor, with the cooperation of the Corrections Division, to conduct a management audit of the Corrections Division of the Department of Social Services and Housing. The audit should include an examination of the management practices of the Corrections Division at the central administrative level and at each correctional facility.

The Corrections Division in fiscal year 1984-85 had an operating budget of approximately \$28 million; its average daily inmate population exceeded 1,500. Recently, this large and important agency has been under criticism from several sources. For example, the United States Department of Justice criticized the operation of Oahu Community Correctional Facility; consultants appointed by the State and the American Civil Liberties Union targeted deficiencies at the Oahu Community Correctional Center and the Women's Community Correctional Center. The problems revealed by the criticism indicate that the administration of the Division and the different facilities should be carefully and thoroughly examined by a management audit.

The Department of Social Services and Housing testified that it has no objection to the management audit.

Your Committee amended the concurrent resolution to delete unsubstantiated allegations regarding security and recruitment and retention of employees in the Corrections Division.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 9, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 9, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki, Kuroda and Young.

SCRep. 1114-86 Judiciary on S.R. No. 32

The purpose of this concurrent resolution is to request the Legislative Auditor, with the cooperation of the Corrections Division, to conduct a management audit of the Corrections Division of the Department of Social Services and Housing. The audit should include an examination of the management practices of the Corrections Division at the central administrative level and at each correctional facility.

The Corrections Division in fiscal year 1984-85 had an operating budget of approximately \$28 million; its average daily inmate population exceeded 1,500. Recently, this large and important agency has been under criticism from several sources. For example, the United States Department of Justice criticized the operation of Oahu Community Correctional Facility; consultants appointed by the State and the American Civil Liberties Union targeted deficiencies at the Oahu Community Correctional Center and the Women's Community Correctional Center. The problems revealed by the criticism indicate that the administration of the Division and the different facilities should be carefully and thoroughly examined by a management audit.

The Department of Social Services and Housing testified that it has no objection to the management audit.

Your Committee amended the concurrent resolution to delete unsubstantiated allegations regarding security and recruitment and retention of employees in the Corrections Division.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 32, as amended

herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 32, S.D. 1.

Signed by all members of the Committee except Senators Kawasaki, Kuroda and Young.

SCRep. 1115-86 Judiciary on H.B. No. 2397-86

The purpose of this bill is to avoid conflict between the civil and criminal proceedings that may be filed when a child is injured. The bill suspends the running of the civil statute of limitations until criminal proceedings concerning the same events are concluded.

Currently, parents are often required by the statute of limitations to bring a civil action for damages on behalf of the child while the related criminal proceedings are pending. As a result, the parents and child may be severely strained by the pressures of two lawsuits. Settlement discussions in the civil action may also be distorted, and the success of the criminal prosecution may be endangered by repeated interviewing of the child.

Your Committee finds that this bill will prevent the undesirable consequences that may result from the operation of the current statutory provisions.

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

Signed by all members of the Committee.

SCRep. 1116-86 Health on Gov. Msg. Nos. 298, 299, 300, 301, 310, 311, 312, 322, 323, 324, 338 and 339

Recommending that the Senate advise and consent to the nominations of the following:

TOSHIO NISHIOKA to the State Planning Council on Developmental Disabilities, for a term ending June 30, 1987;

PATRICIA M. HENDERSON, LANI LYNN BARTHOLOMEW and LOIS H. LOVE to the State Planning Council on Developmental Disabilities, for terms ending June 30, 1990;

CATHERINE L. COTTON and GWEN S. NAGUWA, M.D., to the State Emergency Medical Services Advisory Committee, for terms ending June 30, 1990;

MILLICENT L.K. ROGERS to the Commission on the Handicapped, for a term ending June 30, 1987;

RICHARD N. WESTOVER to the Commission on the Handicapped, for a term ending June 30, 1989;

GLADYS C. BAISA to the Commission on the Handicapped, for a term ending June 30, 1990;

HARRY A. WHITTEN to the Technical Advisory Committee on Pesticides, for a term ending June 30, 1988;

BARBARA Z. SIEGEL, Ph.D., to the Technical Advisory Committee on Pesticides, for a term ending June 30, 1990;

JANE FUKUNAGA and NANCY K.Y. YUEN to the State Council on Mental Health and Substance Abuse, for terms ending June 30, 1987;

WALTER NUNOKAWA, Ph.D., to the State Council on Mental Health and Substance Abuse, for a term ending June 30, 1988;

MARION P. DUNNING and JANICE M. CAMPBELL to the Windward Oahu Subarea Health Planning Council, for terms ending June 30, 1990;

CAROL ANN KALAAU to the Hawaii County Subarea Health Planning Council, for a term ending June 30, 1987;

GREG K. NAKAMURA to the Hawaii County Subarea Health Planning Council, for a term ending June 30, 1988;

LEONARD P. PARESA, JR., to the Honolulu Subarea Health Planning Council, for a term ending June 30, 1990;

DONNA R. CHING, Ph.D., to the State Emergency Medical Services Advisory Committee, for a term ending June 30, 1990;

MIYONO KUNIOKA to the County Hospital Management Advisory Committee, City and County of Honolulu Hospital System, for a term ending June 30, 1990;

JOSEPH BLEVINS to the County Hospital Management Advisory Committee, Kauai County Hospital System, for a term ending June 30, 1988;

DENNIS F. TAMASHIRO to the Central Oahu Subarea Health Planning Council, for a term ending June 30, 1988; and

DORIS AHANA and KAREN OSHIRO to the Central Oahu Subarea Health Planning Council, for terms ending June 30, 1990.

Signed by all members of the Committee except Senators Machida, Kawasaki and Solomon.

SCRep. 1117-86 Health on H.C.R. No. 32

The purpose of this concurrent resolution is to request both the state and the City and County of Honolulu health departments to reconsider present policy which results in ambulances by-passing the Waianae Coast Comprehensive Health Center.

The City and County of Honolulu operates the ambulance service for the Leeward Coast of Oahu, but the state Department of Health is responsible for maintaining the statewide emergency medical services system, including the establishment of standards, policies, and procedures for operation. Your Committee received testimony from the Department to the effect that it is aware of the current practice of having ambulances by-pass the Waianae Coast Comprehensive Health Center and is working with the Center to evaluate the situation. The Department also indicates that it is presently engaged in a study to categorize medical facilities in terms of their readiness and capability to receive and treat emergency patients, and thus objects to a contrary statement made in this resolution. Your Committee also received testimony from the Center indicating that they contest the Department's objections to the statement that there appears to be little progress being made to resolving the problem of emergency services for the Waianae Coast.

Your Committee finds that it would be in the public interest for the emergency medical services system to utilize every resource in the State which is capable of responding appropriately to emergency situations. Your Committee further finds that the Waianae Coast Comprehensive Health Center appears to be sufficiently staffed with certified emergency medicine physicians and modern life-saving equipment to be able to respond to many kinds of emergencies. Therefore, your Committee finds that it is appropriate to urge the Department of Health, the City and County of Honolulu, and the Center to confer in a concerted effort to resolve the problems currently preventing utilization of the Center for emergency purposes.

Your Committee has amended this concurrent resolution by making the following changes to correct drafting errors: remove "the" before "situations" in the second WHEREAS clause; insert "the Senate concurring" in the first BE IT RESOLVED clause; and insert the word "Concurrent" before "Resolution" in the last BE IT FURTHER RESOLVED clause. Other technical changes have been made which have no substantive effect.

Your Committee on Health concurs with the intent and purpose of H.C.R. No. 32, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 32, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senators Machida, Kawasaki and Solomon.

SCRep. 1118-86 Health on H.C.R. No. 105

The purpose of this House concurrent resolution is to urge the Department of Health (DOH) to upgrade the emergency ambulance service available to residents of the north shore of Kauai from basic life support to advanced life support.

At the present time, advanced life support ambulance service is available to the residents of the north shore of Kauai only from the Lihue station. This means that in an emergency requiring advanced life support ambulance service, the ambulance must travel up to thirty-five miles with a response time of as long as forty-five minutes.

An advanced life support ambulance must be staffed by personnel who are qualified, among other things, to start intravenous lines, administer drugs, and perform most of the lifesaving techniques performed by an emergency room physician including intubation, release of a tension pneumothorax, advanced cardiac life support drugs and maneuvers, and defibrillation or cardioversion. Ambulance service with such a qualified staff is not now available on a timely basis to residents of the north shore of Kauai.

