

**SCRep. 754 Education on H.B. No. 145**

The purpose of this bill is to amend Chapter 296, Hawaii Revised Statutes, to provide for written policies to be developed by principals to describe how school priority funds are to be used and how incidents of violence occurring on campus are to be handled.

The Department of Education and the Hawaii State Teachers Association testified in opposition to this bill. Both testimonies indicated that present department policies require principals to develop guidelines for student behavior. Guidelines for using school priority funds are also established by Department of Education policy.

However, your Committee finds that many students, teachers and parents are unaware of the guidelines for student behavior and that this bill is necessary to assure that written guidelines on the disposition of violent incidents be reported to these groups each year.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 145, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 145, H.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Bunda, Hashimoto and O'Kieffe.

**SCRep. 755 Education on H.B. No. 1813**

The purpose of this bill is to require the Department of Education to initiate in selected schools a school based management system, which increases decision-making authority at the school level. The bill also proposes to require the Board of Education to formulate standards for participating schools and to establish Statewide educational goals. Finally, the bill proposes to allow all affected State agencies to waive applicable policies, rules, or procedures for schools participating in the school based management system.

In the past, central financing and the equitable distribution of resources have been hallmarks of Hawaii's public school system. However, administrative centralization in the Department of Education has been said by some to inhibit the development of innovative teaching methods in the classroom and the initiation of improvements at the school level.

The Berman-Weiler report The Hawaii Plan; Educational Excellence for the Pacific Era, which was commissioned by the Hawaii Business Roundtable, recommends that the state move a significant degree of decision-making power to the school level. As stated in this report, the problem is that:

"Local creative energies are not being tapped. Parents and community members often find it difficult to influence their schools, creating a lack of involvement, identification, and trust. Many principals and teachers work in an environment where they do not feel responsible for taking initiative and, in too many cases wish to work elsewhere".

This bill is meant to initiate the restructuring in state government necessary to decentralize the public school system.

The Governor testified in favor of this bill. He stated that school-community based management is the single most essential element of the effort to restructure our public school system.

The Board of Education, the Superintendent of Education, the Hawaii Business Roundtable, the Hawaii State Teachers Association, the Hawaii Government Employees Association and many other groups and individuals including parents, teachers and principals testified in favor of this measure.

Testimony from representatives of the collective bargaining units who represent personnel in the Department of Education suggested the bill be amended to provide that the provisions of collective bargaining agreements be excluded from consideration in the waiver process.

Testimony from the Hawaii Business Roundtable suggested that the term, "school-community based management" would be more comprehensive than the term, "school based management" and would emphasize the legislature's intent that parents, students, and other community members be involved in the decisions of the school. The Hawaii Business Roundtable also suggested that waivers from rules or policies should be granted unless agencies could justify a refusal to the Governor.

Some testified that the concept of school-community based management will not work unless governance questions are addressed in this bill. They recommend that school-community boards be established to assume the role now played by the state Board of Education. Others indicated that the bill is not needed because the Board of Education and the Governor already have the power to accomplish the purposes of this bill.

Your Committee finds that this bill will express the legislature's intent that school-community based management be implemented as soon as possible, and that all state agencies be mandated to grant waivers unless justification is provided to appropriate authorities.

In consideration of all testimony which was submitted, your Committee amended the bill as follows:

- (1) Changed all references to "school based management" to "school-community based management";
- (2) On page 1, line 11, deleted the word "disturbing" and replaced it with "eliminating";

- (3) On page 1, lines 11-14, deleted reference to other jurisdictions, and replaced it with reference to experts;
- (4) On page 2, lines 9-11, emphasized the role of specific groups of people in making school decisions;
- (5) On page 3, line 21, empowered State agencies to grant waivers rather than to consider applications for waivers;
- (6) On page 5, line 10, added a requirement that the Board of Education appoint a panel to select schools to participate in school-community based management;
- (7) On page 5, line 15, deleted "allows if not" to emphasize that school-community based management is intended to encourage school initiatives, and not merely to allow it;
- (8) On page 6, line 9, changed "may" to "shall," thereby requiring State agencies to approve waivers requested by a school unless an agency can justify a denial of the waiver to the appropriate authority within thirty days. It is our intent that the appropriate authority for waivers dealing with policies, rules, or procedures of the Department of Education is the Board of Education, and the appropriate authority for waivers dealing with policies, rules, or procedures of any agency other than the Department of Education is the Governor.
- (9) On page 6, line 15, added that waivers shall not apply to matters governed under Chapter 89, including collective bargaining agreements.

In addition, your Committee made technical, nonsubstantive amendments for purposes of style and clarity.

Your Committee on Education is in accord with the intent and purpose of H.B. No. 1813, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1813, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Bunda, hashimoto and O'Kieffe.

**SCRep. 756 Consumer Protection and Commerce and Judiciary on H.B. No. 1050**

The purpose of this bill is to amend Section 515-3, Hawaii Revised Statutes, to bring Hawaii law relating to discrimination in real estate transactions into compliance with federal legislation.

Under present state law, covenants, bylaws, or administrative provisions for condominiums and cooperatives existing prior to April 19, 1984, placing restrictions based on parental status, are excluded from coverage under Chapter 525, Hawaii Revised Statutes, relating to Discrimination in Real Property Transactions.

Your Committees find that the Federal Fair Housing Amendment of 1988 prohibits such discrimination. Without the proposed amendment, a condominium or cooperative could be in compliance with state law but in violation of federal law.

Your Committees find that by eliminating the exception for condominiums and cooperatives existing prior to 1984, state and federal laws will be brought into conformity.