Your Committee finds that the population of the north shore of Kauai has grown considerably over the past few years, increasing at an annual rate of eleven percent as compared to four percent for the rest of the island, and it further finds that the residents of the north shore are entitled to and are in urgent need of advanced life support ambulance service which would be available on a timely basis.

Your Committee heard testimony in support of this House concurrent resolution from the DOH, which has provided resources for an upgrade. Your Committee notes that the DOH testified that funds appropriated for an upgrade by H.B. No. 1741-86, H.D. 1, S.D. 1, are specified for equipment only. The DOH recommended that an amendment be made to include personnel and supplies, without which an upgrade of ambulance services as requested by this House concurrent resolution would be impossible.

Your Committee on Health concurs with the intent and purpose of H.C.R. No. 105, H.D. 1, and recommends its adoption.

Signed by all members of the Committee except Senators Machida and Kawasaki.

SCRep. 1119-86 Health on S.C.R. No. 154

The purpose of this concurrent resolution is to request the Director of Health to take certain actions relating to water contamination in the State.

Specifically, the Director would be required to: (1) use state-of-the-art techniques for testing for chemicals; (2) make public all water testing results; (3) make public all incidents of blending water contaminated with pesticides into any other water line; (4) generate maps indicating water contamination; (5) ban toxic chemicals from leaching into the ground above aquifers; and (6) ask the EPA to soil-test all pesticides for leaching potential.

Your Committee finds that there is merit in the general substance of these requests and that there is evidence to indicate that our water may be influenced by chemicals. Therefore, your Committee finds that it is appropriate to request the Director of Health to take reasonable actions to acquaint the public with information and decisions which may affect them. However, your Committee is concerned that the tasks requested in this concurrent resolution may be too onerous for the Department without additional financial and manpower resources, which are not available at this time. Therefore, your Committee has amended this concurrent resolution by limiting its scope to drinking water and by providing that the Department need comply with the requests only to the extent feasible, or legal, as long as they make a good faith effort to do so and provide explanation if they cannot.

Your Committee on Health concurs with the intent and purpose of S.C.R. No. 154, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 154, S.D. 1.

Signed by all members of the Committee except Senators Machida and Kawasaki.

SCRep. 1120-86 Health on S.R. No. 191

The purpose of this resolution is to request the Director of Health to take certain actions relating to water contamination in the State.

Specifically, the Director would be required to: (1) use state-of-the-art techniques for testing for chemicals; (2) make public all water testing results; (3) make public all incidents of blending water contaminated with pesticides into any other water line; (4) generate maps indicating water contamination; (5) ban toxic chemicals from leaching into the ground above aquifers; and (6) ask the EPA to soil-test all pesticides for leaching potential.

Your Committee finds that there is merit in the general substance of these requests and that there is evidence to indicate that our water may be influenced by chemicals. Therefore, your Committee finds that it is appropriate to request the Director of Health to take reasonable actions to acquaint the public with information and decisions which may affect them. However, your Committee is concerned that the tasks requested in this resolution may be too onerous for the Department without additional financial and manpower resources, which are not available

at this time. Therefore, your Committee has amended this resolution by limiting its scope to drinking water and by providing that the Department need comply with the requests only to the extent feasible, or legal, as long as they make a good faith effort to do so and provide explanation if they cannot.

Your Committee on Health concurs with the intent and purpose of S.R. No. 191, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 191, S.D. 1.

Signed by all members of the Committee except Senators Machida and Kawasaki.

SCRep. 1121-86 Energy on S.R. No. 187

The purpose of this resolution is to request the Department of Planning and Economic Development and the Department of Land and Natural Resources to jointly investigate the technical and economic feasibility of developing Hawaii's renewable energy resources in conjunction with the development of the State's water resources.

Your Committee finds that the use of excess energy for water development, such as the use of energy technologies for desalination purposes, and for a pump-storage-water distribution system would greatly expand the potential for development of renewable energy resources. Renewable energy resources in the future may yield excess electrical power which could be generated and stored during periods of low demand and reapplied during the high demand periods for various economic uses.

Your Committee further finds that orderly development of such long-range objectives is consistent with the Hawaii State Plan which calls for a development of "dependable, efficient and economical statewide energy systems capable of supporting the needs of the people."

Your Committee has amended the resolution by correcting the reference to the Director of the Department of Land and Natural Resources to the Chairperson of the Board of Land and Natural Resources in the BE IT FURTHER RESOLVED clause.

Your Committee on Energy concurs with the intent and purpose of S.R. No. 187, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 187, S.D. 1.

Signed by all members of the Committee .

SCRep. 1122-86 (Majority) Tourism and Recreation on S.C.R. No. 161

The purpose of this concurrent resolution is to request the Department of Accounting and General Services to prepare a study on the feasibility of moving the Honolulu Zoo from its present location to a new site somewhere on Central Oahu.

Your Committee finds that the Honolulu Zoo has been described as one of the most popular zoos in the country in terms of attendance, but trails far behind in what zoos in other parts of the nation have to offer. According to a master plan prepared in 1984, the Honolulu Zoo is in need of repair, and has inadequate or antiquated facilities. Some of the problems cited were that eighty-six percent of the animal exhibits and most of the buildings require major modification or complete replacement; there are not enough escape routes for keepers in potentially dangerous animal enclosures; and water pressure is often low and service is interrupted by shut-offs in other parts of Kapiolani Park adjacent to the Zoo.

Your Committee finds further that one alternative plan for modernizing and upgrading the Zoo is to relocate and build a completely new Honolulu Zoo at a site on Central Oahu.

Currently, the City and County of Honolulu has adopted a plan for modernizing the Zoo over the next ten to fifteen years by rearranging the exhibits into three main theme areas at an estimated cost of \$25 to \$27 million. The Office of the Managing Director of the City and County of Honolulu testified against the intent of this concurrent resolution, citing concerns over reduced accessibility of tourists and residents and high costs of developing a totally new facility, if the Zoo is moved from its present location.

However, your Committee feels that because the Zoo is such an important attraction for tourists and residents, and because of the large municipal budget involved in the modernization plan, there is a need to study potential alternatives to allow residents and visitors alike the best Hawaii can offer in modern zoo design and facilities.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.C.R. No. 161 and recommends its adoption.

Signed by all members of the Committee.

Senators McMurdo, B. Kobayashi, George and Soares did not concur.

SCRep. 1123-86 (Majority) Tourism and Recreation on S.R. No. 200

The purpose of this resolution is to request the Department of Accounting and General Services to prepare a study on the feasibility of moving the Honolulu Zoo from its present location to a new site somewhere on Central Oahu.

Your Committee finds that the Honolulu Zoo has been described as one of the most popular zoos in the country in terms of attendance, but trails far behind in what zoos in other parts of the nation have to offer. According to a master plan prepared in 1984, the Honolulu Zoo is in need of repair, and has inadequate or antiquated facilities. Some of the problems cited were that eighty-six percent of the animal exhibits and most of the buildings require major modification or complete replacement; there are not enough escape routes for keepers in potentially dangerous animal enclosures; and water pressure is often low and service is interrupted by shut-offs in other parts of Kapiolani Park adjacent to the Zoo.

Your Committee finds further that one alternative plan for modernizing and upgrading the Zoo is to relocate and build a completely new Honolulu Zoo at a site on Central Oahu.

Currently, the City and County of Honolulu has adopted a plan for modernizing the Zoo over the next ten to fifteen years by rearranging the exhibits into three main theme areas at an estimated cost of \$25 to \$27 million. The Office of the Managing Director of the City and County of Honolulu testified against the intent of this resolution, citing concerns over reduced accessibility of tourists and residents and high costs of developing a totally new facility, if the Zoo is moved from its present location.

However, your Committee feels that because the Zoo is such an important attraction for tourists and residents, and because of the large municipal budget involved in the modernization plan, there is a need to study potential alternatives to allow residents and visitors alike the best Hawaii can offer in modern zoo design and facilities.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.R. No. 200 and recommends its adoption.

Signed by all members of the Committee.

Senators McMurdo, B. Kobayashi, George and Soares did not concur.

SCRep. 1124-86 Tourism and Recreation on S.C.R. No. 133

The purpose of this concurrent resolution is to urge the North American Rodeo Commission to extend an annual invitation to Hawaii's cowboy champions to participate in international rodeo competition.

Your Committee finds that the paniolos, or cowboys of Hawaii, began in 1832 with three Spanish-Mexican cowboys brought to the islands by King Kamehameha III. Since that time, the paniolos competed among themselves in the skills of their profession, which gave rise to the rodeos of modern Hawaii. In 1966, the Hawaii State Rodeo Association was established to regulate the sport of rodeo competition throughout the State. Through these rodeos, the state's best cowboy, who receives the State Championship Buckle, is recognized.

Your Committee further finds that the national North American Rodeo Commission invites rodeo champions from every state, except Hawaii, to participate in the international rodeo finals.

Your Committee heard testimony in favor of this concurrent resolution from the Hawaii Rodeo Association (HRA). The HRA testified that in 1908, a group of paniolos from the Island of Hawaii participated in the Frontier Day events in Cheyenne, Wyoming, and that one of them, Ikua Purdy, won the World Championship in the steer-roping contest.

Your Committee is in agreement with the HRA that the participation of Hawaii's paniolos in the annual international rodeo competition, as urged by this concurrent resolution, will increase awareness of Hawaii's rodeos, ranches, and the cultural history of the paniolos among the many visitors from all over the world who attend the international rodeo competition, as well as allowing Hawaii to be represented in world rodeo competition.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.C.R. No. 133 and recommends its adoption.

Signed by all members of the Committee except Senator B. Kobayashi.

SCRep. 1125-86 Tourism and Recreation on S.R. No. 185

The purpose of this resolution is to urge the North American Rodeo Commission to extend an annual invitation to Hawaii's cowboy champions to participate in international rodeo competition.

Your Committee finds that the paniolos, or cowboys of Hawaii, began in 1832 with three Spanish-Mexican cowboys brought to the islands by King Kamehameha III. Since that time, the paniolos competed among themselves in the skills of their profession, which gave rise to the rodeos of modern Hawaii. In 1966, the Hawaii State Rodeo Association was established to regulate the sport of rodeo competition throughout the State. Through these rodeos, the state's best cowboy, who receives the State Championship Buckle, is recognized.

Your Committee further finds that the national North American Rodeo Commission invites rodeo champions from every state, except Hawaii, to participate in the international rodeo finals.

Your Committee heard testimony in favor of this resolution from the Hawaii Rodeo Association (HRA). The HRA testified that in 1908, a group of paniolos from the Island of Hawaii participated in the Frontier Day events in Cheyenne, Wyoming, and that one of them, Ikua Purdy, won the World Championship in the steer-roping contest.

Your Committee is in agreement with the HRA that the participation of Hawaii's paniolos in the annual international rodeo competition, as urged by this resolution, will increase awareness of Hawaii's rodeos, ranches, and the cultural history of the paniolos among the many visitors from all over the world who attend the international rodeo competition, as well as allowing Hawaii to be represented in world rodeo competition.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.R. No. 185 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1126-86 Tourism and Recreation on S.C.R. No. 129

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources to study the possibility of exchanging state lands for Fort DeRussy, to identify state lands which may be available for exchange, and to initiate discussion with the federal government on an exchange proposal, if feasible.

Your Committee finds that the federal government intends to convey the use of Fort DeRussy in Waikiki to the people of Hawaii, but that the actual method of conveyance, the specific grantee, and the use have not yet been determined. In addition, the federal government does not intend to convey Fort DeRussy by a dedication, free of charge, to the State.

Your Committee further finds that the State has a substantial interest on behalf of the people to pursue the acquisition of the title to Fort DeRussy, as Fort DeRussy would be a prime asset in any manner of public use.

One alternative for the acquisition of Fort DeRussy is through a land exchange arrangement, since the State owns lands which are not necessary for state operations and which the federal government may take in exchange for Fort DeRussy. This alternative may prove to be less expensive to the State than outright purchase or long-term lease.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.C.R. No. 129 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1127-86 Tourism and Recreation on S.R. No. 162

The purpose of this resolution is to request the Department of Land and Natural Resources to study the possibility of exchanging state lands for Fort DeRussy, to identify state lands which may be available for exchange, and to initiate discussion with the federal government on an exchange proposal, if feasible.

Your Committee finds that the federal government intends to convey the use of Fort DeRussy in Waikiki to the people of Hawaii, but that the actual method of conveyance, the specific grantee, and the use have not yet been determined. In addition, the federal government does not intend to convey Fort DeRussy by a dedication, free of charge, to the

State.

Your Committee further finds that the State has a substantial interest on behalf of the people to pursue the acquisition of the title to Fort DeRussy, as Fort DeRussy would be a prime asset in any manner of public use.

One alternative for the acquisition of Fort DeRussy is through a land exchange arrangement, since the State owns lands which are not necessary for state operations and which the federal government may take in exchange for Fort DeRussy. This alternative may prove to be less expensive to the State than outright purchase or long-term lease.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.R. No. 162 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1128-86 Tourism and Recreation on Gov. Msg. No. 329

Recommending that the Senate advise and consent to the nominations of J.W.A. BUYERS, EDDIE LAPA and RAY B. MILICI to the Stadium Authority, for terms ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 1129-86 Housing and Community Development on S.C.R. No. 92

The purpose of this concurrent resolution is to request that the Department of Planning and Economic Development (DPED) conduct a study to identify the sources of Hawaii's high housing costs, the magnitude and nature of the economic problems they may cause, and possible solutions the State might employ to solve or ameliorate these problems.

Resolution of Hawaii's housing crisis is a priority public sector objective. Despite State efforts to create policies and programs intended to assist in the provision of affordable housing, such as Act 105, Session Laws of Hawaii 1970, and the Hula Mae loan program, Hawaii's homeownership rate remains low relative to national averages.

Current national statistics indicate that for the first time since 1940, the country is experiencing a decline in the rate of homeownership. In 1980, Hawaii's homeownership rate was less than 50 percent. The decline in homeownership is made more acute by the increasing divergence between average incomes and average housing costs. Between 1970 and 1980, the average income on Oahu rose by 72 percent while the cost of a single-family detached home increased by 220 percent. Further, although the national median income for renter and owner groups has been increasing, the increase in income for owners is far more substantial than the increase in income for renters.

The social implications of these statistics are profound, for the DPED forecasts a 36 percent increase in Hawaii's population over the 25 years between 1980 and 2005. With current estimates of housing unit shortages ranging between 30,000 and 60,000 units, it will take an immediate, bold, large-scale approach to the housing crisis to even hope Hawaii can keep abreast of the growing demand for homes.

Your Committee feels governmental land use policies have directly influenced housing costs due to several factors: (1) increased risks that result from an increased probability of disapproval or delay because a number of approvals by separate government entities are required in the review process; (2) increased carrying costs incurred during the prolonged processing time; (3) increasingly detailed documentation requirements at the boundary amendment level; and (4) increasingly smaller numbers of develop-builder firms with the financial capacity to absorb the carrying costs incurred during the permit process.

In light of these factors, your Committee has amended the concurrent resolution to direct the Department of Planning and Economic Development to specifically review public land use policies, their relationship to and affect on Hawaii's high housing costs, and to propose amendments to land use laws which will provide a more efficient land use regulatory system.

Your Committee on Housing and Community Development concurs with the intent and purpose of S.C.R. No. 92, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 92, S.D. 1.

Signed by all members of the Committee.

SCRep. 1130-86 Housing and Community Development on S.R. No. 120

The purpose of this resolution is to request that the Department of Planning and Economic Development (DPED) conduct a study to identify the sources of Hawaii's high housing costs, the magnitude and nature of the economic problems they may cause, and possible solutions the State might employ to solve or ameliorate these problems.

Resolution of Hawaii's housing crisis is a priority public sector objective. Despite State efforts to create policies and programs intended to assist in the provision of affordable housing, such as Act 105, Session Laws of Hawaii 1970, and the Hula Mae loan program, Hawaii's homeownership rate remains low relative to national averages.