The Department of Commerce and Consumer Affairs, the Hawaii Association of Realtors, and the Honolulu Community Housing Resource Board testified in favor of H.B. No. 1050.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 1050 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

**SCRep. 757 Consumer Protection and Commerce on H.B. No. 1894**

The purpose of this bill is to amend the effective dates of four Acts passed by the Legislature in 1987, to clarify the relationship of those Acts to the insurance code. The Acts to be amended by this bill are: Act 97, S.L.H. 1987, amending the unfair trade practices penalty section; Act 250, S.L.H. 1987, pertaining to total disability premium waivers; Act 253, S.L.H. 1987, relating to Long-Term Care; and Act 332, S.L.H. 1987, mandating in vitro fertilization benefits.

Your Committee heard testimony in favor of this bill from the Department of Commerce and Consumer Affairs, and the Hawaii Academy of Plaintiffs' Attorneys. The department explained that the Acts referred to above were passed concurrently with the new insurance code in 1987. Most of the Acts were effective immediately, while the insurance code did not become effective until July 1, 1988. At the time of their approval, Acts 97, 250, 253, and 332, S.L.H. 1987, contained no language to indicate their relationship to the insurance code bills, Acts 347, 348, and 349, S.L.H., 1987. Consequently, questions have arisen as to whether the four subject Acts also amended the insurance code when the latter became effective. This bill would clarify by express language that the four subject Acts are part of the insurance code, although your Committee's view is that even without the clarification provided in this bill, the subject Acts remain in effect. To conclude otherwise would result in negation of measures duly adopted by the Legislature and signed into law by the Governor.

Your Committee has amended this bill to correct a technical drafting error.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1894, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1894, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 758 Consumer Protection and Commerce on H.B. No. 185**

The purpose of this bill is to delineate and clarify the respective obligations of the landlord and the tenant relative to building and housing laws affecting health and safety.

Your Committee received testimony in favor of this bill from the Department of Commerce and Consumer Affairs, the Hawaii Association of Realtors, and the Institute of Real Estate Management. This testimony indicated that the current law is confusing to tenants and nonprofessional property managers with regard to language relating to building and housing laws affecting health and safety. This bill will shorten and clarify the applicable language by amending Sections 521-42(a) and 521-51(1), Hawaii Revised Statutes, to provide that both landlord and tenant shall comply with all applicable building and housing laws materially affecting health and safety.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 185 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 759 Consumer Protection and Commerce on H.B. No. 944**

The purpose of this bill is to amend the Residential Landlord-Tenant Code, Chapter 521, Hawaii Revised Statutes, to provide more flexibility in the return of security deposits, and to delineate the responsibilities of the landlord and the tenant upon termination of rental agreements.

Section 521-44 (c) in the present statute mandates that security deposits be returned by certified mail, return receipt requested. Your Committee finds that a single option for returning security deposits may be too inflexible, as it may preclude the tenant from picking up the deposit, the landlord from delivering the deposit in person, or the landlord from utilizing other postal services. Your Committee has amended this bill by eliminating certified mail, return receipt requested, and replacing this option with "acceptable proof of mailing through the United States Postal Service," and "or acknowledged receipt by the tenant." These changes provide flexibility for both the landlord and the tenant.

Your Committee has deleted what was previously Section 2 in the proposed bill which would have permitted the landlord and tenant by mutual agreement to adjust the two day notification period to permit exhibiting the dwelling unit to prospective purchasers, mortgagors, or tenants. This action was taken, since the testifiers requested additional time to consider the substance of this amendment.

Your Committee finds that there is no consistent understanding about rent payment obligations when a twenty-eight day notice of termination is given by either the landlord or the tenant. This lack of specificity often results in misunderstandings between the landlords and tenants. Section 521-71 (a) is amended to permit the tenant to vacate the unit at any time prior to the termination date when notice is given by the landlord, by paying prorated rent for the days the tenant occupies the unit. This allows a tenant greater flexibility in finding a new dwelling unit. Should the tenant give the termination notice, the tenant would become responsible for payment through the twenty-eighth day.

Testimonies from the Department of Commerce and Consumer Affairs, the Hawaii Association of Realtors, and the Institute of Real Estate Management were supportive of the bill with its proposed amendments.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 944, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 944, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 760 Consumer Protection and Commerce on H.B. No. 1060**

The purpose of this bill is to restrict the use of descriptive terms such as "island fresh" in connection with the sale of processed milk or milk products, to such products which have been at least ninety percent produced in Hawaii; and to require separate shelving of "island fresh" milk products from milk products not so labeled.

Your Committee heard testimony in favor of this bill from the 50th State Dairy Farmers' Cooperative, which supports product differentiation as a way to enable consumers to make an educated choice in purchasing milk.

Testimony against this bill was presented by the Hawaii Food Industry Association, which stated that the bill would create a precedent for mandatory labeling of other products sold or processed in Hawaii. Another concern was that the separate shelving requirement would burden retailers. The Aloha Dairy-Coop submitted that separate shelving would unintentionally result in less shelf space in all stores for milk produced fresh in Hawaii. Meadow Gold Dairies, Inc.

submitted that the bill is unnecessary. It indicated that it had announced its importation of milk in the media, and the milk that Meadow Gold imports identifies itself as being processed and packaged in California.

The Department of Agriculture recommended deferring this bill in favor of S.B. No. 1095, which would have the Milk Control Branch involved in the areas addressed by this bill as an extension of its audit and other activities.

A concern about the "made in Hawaii" provision of Section 486-26, Hawaii Revised Statutes, was raised by the Department of Commerce and Consumer Affairs ("DCCA"). Under current law, a product can be labeled as having been made in Hawaii, although as little as twenty-five percent of its wholesale value was added in this State. DCCA recommended that the requirement be raised to fifty-one percent, in order to offer some protection to Hawaii products and to give consumers a more accurate idea of what products are made in Hawaii.

Your Committee has adopted portions of the foregoing recommendations, and made the following amendments to Section 1 of this bill:

- (1) Changed the twenty-five per cent requirement of Section 486-26, Hawaii Revised Statutes, to fifty-one percent;
- (2) Deleted the requirement of separate shelving of "island fresh" and other milk and milk products; and
- (3) Inserted language requiring that the "island fresh" or like label on milk or milk products be printed in distinctive lettering, and affixed to a conspicuous area on the facing of the container.

Your Committee has also amended this bill so as to conform its pertinent provisions to the amendments to Section 486-26.8, Hawaii Revised Statutes contained in Act 344 (R.L.S. 1988). This Act was signed into law but not published due to a technical problem.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1060, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1060, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 761 Consumer Protection and Commerce on H.B. No. 1534**

The purpose of this bill is to clarify the authority of the Contractors License Board to issue conditional licenses.

Testimony in support of this bill was presented by the Contractors License Board. It noted that the Legislative Auditor, in his Sunset Evaluation Update, Report No. 88-3, Contractors, January 1989, felt that the Board lacked the statutory authority to issue conditional licenses.

The Board has been issuing conditional licenses on a case by case basis. Of the 1,690 license applications reviewed in the last two years, only 14 were approved on a conditional status, while 103 of the applications were denied. The Board submitted that there is no evidence to indicate that contractors on conditional status are causing more harm than other contractors. It stated that conditionally licensed contractors appear to operate with more caution because of agreements they have made with the Board.

Your Committee also heard testimony in favor of this bill from the Hawaii Flooring Association, Hawaii Roofing Contractors Association, Pacific Insulation Contractors Association, and the Mason Contractors Association of Hawaii. This group believes that conditional licensure is needed for situations in which a contractor has lost his licensing privilege because a company he previously worked for, at no fault of his own, went into bankruptcy or lost its license. The group favors the strict making and application of rules for issuance of conditional licenses.

The Plumbing and Mechanical Contractors Association of Hawaii also submitted testimony in support of this bill. It noted instances in which the owner or Responsible Managing Agent ("RME") of a licensed contracting firm had died without leaving an immediate successor. In such cases, companies have been allowed to continue their respective operations until a new RME or owner is licensed by the Board. It submitted that if the Board does not have the authority to issue conditional licenses, contracting firms and their customers may experience hardships.

More favorable testimony was received from the Building Industry Association of Hawaii. This group noted that nearly every licensee today has experienced a "bad" job. Most can survive if they are able to continue with their ongoing projects which provide them a fair return. The Board needs flexibility to enable their licensees to continue in their trade under certain conditions.

Your Committee finds that the Contractors License Board should have the authority to issue conditional licenses, so that it will have greater flexibility to better respond to the many types of problems which may be experienced by licensees.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1534 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 762 Consumer Protection and Commerce on H.B. No. 41**

The purpose of this bill is to (1) specifically empower the Director of Commerce and Consumer Affairs to issue fines, and to suspend or revoke a license issued to a travel agent or travel representative under Chapter 468K, Hawaii Revised Statutes, (2) add three additional grounds for refusal to issue a license, or to revoke or suspend a license, and (3) specify that when a consumer has obtained only a partial repayment from the travel agency recovery fund, the fund is subrogated to the rights of the consumer only to the extent of such payment.

The Department of Commerce and Consumer Affairs testified in favor of this bill.

Your Committee heard testimony in opposition of this bill from the Hawaii Business League ("HBL"). HBL objected to the portion of the bill that gives the Director of Commerce and Consumer Affairs the power to fine licensees, because no fine schedule is set out in the law.

HBL also objected to the provision which would allow the Director to refuse to issue or renew a license, where a person "has been an officer, director, or partner of a corporation of [sic] partnership" whose license has been revoked or suspended. HBL suggested that this language be amended to give the Director such discretion only in the case of a person who has been an officer, director, or partner of a corporation or partnership "with at least fifty-one per cent of controlling shares or more" and whose license has been revoked or suspended. Finally, HBL submitted that the chapter's use of the term "license" is inappropriate because the Department makes no determination of competency under the statute.

Although your Committee believes that appropriate judgment will be exercised by the Director in determining whether to refuse to issue, revoke or deny a license, your Committee believes that the language of this bill is too broad. It would theoretically allow the Director to refuse to issue a license to an applicant who did no wrong, and was an officer of a suspended travel agency only in name. Your Committee has therefore amended the portion of this bill which seeks to create Section 468K-7.3(11), to provide that:

The director may refuse to issue a license under this chapter, revoke a license issued under this chapter, or suspend the right to use a license issued under this chapter, to any person who has been an officer, director, or partner of a corporation or partnership whose license hereunder is revoked or suspended; provided that said person participated in the acts or omissions which caused the revocation or suspension of the corporation or partnership's license.

The bill was also amended to correct certain typographic, technical, and stylistic errors.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 41, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 41, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 763 Consumer Protection and Commerce on H.B. No. 223**

The purpose of this bill is to amend Section 26H-4, Hawaii Revised Statutes, to extend regulation of real estate brokers and salesmen under Chapter 467, Hawaii Revised Statutes, to December 31, 1995. This bill also amends Chapter 467 and Sections 383-7, 393-5, 485-1, 485-6, 514E-2.5, and 514E-10, Hawaii Revised Statutes, to substitute the term "salesperson" for "salesman".

The Real Estate Commission testified in favor of this bill, stating that the terminology change would implement the recommendation of the Legislative Auditor in his Sunset Evaluation Report, Report No. 88-22, Real Estate Brokers and Salesmen.