Current national statistics indicate that for the first time since 1940, the country is experiencing a decline in the rate of homeownership. In 1980, Hawaii's homeownership rate was less than 50 percent. The decline in homeownership is made more acute by the increasing divergence between average incomes and average housing costs. Between 1970 and 1980, the average income on Oahu rose by 72 percent while the cost of a single-family detached home increased by 220 percent. Further, although the national median income for renter and owner groups has been increasing, the increase in income for owners is far more substantial than the increase in income for renters.

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Your Committee feels governmental land use policies have directly influenced housing costs due to several factors: (1) increased risks that result from an increased probability of disapproval or delay because a number of approvals by separate government entities are required in the review process; (2) increased carrying costs incurred during the prolonged processing time; (3) increasingly detailed documentation requirements at the boundary amendment level; and (4) increasingly smaller numbers of develop-builder firms with the financial capacity to absorb the carrying costs incurred during the permit process.

In light of these factors, your Committee has amended the concurrent resolution to direct the Department of Planning and Economic Development to specifically review public land use policies, their relationship to and affect on Hawaii's high housing costs, and to propose amendments to land use laws which will provide a more efficient land use regulatory system.

Your Committee on Housing and Community Development concurs with the intent and purpose of S.R. No. 120, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 120, S.D. 1.

Signed by all members of the Committee.

SCRep. 1131-86 Human Services on Gov. Msg. Nos. 325, 326, 340 and 341

Recommending that the Senate advise and consent to the nominations of the following:

JAMES J. M. MISAJON to the Advisory Council for Children and Youth, for a term ending June 30, 1990;

JAMES A. TORRES, CHHANY SAK-HUMPHRY, AMEFIL AGBAYANI and FRED SORIANO to the Advisory Council for Community Services, for terms ending June 30, 1987;

ROY T. NISHIDA, GEORGE K. IKEDA, DOUGLAS DAN WATANABE and GRACE C. ONESS to the Advisory Council for Community Services, for terms ending June 30, 1988;

GEORGE YOKOYAMA, RUBY L. HARGRAVE and G. RIKI HOKAMA to the Advisory Council for Community Services, for terms ending June 30, 1989;

EDUARDO E. MALAPIT to the Advisory Council for Community Services, for a term ending June 30, 1990; and

NAOMI REEVES "SISTER" CORREA to the Criminal Injuries Compensation Commission, for a term ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 1132-86 Human Services on Gov. Msg. No. 109

Recommending that the Senate advise and consent to the nominations to the Criminal Injuries Compensation Commission of the following:

THOMAS BLONDIN, for a term ending June 30, 1989; and

NOBUKI KAMIDA, for a term ending June 30, 1987.

Signed by all members of the Committee.

SCRep. 1133-86 Tourism and Recreation on S.C.R. No. 164

The purpose of this concurrent resolution is to request the State Policy Council to expand the Hawaii Ocean Center (HOC) concept by:

- (1) Studying the feasibility of including major ocean exhibits and displays in the actual marine environment;
- (2) Undertaking a site selection study to identify potential sites for a marine exhibit;
- (3) Considering the option of buying out the sublease of Sea Life Park and locating the HOC at that site;
- (4) Expanding the membership of the State Policy Council; and
- (5) Augmenting the HOC's "umbrella" concept, including preparing specific recommendations on the future use of the Waikiki Aquarium facility.

Your Committee finds that the planned HOC, in order to attract visitors, will have to compete with other existing major aquariums including those in Monterey, Baltimore, San Francisco, and San Diego. The HOC will also have to compete with thirty new aquariums that are currently being planned or constructed in many other North American cities.

Your Committee further finds that one possible way to make the HOC a special, unique facility for visitors would be to capitalize on Hawaii's natural marine resources by incorporating major ocean exhibits and displays, in the actual marine environment, which can be viewed through a submerged observatory in the ocean or through the diving masks of swimmers.

This concurrent resolution requests the State Policy Council to study the feasibility of including such an ocean exhibit in the conceptual plans for the HOC. This concurrent resolution also suggests Makapuu, where Sea Life Park is located, as an appropriate location. As part of the site selection study, the Policy Council is requested to consider the specific option of buying out Sea Life Park's sublease, taking over the operations of that facility, and constructing the HOC at this site as well as in the waters off Makapuu.

Your Committee heard testimony from the Department of Planning and Economic Development (DPED), the Department of Accounting and General Services, and the Waikiki Aquarium. The DPED testified that a major concern of the HOC is potential negative impact on Sea Life Park. Acquiring Sea Life Park and locating the HOC there is an option that has been proposed. The Waikiki Aquarium testified that underwater observatories have been considered by other aquariums, but have been abandoned due to concerns over underwater conditions, liability insurance, and the high costs of construction and maintenance. The Waikiki Aquarium also testified that the Makapuu area frequently experiences heavy seas, which would reduce underwater visibility as well as possibly damage an underwater facility. In addition, there is a lack of naturally occurring coral, fish and other marine life at Makapuu.

Upon consideration of the testimony offered, your Committee has amended the concurrent resolution to include references to Hanauma Bay and other Oahu sites as possible locations for an underwater exhibit. Your Committee has also amended all references to the "State Policy Council" to the "Policy Planning Committee" of the HOC. The DPED testified that the State Policy Council manages the Hawaii State Plan process. Your Committee has also amended the membership of the Policy Planning Committee to include seven members to be appointed by the Governor (including representatives from the Bishop Museum, the Hawaii Visitors Bureau, and the Board of Governors of the Hawaiian Islands Aquarium Corporation). Your Committee has also made technical, nonsubstantive amendments.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.C.R. No. 164, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 164, S.D. 1.

Signed by all members of the Committee.

SCRep. 1134-86 Tourism and Recreation on S.R. No. 202

The purpose of this resolution is to request the State Policy Council to expand the Hawaii Ocean Center (HOC) concept by:

- (1) Studying the feasibility of including major ocean exhibits and displays in the actual marine environment;
- (2) Undertaking a site selection study to identify potential sites for a marine exhibit;
- (3) Considering the option of buying out the sublease of Sea Life Park and locating the HOC at that site;
- (4) Expanding the membership of the State Policy Council; and
- (5) Augmenting the HOC's "umbrella" concept, including preparing specific recommendations on the future use of the Waikiki Aquarium facility.

Your Committee finds that the planned HOC, in order to attract visitors, will have to compete with other existing major aquariums including those in Monterey, Baltimore, San Francisco, and San Diego. The HOC will also have to compete with thirty new aquariums that are currently being planned or constructed in many other North American cities.

Your Committee further finds that one possible way to make the HOC a special, unique facility for visitors would be to capitalize on Hawaii's natural marine resources by incorporating major ocean exhibits and displays, in the actual marine environment, which can be viewed through a submerged observatory in the ocean or through the diving masks of swimmers.

This resolution requests the State Policy Council to study the feasibility of including such an ocean exhibit in the conceptual plans for the HOC. This resolution also suggests Makapuu, where Sea Life Park is located, as an appropriate location. As part of the site selection study, the Policy Council is requested to consider the specific option of buying out Sea Life Park's sublease, taking over the operations of that facility, and constructing the HOC at this site as well as in the waters off Makapuu.

Your Committee heard testimony from the Department of Planning and Economic Development (DPED), the Department of Accounting and General Services, and the Waikiki Aquarium. The DPED testified that a major concern of the HOC is potential negative impact on Sea Life Park. Acquiring Sea Life Park and locating the HOC there is an option that has been proposed. The Waikiki Aquarium testified that underwater observatories have been considered by other aquariums, but have been abandoned due to concerns over underwater conditions, liability insurance, and the high costs of construction and maintenance. The Waikiki Aquarium also testified that the Makapuu area frequently experiences heavy seas, which would reduce underwater visibility as well as possibly damage an underwater facility. In addition, there is a lack of naturally occurring coral, fish and other marine life at Makapuu.

Upon consideration of the testimony offered, your Committee has amended the resolution to include references to Hanauma Bay and other Oahu sites as possible locations for an underwater exhibit. Your Committee has also amended all references to the "State Policy Council" to the "Policy Planning Committee" of the HOC. The DPED testified that the State Policy Council manages the Hawaii State Plan process. Your Committee has also amended the membership of the Policy Planning Committee to include seven members to be appointed by the Governor (including representatives from the Bishop Museum, the Hawaii Visitors Bureau, and the Board of Governors of the Hawaiian Islands Aquarium Corporation). Your Committee has also made technical, nonsubstantive amendments.