Your Committee is in agreement with the recommendation of the Real Estate Commission.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 223 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 764 Consumer Protection and Commerce on H.B. No. 1795**

The purpose of this bill is to amend the definition of "eligible assets" as used in Chapter 405D, Hawaii Revised Statutes.

Chapter 405D imposes certain requirements on foreign banks with respect to the handling of "eligible assets". That term is defined under Section 405D-39, Hawaii Revised Statutes, as including "[a]ny security of the type described in Section 403-128". This bill would delete the securities referred to in Section 403-128, Hawaii Revised Statutes, from the definition of "eligible assets".

Your Committee heard testimony in support of this bill from the Department of Commerce and Consumer Affairs. This testimony indicated that the deletion of Section 403-128 securities from "eligible assets" should be made because their value is not readily ascertainable. The "assets" held by a foreign bank are for the protection of creditors and the general public. It is important that "eligible assets" be assets with a quickly determinable value that do not require constant monitoring of their market value.

Your Committee believes that it is advisable to amend the definition of "eligible assets", to provide for more accurate regulation of the activities of foreign banks.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1795 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 765                    Consumer Protection and Commerce on H.B. No. 989**

The purpose of this bill is to provide for internal consistency in Chapter 515, Hawaii Revised Statutes, with respect to statuses which are protected against discrimination in real property transactions.

The Department of Commerce and Consumer Affairs advised your Committee that Section 515-3, Hawaii Revised Statutes, historically prohibited discrimination in real property transactions on the basis of race, sex, color, religion, ancestry, and physical handicap. Over the past few years, the section was amended to add marital status, parental status, and human immunodeficiency virus ("HIV") infection to the list of protected statuses. These amendments, however, have not been made to Section 515-5, relating to discriminatory financial practices, or to Section 515-6, relating to restrictive covenants and conditions. This bill would accomplish that end.

The Department noted that H.B. No. 39, relating to discrimination in real property transactions, proposes further expansion of the list of protected statuses. If H.B. No. 39 is enacted, the Department suggests that this and other bills relating to statuses protected by Chapter 515 be amended accordingly. The Department supports H.B. No. 989.

Your Committee also heard testimony in support of this bill from the Hawaii Centers for Independent Living and the Commission on the Handicapped.

Your Committee believes that discrimination in real property transactions based on marital status, parental status or HIV infection should be prohibited. This prohibition has already been effected in Section 515-3, Hawaii Revised Statutes, and this bill will provide Chapter 515, Hawaii Revised Statutes with increased internal consistency.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 989 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 766                    Consumer Protection and Commerce on H.B. No. 1535**

The purpose of this bill is to eliminate the requirement that a licensed contractor provide certain lien and bonding right disclosures to homeowners, when entering into a home improvement contract of less than \$12,500. This bill also provides that the disclosure notice may be incorporated into the contractor's written contract, rather than on a separate form.

The Contractors License Board testified against this bill, stating that that disclosures should continue to be required of contractors on all home improvement contracts.

Your Committee received testimony in favor of this bill from a representative of the Hawaii Flooring Association, the Hawaii Roofing Contractors Association, the Mason Contractors Association of Hawaii, and the Pacific Insulation Contractors Association. These trade associations submitted that the language of the separate disclosure form developed by the Contractors License Board is so imposing that homeowners contracting for a small jobs will oftentimes agree to pay the contractor to perform the work, but will refuse to sign the contract. The associations submitted that the disclosure requirement should be eliminated for jobs of less than \$12,500. The associations agreed with the the provision in the bill which would allow the disclosure information to be incorporated into a home improvement contract, as eliminating paperwork.

Your Committee believes that contractors should have the option whether to present the required disclosures on a separate form, or to incorporate them into their written contract for home improvements. While your Committee acknowledges that some adjustments to the disclosure requirement may be appropriate, more study and discussion are warranted before any changes are made. Your Committee therefore, has amended this bill so as to delete the language requiring disclosures to be made only on home improvement contracts of \$12,500 or more.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1535, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1535, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 767                    Consumer Protection and Commerce on H.B. No. 1463**

The purpose of this bill is to provide that sums assessed by an association of apartment owners for ordinary operating expenses constitute an automatic lien, on the apartment in question, prior to all other liens except for taxes and assessments imposed by the government and all sums unpaid on any mortgage recorded prior to the assessment. Additionally, sums assessed by the association for six months of normal, non-extraordinary operating expenses, late fees, and interest would also be automatically prior even to sums unpaid on mortgages recorded prior to the assessment.

Your Committee heard vigorous testimony on this bill from both proponents and opponents of the measure. The proponents of the measure emphasized that the associations involved are, in fact, preserving the collateral for the lenders by continuing to maintain the building even when fees are delinquent. The opponents, basically mortgage lenders, asserted that the measure would encourage poor management practices by the associations, make the mortgage lenders responsible for collecting the debts of the associations, and would increase costs to borrowers and reduce availability of mortgage loans.

Your Committee has amended this bill to provide that the lien of the association would not be prior to sums unpaid on mortgages which were recorded prior to the recordation of a notice of lien by the association of apartment owners, removing the language with respect to the "automatic" lien in light of testimony that associations have an automatic lien by statute, because your Committee does not desire to change the present state of the law with respect to the "automatic" or non- "automatic" nature of association liens.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1463, as amended herein, recommends that it pass Second Reading in the form attached hereto as H.B. No. 1463, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 768 Consumer Protection and Commerce on H.B. No. 941**

The purpose of this bill is to amend Chapter 408, Hawaii Revised Statutes, to allow industrial loan companies to identify themselves as "financial services loan companies".