Your Committee on Tourism and Recreation concurs with the intent and purpose of S.R. No. 202, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 202, S.D. 1.

Signed by all members of the Committee.

SCRep. 1135-86 Transportation on S.C.R. No. 98

The purpose of this concurrent resolution is to establish an interim committee to review the concept of a cargo distribution center at General Lyman Field.

Proponents of the concept assert that the establishment of a central area for cargo distribution at General Lyman Field would reduce shipping costs and streamline the movement of cargo. The 1985 Legislature approved funds for a study to investigate the feasibility of a

cargo distribution center. According to testimony by the Department of Planning and Economic Development, the first results of the study show that the concept has "a basic economic feasibility." The Department stated that legislative review of the study was necessary to ensure proper implementation of the study's recommendations.

The Office of Housing and Community Development of the County of Hawaii also testified in support of this concurrent resolution.

Your Committee made technical and non-substantive amendments.

Your Committee on Transportation concurs with the intent and purpose of S.C.R. No. 98, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 98, S.D. 1.

Signed by all members of the Committee except Senator Cobb.

SCRep. 1136-86 Transportation on S.R. No. 127

The purpose of this resolution is to establish an interim committee to review the concept of a cargo distribution center at General Lyman Field.

Proponents of the concept assert that the establishment of a central area for cargo distribution at General Lyman Field would reduce shipping costs and streamline the movement of cargo. The 1985 Legislature approved funds for a study to investigate the feasibility of a cargo distribution center. According to testimony by the Department of Planning and Economic Development, the first results of the study show that the concept has "a basic economic feasibility." The Department stated that legislative review of the study was necessary to ensure proper implementation of the study's recommendations.

The Office of Housing and Community Development of the County of Hawaii also testified in support of this resolution.

Your Committee made technical and non-substantive amendments.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 127, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as S.R. No. 127, S.D. 1.

Signed by all members of the Committee.

SCRep. 1137-86 Transportation on S.C.R. No. 109

The purpose of this concurrent resolution is to encourage the State Department of Transportation to develop a motorist-aid program on federally subsidized highways in the State.

Motorist-aid programs provide a means for motorists with automotive problems to obtain assistance on the road. Besides offering a convenience to motorists, these programs also increase driver safety.

Your Committee is aware that the State Department of Transportation already has a pilot motorist-aid program established. Your Committee also is aware that federal subsidies are available for the establishment of motorist-aid programs. In light of this, your Committee finds that further development of a motorist-aid program for Hawaii is highly desirable.

Your Committee on Transportation concurs with the intent and purpose of S.C.R. No. 109 and recommends its adoption.

Signed by all members of the Committee except Senators Hagino and Machida.

SCRep. 1138-86 Transportation on S.R. No. 137

The purpose of this resolution is to encourage the State Department of Transportation to develop a motorist-aid program on federally subsidized highways in the State.

Motorist-aid programs provide a means for motorists with automotive problems to obtain assistance on the road. Besides offering a convenience to motorists, these programs also increase driver safety.

Your Committee is aware that the State Department of Transportation is already experimenting with a pilot motorist-aid program along Kamehameha Highway and the H-2

Freeway. Your Committee also is aware that federal subsidies are available for the establishment of motorist-aid programs. In light of this, your Committee finds that further development of a motorist-aid program for Hawaii is highly desirable.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 137 and recommends its adoption.

Signed by all members of the Committee except Senators Hagino and Machida.

SCRep. 1139-86 Consumer Protection and Commerce on S.C.R. No. 123

The purpose of this concurrent resolution was to request the Director of the Department of Commerce and Consumer Affairs to establish an ad hoc committee to review the existing laws and regulations concerning the time share industry in Hawaii and to report its findings and recommendations to the Legislature prior to the convening of the Regular Session of 1987.

In 1980, the Legislature enacted provisions to regulate the creation, operation, marketing, and role of time sharing programs in Hawaii. Over the years continued revisions of the existing statutes have been made, however, no comprehensive review of the time sharing laws has been conducted since 1982.

Your Committee believes the existing laws governing advertising, promotion, disclosures, registration, and licensing in the area of time sharing need to be evaluated at this time for effectiveness and conformity with constitutional principles.

Upon consideration, your Committee concludes that rather than an ad hoc committee established by the Director of Commerce and Consumer Affairs, the Director, in conjunction with the Time Share Administrator, the Director of the Office of Consumer Protection, and the Attorney General should conduct the review called for in the concurrent resolution. Therefore, the title and body of the concurrent resolution have been appropriately amended.

The concurrent resolution has been further amended as follows:

- 1) The fourth paragraph has been amended to read, "WHEREAS, in 1976 the United States Supreme Court extended constitutional protection to commercial speech, the scope of which is subject to the standards of reasonableness and truthfulness as determined by the State; and";
- 2) A new BE IT FURTHER RESOLVED clause has been added stating that the Department may hold public hearings and meetings which may include the participation of members of the Hawaii Chapter of the National Time Sharing Council of the American Resort and Residential Development Association, the Chief Enforcement Officer of the Department's Regulated Industries Complaints Office, the Chairman of the Real Estate Commission, members of the Waikiki Improvement Association and Citizens Against Time Sharing, and any other interested parties;
- 3) The Time Share Administrator, Director of the Office of Consumer Protection, and the Attorney General have been added as persons to receive certified copies of the concurrent resolution; and
- 4) Technical changes have been made which have no substantive effect.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.C.R. No. 123, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 123, S.D. 1.

Signed by all members of the Committee except Senators Chang, Matsuura, McMurdo, Young and A. Kobayashi.

SCRep. 1140-86 Consumer Protection and Commerce on S.R. No. 156

The purpose of this resolution was to request the Director of the Department of Commerce and Consumer Affairs to establish an ad hoc committee to review the existing laws and regulations concerning the time share industry in Hawaii and to report its findings and recommendations to the Legislature prior to the convening of the Regular Session of 1987.

In 1980, the Legislature enacted provisions to regulate the creation, operation, marketing, and role of time sharing programs in Hawaii. Over the years continued revisions of the existing statutes have been made, however, no comprehensive review of the time sharing laws has been conducted since 1982.

Your Committee believes the existing laws governing advertising, promotion, disclosures, registration, and licensing in the area of time sharing need to be evaluated at this time for effectiveness and conformity with constitutional principles.

Upon consideration, your Committee concludes that rather than an ad hoc committee established by the Director of Commerce and Consumer Affairs, the Director, in conjunction with the Time Share Administrator, the Director of the Office of Consumer Protection, and the Attorney General should conduct the review called for in the resolution. Therefore, the title and body of the resolution have been appropriately amended.

The resolution has been further amended as follows:

- 1) The fourth paragraph has been amended to read, "WHEREAS, in 1976 the United States Supreme Court extended constitutional protection to commercial speech, the scope of which is subject to the standards of reasonableness and truthfulness as determined by the State; and";
- 2) A new BE IT FURTHER RESOLVED clause has been added stating that the Department may hold public hearings and meetings which may include the participation of members of the Hawaii Chapter of the National Time Sharing Council of the American Resort and Residential Development Association, the Chief Enforcement Officer of the Department's Regulated Industries Complaints Office, the Chairman of the Real Estate Commission, members of the Waikiki Improvement Association and Citizens Against Time Sharing, and any other interested parties;
- 3) The Time Share Administrator, Director of the Office of Consumer Protection, and the Attorney General have been added as persons to receive certified copies of the concurrent resolution; and
- 4) Technical changes have been made which have no substantive effect.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 156, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 156, S.D. 1.

Signed by all members of the Committee except Senators Chang, Matsuura, McMurdo, Young and A. Kobayashi.

SCRep. 1141-86 Consumer Protection and Commerce on S.R. No. 21

The purpose of this resolution is to request the Director of the Office of Consumer Protection to examine the necessity of adopting rules for automobile advertisements.

This resolution requests the Director of the Office of Consumer Protection to determine whether rules regarding unfair or deceptive practices in advertising should be adopted to address the alleged failure in certain instances to disclose pertinent information in automobile advertisements, including the number of vehicles available at a stated price, conditions placed upon cash rebates, and the options included in a vehicle advertised for sale at a stated price.

Your Committee finds that the purchase of an automobile is one of the most sizeable expenditures made by consumers and the action requested in this resolution is in keeping with the State's commitment to consumer protection.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of S.R. No. 21 and recommends its adoption.

Signed by all members of the Committee except Senators Matsuura, McMurdo, Young and A. Kobayashi.

SCRep. 1142-86 Economic Development on S.R. No. 119

The purpose of this resolution is to request that the Board of Trustees of the Office of Hawaiian Affairs (OHA) proclaim 1987 as the Year of the Hawaiian, to be observed throughout the State with appropriate commemorative acts and events.

Your Committee received testimony from OHA indicating support for this resolution, and further noting that the Office has adopted a theme entitled "Celebrate the Hawaiian, Ho'olako 1987, A Culture of Inclusion, A Time to Enrich." OHA further testified that the objective of Ho'olako '87 is to sponsor a series of cultural events and activities that will focus on Hawaiian culture, values, history, achievements, and contributions.

Your Committee finds that 1987 - The Year of the Hawaiian is an appropriate way to honor the native people of the State and their culture.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 119 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1143-86 Economic Development on S.R. No. 204

The purpose of this resolution is to extend high praise to the Governor's Native Hawaiian Advisory Panel for its past and present performance and to strongly support the continuation of its functions for at least the next two years.

The Native Hawaiian Advisory Panel was convened by the Governor to help organizations which primarily serve and represent native Hawaiians to apply for funds under the Carl D. Perkins Vocational Act and the Library Services and Construction Act. Since its inception the Panel has performed its functions in an admirable manner and it now stands ready to expand its scope of operations which, your Committee believes, are essential to the betterment of native Hawaiian people and their programs.

Your Committee received supporting testimony on the resolution from the Chief Executive Officer of Alu Like, Inc.

Your Committee finds that the Governor's Native Hawaiian Advisory Panel is deserving of this body's commendation for past and present performance and that it would be in the best interests of native Hawaiians and the programs that serve them to continue the Panel for two more years.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 204 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1144-86 Economic Development on S.R. No. 164

The purpose of this resolution is to support the intent and activities of the New Zealand Trade Expo to be held in Honolulu between June 29 and July 1, 1986.

Your Committee finds that the expo will further expand and enhance the economic, cultural, and social interaction between Hawaii and New Zealand.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 164 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1145-86 Tourism and Recreation on Gov. Msg. No. 263

Recommending that the Senate advise and consent to the nominations of LYNETTE K. PAGLINAWAN, EDITH K. MCKINZIE, GERALD T. TAKANO, YOSHIKO SINOTO, D.Sc., and KIYOSHI IKEDA, Ph.D., to the Hawaii Historic Places Review Board, for terms ending June 30, 1990.

Signed by all members of the Committee except Senator Soares.

SCRep. 1146-86 Judiciary on Gov. Msg. No. 315

Recommending that the Senate advise and consent to the nominations of RODNEY ALLAN MAILE and BETTY ANN ROCHA to the Defender Council, for terms ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 1147-86 Economic Development on Gov. Msg. No. 335

Recommending that the Senate advise and consent to the nomination of HERBERT Y. ARATA to the Board of Land and Natural Resources, for a term ending June 30, 1990.

Signed by all members of the Committee.

SCRep. 1148-86 Tourism and Recreation on H.C.R. No. 28

The purpose of this concurrent resolution is to establish a sister province-state relationship between the Province of Alberta, Canada, and the State of Hawaii.

Your Committee finds that there has been a long history of friendly relations between the United States and Canada. The United States and Canada are currently major trading partners, and both countries have benefited from this interdependence.

Your Committee further finds that a large number of residents of the Province of Alberta, Canada, visit Hawaii, and that there are many potential areas for mutually beneficial trade and economic interactions between Alberta and Hawaii. Further, the differences in histories, cultures, and sociological characteristics afford opportunities for exchanges in which people of both countries can heighten their understanding and appreciation of another unique society.

Your Committee has amended this concurrent resolution by adding language providing that the Legislature extends its invitation to the Premier of the Province of Alberta to establish a sister province-state relationship, for purposes of clarity. Your Committee also made technical, non-substantive amendments.

Your Committee on Tourism and Recreation concurs with the intent and purpose of H.C.R. No. 28, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 28, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senator Soares.

SCRep. 1149-86 Economic Development on S.R. No. 166

The purpose of this resolution is to request the University of Hawaii, in cooperation with the Department of Land and Natural Resources, expeditiously complete the Commercial Activities Management Plan for Mauna Kea.

Your Committee received testimony from the University of Hawaii's Institute for Astronomy indicating that a draft Commercial Activities Management Plan is currently under review. Additionally, once the plan is agreed to by the Board of Land and Natural Resources, the University will submit a Conservation District Use Application based on the plan.

Your Committee finds that the increased activities on Mauna Kea, both for research and recreational purposes, require that a plan to direct and control commercial activities in this valuable conservation district should be adopted as soon as possible.

Your Committee has amended this resolution for the purposes of clarity by changing the reference to the Director of the Department of Land and Natural Resources to the Chairman of the Board of Land and Natural Resources, in the BE IT FURTHER RESOLVED clause.

Your Committee on Economic Development concurs with the intent and purpose of S.R. No. 166, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 166, S.D. 1.

Signed by all members of the Committee except Senator Holt.

SCRep. 1150-86 Economic Development on H.C.R. No. 52

The purpose of this House concurrent resolution is to request that Hawaii's congressional delegation urge the Congress to take action to improve the cost and availability of marine insurance for commercial fishers.

Your Committee finds that the cost and availability of marine insurance for the commercial fishing industry has reached crisis proportions. Your Committee further finds that recommendations in a report entitled "Fishing Vessel Injury Alternative Compensation Analysis" indicate that reforms should be made in certain areas and that the suggested reforms should be supported by our congressional delegation.

Your Committee on Economic Development concurs with the intent and purpose of H.C.R. No. 52 and recommends its adoption.

Signed by all members of the Committee except Senator Holt.

SCRep. 1151-86 Education on S.R. No. 194

The purpose of this resolution is to request the Department of Education and the Hawaii State Teachers Association to jointly explore ways of reducing class size in Hawaii's public schools.

Your Committee finds that the quality of education is dependent upon class size. Smaller classes allow teachers greater flexibility in strategies, methods, and activities in instruction. It also allows students to experience the benefits of more individualized instruction and develop better human relations with their peers. Furthermore, improved discipline is often a result.

An overall maximum ratio of 26.15 students per teacher in public schools has been established through collective bargaining. However, no class size limit presently exists and there are numerous cases of classrooms exceeding the statewide average. Your Committee finds that although there have been various studies conducted on reducing class size in public schools, there has been no progress in reducing class size, thus, the Department of Education and the Hawaii State Teachers Association, are requested to jointly explore alternative methods of reducing class size in public schools. Methods may include but are not limited to reducing selected classes based on regular and special subjects, primary grades, low achievers, and high-risk students.

Your Committee has amended this resolution by deleting the recommended topics to be included in the study, (1) to (5), in the BE IT RESOLVED clause, because your Committee is requesting alternative methods of reducing class size and therefore does not want to limit the scope of the study.

Your Committee on Education concurs with the intent and purpose of S.R. No. 194, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 194, S.D. 1.

Signed by all members of the Committee.

SCRep. 1152-86 Education on S.R. No. 138

The purpose of this resolution is to request the Department of Education (DOE) to study the School Security Aide Program and establish whether the Program should be made permanent and expanded to include elementary schools with less than five hundred students.

The Safety and Security Services Program in the Department of Education (EDN 306) provides needed campus supervision and patrol of Hawaii's public elementary, intermediate, and high schools. The stated objectives of the Safety and Security Services Program are (1) to provide a safe and secure environment for students, teachers, and staff by reducing accidents and antisocial behavior in the public schools, and (2) to provide security measures that will reduce burglary, vandalism, and fire.

The Safety and Security Services Program employs one hundred fifty-five school security attendants (aides) who provide campus supervisory services immediately before, during, and after school hours in six elementary, twenty intermediate, and thirty-four high schools throughout the State.