Current law defines an "industrial loan company" as a person who engages in the industrial loan business as defined in Chapter 408, Hawaii Revised Statutes. This bill expressly states that a "financial services company" is an "industrial loan company" and amends the provisions of Chapter 408 accordingly.

Your Committee heard testimony on this bill from the Department of Commerce and Consumer Affairs which observed that the bill does change the basic obligations, rights and duties of an industrial loan company. The Department had no objections to the passage of this bill since no regulatory concerns are presented.

The Hawaii Financial Services Association testified in support of this bill which it felt would modernize the generic name for the varied financial services companies presently licensed under Chapter 408.

These testifiers submitted a proposed amended draft of this bill for consideration by your Committee. The proposed redraft allows industrial loan companies to identify themselves as "financial services loan companies". As does the original bill, the proposed redraft prohibits unlicensed persons or businesses from using the words "financial services loan", and provides for the assessment of fines for violation of this provision. Your Committee is in agreement with these proposed changes to the bill, and has amended it accordingly.

Your Committee believes that this bill, as amended, appropriately accommodates changing nomenclature in the industry. The name change allowed by this bill is not intended to change the rights or obligations of this industry.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 941, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 941, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 769 Consumer Protection and Commerce on H.B. No. 1887**

The purpose of this bill is to allow industrial loan companies to establish loan solicitation offices in various locations throughout the State.

This bill provides that loan solicitation offices, in addition to fully licensed branch offices, may be created upon the written approval by the Division of Financial Institutions.

The Department of Commerce and Consumer Affairs testified in favor of this bill, stating that it would help fulfill the credit needs of the community. The measure would also enable industrial loan companies to compete with other financial industries which are creating and implementing different methods of marketing financial products.

Your Committee also heard favorable testimony on this bill from the Hawaii Financial Services Association ("HFSA").

Your Committee believes that this bill will help fulfill the credit needs of the community. It is in agreement with the recommendation of the HFSA that the bill be amended to require that only qualified and trained employees staff the solicitation offices. This requirement is intended to insure that customers receive proper disclosures and accurate information when they apply for a loan or make inquiries on their account. The bill has been amended accordingly.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1887, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1887, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 770 Consumer Protection and Commerce on H.B. No. 379**

The purpose of this bill is to amend Section 26H-4, Hawaii Revised Statutes, to extend regulation of electricians and plumbers under Chapter 448E, Hawaii Revised Statutes. This bill also amends the contractors license law, Chapter 444, Hawaii Revised Statutes, to ensure that electrical and plumbing work on owner-builder property is performed safely in conformance with applicable building codes.

Under current law, owners or lessees of property who build or improve structures on their property for family use, and not for sale or lease, are exempt from the requirements of Chapter 444. Section 2 of the bill would make the exemption inapplicable to electrical or plumbing work, and would require such work to be performed only by persons licensed under Chapters 444 or 448E. Various amendments to Section 2 of the bill were proposed by the Contractors License Board, the Board of Electricians and Plumbers, Pacific Electrical Contractors Association, and the Plumbing & Mechanical Contractors Association of Hawaii. These groups generally supported this bill.

Members of the Plumbers Association of Oahu testified in favor of continued regulation of plumbers, in the interest of public safety.

Your Committee believes that interests of public health, welfare and safety mandate the continued regulation of electricians and plumbers. It agrees with the recommendation of the Contractors Licensing Board that the language regarding exemption from the requirements of Chapter 444, Hawaii Revised Statutes, should be amended provide as follows:

[T]his exemption shall not apply to electrical or plumbing work which must be performed only by persons or entities licensed under this chapter or the owner or lessee of the property if the owner or lessee is licensed under Chapter 448E, Hawaii Revised Statutes.

This language will clarify that plumbing and electrical work may be performed by an owner-builder on his own property only if he is licensed under the contractors license law, or under the electricians and plumbers license law.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 379, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 379, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 771 Consumer Protection and Commerce on H.B. No. 585**

The purpose of this bill is to implement the findings and recommendations made by the Legislative Auditor in the auditor's "Sunset Evaluation Update Report" regarding Chapter 464, Hawaii Revised Statutes. This chapter regulates the practices of engineering, architecture, surveying and landscape architecture. This bill would also amend Chapter 464 so as to clarify terminology, provide for consistency in penalties and appeals, change requirements for board membership, discontinue registration for landscape architects, and delete good character and reputation as a requirement for licensure.

The Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects presented testimony generally in favor of this bill. The Board advised your Committee that it agrees that Chapter 464, Hawaii Revised Statutes should be reenacted. It is also in agreement with the provision of Section 9 of the bill which would increase the number of engineers on the Board from three to four. It does not object to use of the term "license" throughout the Chapter, in place of the term "registration".

The Board disagrees with the portion of Section 9 of the bill which lowers the professional experience requirements for Board membership, feeling that many years of experience are necessary to gain adequate experience and judgment in order to make the types of decisions required of Board members. It also stated that it does not necessarily agree with the portion of Section 11 of the bill which deletes the requirement that persons registered under Chapter 464 be of good character and reputation.

Other comments of the Board were that penalty provisions for firms and corporations should not be deleted from Section 464-14, Hawaii Revised Statutes. This is addressed in Section 16 of the bill. The Board stated that while firms and corporations are not registered, they are regulated to some extent and therefore should remain subject to the Board's authority to impose sanctions. With respect to proposed amendments to the fine provision of Section 464-10, discussed in Section 13 of the bill, the Board suggested that if the intent is to give the Board greater flexibility in imposing penalties by allowing for fines as an alternative punishment, this should be clarified.