The Safety and Security Aide positions are supposed to be allocated to the various districts based on percentage of total enrollment in grades K-12. Present staffing guidelines indicate, however, that elementary schools with enrollments under five hundred are not entitled to aides.

In light of increases in school burglaries, vandalism, fires, and other disorders, there may be sufficient reason to give full and careful consideration to assigning permanent security aides to each school on an equitable allocation basis.

Your Committee amended this resolution by deleting the seventh WHEREAS clause on discrepancies in current security aide allocations which may confuse the broader issue of studying the feasibility of establishing a permanent Program; changing the ninth WHEREAS clause to a BE IT RESOLVED CLAUSE because of the directive nature of the content; amending the same clause to provide the DOE with the flexibility to decide, if necessary, the kind of security aide (permanent or otherwise) needed at elementary schools; adding a new BE IT RESOLVED clause that requests the DOE to consider establishing a permanent full-time general position category which would include security responsibilities as an alternative to expanding the School Security Program; and amending the "BE IT RESOLVED" and the first "BE IT FURTHER RESOLVED" clauses to request the DOE to study the feasibility of establishing a permanent School Security Aide Program and the need to have security aides in elementary schools with five hundred students or less.

Your Committee on Education concurs with the intent and purpose of S.R. No. 138, as

amended herein, and recommends its adoption in the form attached hereto as S.R. No. 138, S.D. 1.

Signed by all members of the Committee.

SCRep. 1153-86 Judiciary on S.C.R. No. 121

The purpose of this concurrent resolution is to request the President of the Senate to appoint a committee to study alternative methods for obtaining informed consent to major medical decisions from patients who are incompetent and have no one available to give such consent on their behalf. The appointed committee should also study the relevant standards upon which informed consent on behalf of the incapacitated person should be given or withheld.

There are at least 1,600 people in the State who are incompetent and unable to make major medical decisions. Of those, about 200 have no family or guardian to make major medical decisions for them. When medical intervention is necessary because the health of the incompetent person who has no guardian or family is at risk, hospitals have been forced to go to court for an order to perform major medical procedures. This method of major medical interventions is costly, both in terms of money and time.

Some states have initiated alternative forms of major medical decision-making, such as establishing surrogate decision-making committees made up of physicians, nurses, health care professionals, families of incompetent persons, former patients, attorneys, and others concerned with the area. This alternative form of major medical decision-making and others like it should be investigated further for their feasibility and viability of use here.

Moreover, even in cases where an incompetent person has a guardian or family available, clear legislative guidance is needed to determine how the decision-making should be done. For example, criteria to determine when a person can no longer make a major medical decision regarding his or her health should be specified. These guidelines will immeasurably help the courts, guardians, families of incompetent persons, physicians, and other health care professions to do what is in the best interest of the incompetent person.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 121, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 121, S.D. 1.

Signed by all members of the Committee except Senators Aki, Cobb, Kawasaki and Young.

SCRep. 1154-86 Judiciary on S.R. No. 154

The purpose of this resolution is to request the President of the Senate to appoint a committee to study alternative methods for obtaining informed consent to major medical decisions from patients who are incompetent and have no one available to give such consent on their behalf. The appointed committee should also study the relevant standards upon which informed consent on behalf of the incapacitated person should be given or withheld.

There are at least 1,600 people in the State who are incompetent and unable to make major medical decisions. Of those, about 200 have no family or guardian to make major medical decisions for them. When medical intervention is necessary because the health of the incompetent person who has no guardian or family is at risk, hospitals have been forced to go to court for an order to perform major medical procedures. This method of major medical interventions is costly, both in terms of money and time.

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Moreover, even in cases where an incompetent person has a guardian or family available, clear legislative guidance is needed to determine how the decision-making should be done. For example, criteria to determine when a person can no longer make a major medical decision regarding his or her health should be specified. These guidelines will immeasurably help the courts, guardians, families of incompetent persons, physicians, and other health care professions to do what is in the best interest of the incompetent person.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 154, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.R. No. 154, S.D. 1.

Signed by all members of the Committee except Senators Aki, Cobb, Kawasaki and Young.

SCRep. 1155-86 Higher Education on S.R. No. 124

The purpose of this resolution is to request the University of Hawaii and the Associated Students of the University of Hawaii (ASUH) to provide a report on its investments in South Africa to the 1987 Legislature.

Your Committee recognizes that the issue of American investments in the Republic of South Africa is of major importance on college and university campuses across the nation. As anti-apartheid sentiments continue to rise, an increasing number of governing boards have been forced to re-examine their investment policies in light of certain moral and social considerations which cannot be easily ignored.

Due to the great importance which has been placed on this matter by the ASUH and other student groups, your Committee finds that the Legislature should be informed as to the extent of the University's investments in South Africa as requested in this resolution.

Your Committee on Higher Education concurs with the intent and purpose of S.R. No. 124 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1156-86 Transportation on H.C.R. No. 59

The purpose of this concurrent resolution is to request the Subcommittee on Aviation of the U.S. House of Representatives to enact legislation requiring the Federal Aviation Administration (FAA) to develop aircraft noise regulations, to collaborate with government and other organizations in creating methods to control aircraft noise, and to clarify existing federal laws relating to noise.

Your Committee received testimony from many residents expressing concern over aircraft noise. Most of this testimony related to noise generated by helicopter flights over the Neighbor Islands. One witness, Lois Birnbaum, testified that the noise from helicopter flights on Kauai was loud enough to drown out normal conversation, and that the updrafts created by helicopters flying close to the ground have been powerful enough to kick dirt into the faces of those on the ground. Many of the witnesses noted that helicopter noise is damaging Hawaii's attractiveness to tourists. The consensus of the residents' testimony is that helicopter noise is disruptive and threatens the rural atmosphere of the Neighbor Islands. However, the residents also stated that they were in favor of limiting excessive noise from any aircraft in any location in Hawaii.

The Department of Land and Natural Resources and Councilmembers John F. Barretto, Jr., and Joann A. Yukimura of the County Council of Kauai also testified in favor of this resolution.

Your Committee made technical and non-substantive amendments to conform this concurrent resolution to accepted drafting style.

Your Committee on Transportation concurs with the intent and purpose of H.C.R. No. 59, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 59, S.D. 1.

Signed by all members of the Committee.

SCRep. 1157-86 Transportation on S.R. No. 70

The purpose of this resolution is to request the Subcommittee on Aviation of the U.S. House of Representatives to enact legislation requiring the Federal Aviation Administration (FAA) to develop aircraft noise regulations, to collaborate with government and other organizations in creating methods to control aircraft noise, and to clarify existing federal laws relating to noise.

Your Committee received testimony from many residents expressing concern over aircraft noise. Most of this testimony related to noise generated by helicopter flights over the Neighbor Islands. One witness, Lois Birnbaum, testified that the noise from helicopter flights on Kauai was loud enough to drown out normal conversation, and that the updrafts created by helicopters flying close to the ground have been powerful enough to kick dirt into the faces of those on the ground. Many of the witnesses noted that helicopter noise is damaging Hawaii's attractiveness to tourists. The consensus of the residents' testimony is that helicopter noise is disruptive and threatens the rural atmosphere of the Neighbor Islands. However, the residents also stated that they were in favor of limiting excessive noise from any aircraft in any location in Hawaii.

The Department of Land and Natural Resources and Councilmembers John F. Barretto, Jr., and Joann A. Yukimura of the County Council of Kauai also testified in favor of this resolution.

Your Committee made technical and non-substantive amendments to conform this concurrent resolution to accepted drafting style.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 70, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 70, S.D. 1.

Signed by all members of the Committee.

SCRep. 1158-86 Transportation on S.R. No. 56

The purpose of this resolution is to request the Federal Aviation Administration (FAA) to urge pilots in Hawaii to minimize noise while operating aircraft.

Your Committee received testimony from many residents expressing concern over aircraft noise. Most of this testimony related to noise generated by helicopter flights over the Neighbor Islands. One witness, Lois Birnbaum, testified that the noise from helicopter flights on Kauai was loud enough to drown out normal conversation, and that the updrafts created by helicopters flying close to the ground have been powerful enough to kick dirt into the faces of those on the ground. Many of the witnesses noted that helicopter noise is damaging Hawaii's attractiveness to tourists. The consensus of the residents' testimony is that helicopter noise is disruptive and threatens the rural atmosphere of the Neighbor Islands. However, the residents also stated that they were in favor of limiting excessive noise from any aircraft in any location in Hawaii.