Finally, the Board recommends that the reference to Section 464-14, Hawaii Revised Statutes be deleted from Section 17 of the bill, which deals with appeals from Board licensing decisions. Section 464-14 concerns unlicensed activities. The Board advised your Committee that these cases go directly to Circuit Court, and would not be the subject of a Board decision.

Your Committee also received testimony supporting the continued regulation of landscape architects from the Board's Landscape Architect's Subcommittee. The Subcommittee advised your board that the elimination of such regulation would adversely affect the public, health, safety, and welfare in many ways. The public would be endangered and the environment would be damaged by incompetent design performed by unqualified persons holding themselves out as professional landscape architects. Insurance for landscape architects would either become more expensive or unobtainable



for many. Added costs would be passed on to the consumer. While regulation does not eliminate problems, it provides some degree of consumer protection.

Your Committee received testimony from the Chief Planning Officer of the City and County of Honolulu, urging that landscape architects, as well as other design professionals, should continue to be regulated by the State. Similar testimony in support of the continued regulation of landscape architects was received from the Chairman of the Maui County Urban Design Review Board, the Hawaii Society/The American Institute of Architects, the Hawaii Chapter of the American Society of Landscape Architects, the Hawaii Business League, the National Park Service, the Aloha Arborist Association, the Landscape Industry Council of Hawaii, the Hawaii Guild of Professional Gardeners, the Building Industry Association of Hawaii, the Hawaii Association of Nurserymen, private businesses, numerous individual landscape architects, and others.

Your Committee believes that the public health and welfare will be benefitted by the continued regulation of landscape architects under Chapter 464, Hawaii Revised Statutes. It has amended this bill accordingly. Section 3 of the bill which would have dropped "Landscape Architects" from the title of Chapter 464, has been deleted as unnecessary. Subsequent sections have been renumbered.

Your Committee has amended the last paragraph of former Section II of the bill to read as follows:

No person shall be eligible for registration as a professional engineer, architect, land surveyor, or landscape architect [who is not of good character and reputation] if the person does not possess a history of honesty, truthfulness, financial integrity, and fair dealing.

This will amend Section 464-8, Hawaii Revised Statutes. The Board has advised your Committee of its understanding that this standard has passed legislative scrutiny. Your Committee notes that the Legislative Auditor was concerned with the legality of the bill's original requirement of good character and reputation, which has been deleted.

Next, your Committee has adopted some, and rejected others, of the Board's recommendations. Your Committee has adopted the recommendation that the reference to Section 464-14, Hawaii Revised Statutes, be eliminated from former Section 17 of the bill. Unlicensed activity cases under Section 464-14 go directly to Circuit Court, and would not be the subject of a Board decision.

Your Committee has also adopted the recommendation of the Board to clarify the language of former Section 13 of the bill, which amends Section 464-10, Hawaii Revised Statutes. The word "also" has been inserted after the word "may" on page 25, line 23, to clarify that the fines prescribed are in addition to other penalties which the Board may impose for violations of the chapter or Board rules.

Finally, your Committee has made technical, nonsubstantive amendments to the bill 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. 585, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 585, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 772                      Consumer Protection and Commerce on H.B. No. 1464**

The purpose of this bill is to amend Section 514A-16(b), Hawaii Revised Statutes, to allow associations of apartment owners to borrow money from lending institutions for the operation of condominiums.

Under the present law, monies collected for payment of common expenses by an association of apartment owners shall constitute trust funds to pay for the cost of labor or materials for the common elements before expending these funds for any other purpose.

Your Committee finds that condominium associations have difficulty in obtaining loans to make capital improvements. Since providers of labor or materials are allowed to levy liens on the reserve funds of an association at any time, these liens are satisfied prior to any lender's interest in the reserve fund. This bill would delete this provision, enabling all creditors of an association to be treated equally. Financial institutions, then, would be more willing to provide loans.

The Condominium Property Regime Committee, Real Property and Financial Services Section of the Hawaii State Bar Association, the Hawaii Association of Realtors, and the Hawaii Council of Associations of Apartment Owners testified in favor of H.B. No. 1464.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1464 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 773                      Consumer Protection and Commerce on H.B. No. 1817**

The purposes of this administration bill are to revise Chapter 467 of the Hawaii Revised Statutes (hereinafter "HRS") to: 1) require condominium projects with six (6) or more apartments to obtain a fidelity bond and to register with the Real Estate Commission (hereinafter "Commission"); 2) consolidate all provisions on the same topics into the same

sections; and 3) impose the same requirements on self managed and agent managed projects, to the extent that these projects are performing the same functions.

The Commission, the Hawaii Institute of Real Estate Management, and the Hawaii Council of Associations of Apartment Owners testified in favor of the bill, provided that the amendments proposed by the Commission in its testimony are incorporated into the bill. No one testified against the bill. In its testimony before this Committee the Commission provided the following analysis of the bill.

Part of this bill results from a study reported to the 1988 Legislature entitled "Report to the Legislature - A Fidelity Bond Study on Condominium Managing Agents and Self-Managed Condominium Associations," and from discussions with insurance companies and agents.

At present, only self managed associations must have a fidelity bond. In situations where the association has retained a managing agent, existing statutes do not require a fidelity bond covering losses caused by association directors, officers or employees who handle association funds. This bill implements the fidelity bond study recommendation that all associations have their own bond coverage to better protect their funds. In addition, the rules of the Federal Home Loan Mortgage Corporation ("Freddie Mac") and Federal National Mortgage Association ("Fannie Mae") both require that associations and their managing agents each have separate fidelity bonds.

The bill removes from the statute smaller condominiums where consumer harm is likely to be minimal because of the amounts of money involved and because of a less complex operational structure. The registration burden on the Real Estate Commission staff will also be reduced.

Presently, Chapter 514A, Hawaii Revised Statutes, requires that all condominium projects register with the Commission prior to sale. This bill increases the information obtained on a condominium project by requiring associations to provide updated registration information on a continuing basis.

Requiring registration of associations will give the Commission the means to ascertain whether the associations are obtaining the required bond protection and fulfilling other legal requirements imposed by statute. Information about condominium projects and the name of a designated contact person for each project will allow the Commission to ensure that only legitimate representatives of condominium projects receive information on potential employees from the criminal justice data center. By requiring this information for each condominium, the Commission will also be able to distribute educational information on issues and developments affecting condominiums.

To encourage condominium associations to register, the bill contains a provision preventing an association from filing suit in a state court until it registers with the Commission. Florida imposes a similar disability on condominium associations if they fail to register. Hawaii's non-profit corporation statute, Section 415B-127, imposes the same disability on foreign corporations that fail to obtain a certificate of authority. The language in the bill is essentially the same as that used in Section 415B-127.

In general, to the extent that self-managed associations and managing agents are performing the same role for association members, the bill imposes similar requirements on each for registration, bonding, handling of funds, and record-keeping. Where the managing agent's role differs, additional requirements are imposed.

Provisions on particular topics in chapter 514A appear in different sections, making easy reference difficult. Since chapter 514A is often read by those unfamiliar with its contents, provisions on similar topics have been consolidated into the same sections for easier reference.

Sections relating to the Real Estate Commission's existing enforcement and investigatory powers have been amended to ensure that those existing powers are not diminished by the reorganization and renumbering of certain provisions. The enforcement and investigation sections have also been amended to give the Commission investigatory and enforcement powers relating to new legal requirements imposed by the new sections.

A section relating to false statements has also been added to ensure that accurate information is provided to the Commission.

The Commission, as well as the other parties testifying on this bill, recommended several amendments to H.B. 1817 with which your Committee concurred. Accordingly, your Committee has made the following amendments to H.B. 1817:

Page 1:

- a. On line 10, delete "and" and add between "employees" and "of" the phrase, ", and managing agents".
- b. On line 15, add after the word "persons" the phrase ", including any managing agent registered with the Commission,"

Page 2:

- a. On line 1, delete the phrase "Any person aggrieved by the actions of a person handling the association's funds, on the grounds of fraud, misrepresentation, or deceit," and add the phrase, "An association".
- b. On line 7, after the word "occurred", add the phrase "if the terms of the bond require a court order."
- c. On line 17, delete the phrase "its formation" and add the phrase "the association's first meeting" after the word "of".

Page 3:

- a. On line 18, add between "apartment owners" and "whose registration" the phrase "which fails to register as required by this section or".
- b. On line 19, add between "any action" and "in the courts", the phrase "or proceeding".
- c. On line 21, add between "to register" and "shall not impair" the phrase "or rejection or termination of its registration".

Page 4:

- a. On line 1, add between "action" and "in" the phrase "or proceeding"
- b. On lines 14 and 15, delete the language after the phrase "on behalf of": "the board of directors of".

Page 13:

- a. On line 18, delete the word "Financial" and capitalize the first "r" in "records".

Page 16:

- a. On lines 17, 18, and 19, delete the language after the word "than": "\$500,000 for managing agents managing up to 2,000 units, nor greater than \$1,000,000 for managing agents managing more than 2,000 units" and add the figure "\$100,000".
- b. On line 22, delete the word "person" and add the phrase "association of apartment owners" between "Any" and "aggrieved".

Page 17:

- a. On line 8, add after the figures "467-16" the phrase: "except that no association of apartment owners shall recover from the real estate recovery fund for any losses of condominium project funds occurring after the effective date of an act establishing a condominium management recovery fund."

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1817, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1817, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 774 Consumer Protection and Commerce and Judiciary on H.B. No. 1541**

The purpose of this bill is to establish a condominium management recovery fund separate from the already existing real estate recovery fund. This fund is intended to cover losses of a condominium association's funds which cannot be recovered from the fidelity bond of its managing agent, the association's fidelity bond or the assets of the person causing the loss.

The bill would not provide a primary source of recovery and would provide limited recovery up to \$25,000 per transaction and \$50,000 per association. Condominium associations with six or more apartments would contribute \$.75 annually per unit to the fund with managing agents contributing a like amount annually for each apartment unit in the condominium projects they manage.

The bill also establishes a condominium management education fund. Condominium associations and managing agents required to contribute to the recovery fund would also contribute \$.25 each per unit to the education fund annually. Additionally, the developer of each new condominium project will contribute \$5 for each apartment in the project to the education fund before a final public report shall be issued. Besides providing a source of information on the legal and practical aspects of operating a condominium project, the Commission would be allowed to use the education fund to encourage and support quick and inexpensive dispute resolution procedures such as mediation.

The bill also establishes the dates the contributions to the funds are due, penalties for late payment, the use of the funds (including court costs, court fees and attorneys fees), a statute of limitations for recovery from the funds, a notice requirement for potential claims from the funds, procedure for filing for and payment of claims, subrogation of rights, waiver of rights, and management of the funds.

The bill further establishes that the filing of false or untrue notices, statements, or other documents required by this chapter is a misdemeanor.

And finally, the bill establishes powers of the Commission to seek injunctive relief and provides that the Commission shall adopt rules to effectuate the purpose of the bill.

Your Committees received testimony indicating that because the bill would require managing agents to pay a fee which would be passed on to the associations, those associations which hire professional managing agents ("fee managed associations") would end up paying twice as much into the fund as the self-managed associations. Your Committees have accordingly amended this bill to eliminate the fee charged to managing agents.

The bill has also been amended to decrease the fee percentage that goes to the recovery fund to fifty percent per year and to increase the percentage that goes to the education fund to fifty percent per year.