The Department of Land and Natural Resources and Councilmembers John F. Barretto, Jr., and Joann A. Yukimura of the County Council of Kauai also testified in favor of this resolution.

Your Committee on Transportation concurs with the intent and purpose of S.R. No. 56 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1159-86 Judiciary on S.C.R. No. 119

The purpose of this concurrent resolution is to request the Board of Family Court Judges to issue and distribute to attorneys and members of the public, guidelines describing the factors that are taken into consideration in determining the best interests of the child in visitation cases.

Visitation disputes are frequent and common between divorcing and divorced spouses. Parties to a divorce may have unresolved conflicts with each other which may have nothing to do with the child of the parties but often result in a parental tug-of-war with the child caught in the middle. For example, it is not unusual for the custodial parent to deny visitation to the noncustodial parent because the noncustodial parent is not paying the court-ordered child support. However, the Family Court does not consider the nonpayment of child support to be a valid reason for the custodial parent to interrupt a steady and consistent relationship between the noncustodial parent and the child. The custodial parent may be open to judicial sanctions. Parents and guardians should be duly informed of their rights and obligations in visitation matters and of their liability for sanctions imposed against them for an unwarranted refusal of visitation.

Your Committee on Judiciary concurs with the intent and purpose of S.C.R. No. 119 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1160-86 Judiciary on S.R. No. 152

The purpose of this resolution is to request the Board of Family Court Judges to issue and distribute to attorneys and members of the public, guidelines describing the factors that are taken into consideration in determining the best interests of the child in visitation cases.

Visitation disputes are frequent and common between divorcing and divorced spouses. Parties to a divorce may have unresolved conflicts with each other which may have nothing to do with the child of the parties but often result in a parental tug-of-war with the child caught in the middle. For example, it is not unusual for the custodial parent to deny visitation to the noncustodial parent because the noncustodial parent is not paying the court-ordered child

support. However, the Family Court does not consider the nonpayment of child support to be a valid reason for the custodial parent to interrupt a steady and consistent relationship between the noncustodial parent and the child. The custodial parent may be open to judicial sanctions. Parents and guardians should be duly informed of their rights and obligations in visitation matters and of their liability for sanctions imposed against them for an unwarranted refusal of visitation.

Your Committee on Judiciary concurs with the intent and purpose of S.R. No. 152 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1161-86 Higher Education on Gov. Msg. No. 355

Recommending that the Senate advise and consent to the nominations to the Board of Regents, University of Hawaii, of the following:

ROBERT M. FUJIMOTO, for a term ending June 30, 1990; and

ALBERT M. NISHIMURA, for a term ending June 30, 1987.

Signed by all members of the Committee except Senator Toguchi.

SCRep. 1162-86 Transportation on H.C.R. No. 107

The purpose of this concurrent resolution is to request the State Department of Transportation to rename Keahole Airport in honor of Lieutenant Colonel Ellison S. Onizuka.

Last year, Ellison Onizuka was a special guest of the 1985 Legislature. He impressed all with his knowledge, his aloha and his enthusiasm for the shuttle program and for space exploration. It is with this memory that your Committee is honored to pass this concurrent resolution.

Your Committee made an amendment to clarify the title of the concurrent resolution to read: "HOUSE CONCURRENT RESOLUTION REQUESTING THE DEPARTMENT OF TRANSPORTATION TO RENAME KEAHOLE AIRPORT AS 'KEAHOLE AIRPORT--LIEUTENANT COLONEL ONIZUKA FIELD'". Other changes for the purpose of style and clarity were also made.

Your Committee on Transportation concurs with the intent and purpose of H.C.R. No. 107, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 107, H.D. 1, S.D. 1.

Signed by all members of the Committee except Senators Hagino and George.

SCRep. 1163-86 Legislative Management on H.C.R. No. 46

The purpose of this concurrent resolution is to request the legislative auditor to conduct a program and management audit of programs within the environmental protection and health services division of the department of health. The purpose of the audit is to assess and 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.

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. Any improvement in the State's capability to protect the public health and the environment begins with positive changes within the division.

Your Committee on Legislative Management concurs with the intent and purpose of H.C.R.

No. 46 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1164-86 Legislative Management on S.R. No. 25

The purpose of this resolution is to request the Legislative Reference Bureau to study ownership patterns of land beneath Hawaii's residential condominiums and cooperative housing corporations.

Your Committee on Legislative Management concurs with the intent and purpose of S.R. No. 25, S.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1165-86 Legislative Management on S.R. No. 145

The purpose of this resolution is to request the legislative reference bureau to develop a uniform definition of "independent contractor" that would be applicable throughout title 21, Hawaii Revised Statutes.

At the present there are four chapters under title 21 which relate to employer-employee relationships and benefits, the prepaid health care law, unemployment compensation (employment security) law, workers' compensation, and temporary disability insurance. Each lists slightly different exemptions from coverage, giving rise to anomalous situations, for example, an outside sales representative may be exempt from unemployment coverage because the sales representative is independent but still covered under workers' compensation, prepaid health, and temporary disability insurance.

This study would provide a rational basis for determining who is and who is not an independent contractor, which should improve the ability of the department of labor and industrial relations to administer its laws and rules uniformly and equitably across the spectrum of its programs.

Your Committee has amended the resolution to clarify that the study is limited to the portions of title 21, Hawaii Revised Statutes, dealing with employment security, unemployment compensation, workers' compensation, temporary disability insurance, and prepaid health care, and made a nonsubstantive technical amendment.

Your Committee on Legislative Management concurs with the intent and purpose of S.R. No. 145, S.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.R. No. 145, S.D. 2.

Signed by all members of the Committee.

SCRep. 1166-86 Legislative Management on S.R. No. 53

The purpose of this resolution is to request that the Intake Service Center, in consultation with the Corrections Division of the Department of Social Services and Housing, the Hawaii Paroling Authority, the Judiciary, and other agencies from the criminal justice system, conduct a study to develop a formula to project inmate population and the commensurate capacity requirements of the State's correctional facilities for five- to ten-year time frames. The Intake Service Center is also requested to analyze the fiscal impact of the new amendments to the Hawaii Penal Code on the correctional system, including an analysis of the present number of offenders and the types of offenses committed.

Your Committee on Legislative Management concurs with the intent and purpose of S.R. No. 53, S.D. 1, and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1167-86 Legislative Management on S.R. No. 113

The purpose of this resolution is to request that the Senate Committee on Higher Education assess and evaluate the University of Hawaii's role in State efforts to fully and actively participate in the affairs of the Pacific Rim by engaging in consultations with key scholars, business, and community leaders, and other states and nations involved in the development of the Pacific-Asian region.

With the focus of world attention shifting from the Atlantic to the Pacific-Asian region, local

political, business, and educational leaders have stressed the importance of Hawaii's potential role in the affairs of the Pacific Rim. Further, the University of Hawaii, with its internationally respected East-West Center, is a primary and influential participant in the promotion of State involvement in the affairs of the Pacific-Asian region.

Your Committee on Legislative Management concurs with the intent and purpose of S.R. No. 113 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1168-86

Legislative Management on S.R. No. 98

The purpose of this resolution is to request a study on the maintenance and operation of the Molokai Irrigation System (MIS), an assessment of whether the System is being utilized to its fullest capacity and what corrective steps can be taken to remedy the present inadequate water supply.

The resolution further requests that an irrigation district be established on Molokai with a board of directors composed of farmers and representatives of the Department of Land and Natural Resources to employ a management team concept for the maintenance and operation of the MIS. Such irrigation districts have successfully been established on the mainland.

The Molokai Irrigation System is critical to the viability and growth of diversified agriculture on Molokai. However, in recent years, the System has not been capable of providing a consistent, guaranteed supply of water due to serious operational and maintenance problems.

Molokai farmers believe they should be allowed to participate in management of the MIS since their livelihood depends, in large measure, on the assured availability of water supplied through the System.

Your Committee on Legislative Management concurs with the intent and purpose of S.R. No. 98, S.D. 1, and recommends its adoption.

Signed by all members of the Committee.