The Real Estate Commission testified favorably on this bill and made suggestions for amendments for style and clarity which have been incorporated in your Committees' amendments to this bill.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 1541, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 1541, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

**SCRep. 775                      Consumer Protection and Commerce on H.B. No. 1537**

The purpose of this bill is to adopt the Uniform Limited Partnership Act ("ULPA"), as amended through 1976.

Testimony in support of this bill was presented by the Department of Commerce and Consumer Affairs and the Commission to Promote Uniform Legislation. Your Committee was advised that the original version of the ULPA was promulgated in 1916. Since that time, various versions of THE ULPA have been adopted in forty-five jurisdictions. Along with the Uniform Partnership Act, it provides the basis for general partnership law in this country.

In 1976, the Uniform Laws Commissioners revised the ULPA and replaced the 1916 Act in its entirety. Additional amendments were made in 1985. Twenty-nine states have adopted the 1976 version of the Act, and seven of those states have also adopted the 1985 amendments. Chapter 425, Hawaii Revised Statutes, Parts II and III, which governs domestic and foreign limited partnerships, is based on the 1916 Act.

This bill would repeal Chapter 425, Hawaii Revised Statutes, Parts II and III, and the 1976 version of the Act would appear in a new chapter. The section numbers of the new chapter would track those of the ULPA for clarity in reference and interpretation.

The testifiers recommended that this bill be amended so as to include the 1985 amendments to the ULPA. Prefatory notes to the 1985 Act were submitted to your Committee to provide an overview of the 1985 act, as follows.

Article 1 of the 1985 Act provides a list of all of the definitions used in the Act, integrates the use of limited partnership names with corporate names, and provides for an office and agent for service of process in the state of organization. Article 2 collects in one place all provisions dealing with execution and filing of certificates of limited partnership and certificates of amendment and cancellation. These two articles recognize that the basic document in any partnership, including a limited partnership, is the partnership agreement. The certificate of limited partnership is not a constitutive document (except in the sense that it is a statutory prerequisite to creation of the limited partnership), and merely reflects the most basic matters as to which government officials, creditors, and others dealing or considering dealing with the partnership should be put on notice.

Article 3 deals with the powers and potential liabilities of limited partners. Section 303 lists a number of activities in which a limited partner may engage without being held to have so significantly participated in the control of the business that he acquires the liability of a general partner. It confines the liability of a limited partner who merely participates in control to situations in which persons who actually know of that participation in control are misled thereby to their detriment into reasonably believing the limited partner to be a general partner.

The provisions relating to general partners are collected in Article 4. Article 5, dealing with finance, differs in some important respects from Article 5 of the 1976 Act, which explicitly permitted contributions to the partnership to be made in the form of the contribution of services and promises to contribute cash, property, or services, and provided that those who failed to perform promised services were required, in the absence of an agreement to the contrary, to pay the value of the services as stated in the certificate of limited partnership. These provisions of the 1976 Act are retained in substance in the 1985 Act. However, the 1985 Act substitutes the partnership agreement and the records of the limited partnership for the certificate of limited partnership as the place such agreements are to be set out and such information is to be kept.

Article 6 of the 1976 Act, dealing with distributions and with the withdrawal of partners from the partnership, made a number of changes from the 1916 Act. For example, Section 608 created a statute of limitations applicable to the right of a limited partnership to recover all or part of a contribution that had been returned to a limited partner, whether to satisfy creditors or otherwise. The 1985 Act retains these features of the 1976 Act without substantive change. In both the 1976 and the 1985 Acts, the assignability of partnership interests is dealt with in considerable detail in Article 7, and the provisions relating to dissolution appear in Article 8. Article 8 of the 1976 Act established a new standard for seeking judicial dissolution of a limited partnership, which standard is carried forward into the 1985 Act.

Article 9 of the 1976 and 1985 Acts deals with the status of the partnership in a state other than the state of its organization. Article 9 of the 1976 Act provided for registration of foreign limited partnerships and specified choice-of-law rules. Article 9 of the 1985 Act retains all these basic provisions. Article 10 of the 1976 Act authorized derivative actions to be brought by limited partners. The 1916 Act failed to address this entire concept. Article 10 of the 1985 Act clarifies certain provisions of the 1976 Act but does not make any substantive changes in the corresponding provisions of the 1976 Act.

Finally Article 11 sets out a number of miscellaneous provisions, not the least of which are those dealing with the application of the new statute to limited partnerships in existence at the time of its enactment. Those provisions in the 1976 Act were expanded upon by the 1985 Act to give greater deference to the possible expectations, some of which may

have constitutionally protected status, of partners in such limited partnerships of the law in effect when they were organized.

The Department of Commerce and Consumer Affairs requested that certain changes be made to the 1985 Act, to make it consistent with certain of the Department's administrative procedures. These changes concern technical matters such as the filing of partnership documents, the reservation of a partnership name, and information about partners required in filing. The Department has also suggested that a new provision be added to the 1985 Act which would require domestic and foreign limited partnerships to file annual statements, a requirement under current law. The Department suggested that penalty provisions be added for failure to make required filings, and for false statements in filings. Finally, the Department suggests that the procedure for withdrawal in the 1985 Act be modified to make certain that creditors will be given notice and assurances for payment of debts, before a foreign limited partnership withdraws from transacting business in this State.

Your Committee believes that Hawaii's business conditions have changed considerably since the promulgation of the 1916 version of the ULPA, and its enactment by the Legislature. The needs of the business community will be better served by the adoption of the ULPA as amended by the Uniform Laws Commissioners in 1985, and as further amended in accordance with the recommendations of the Department of Commerce and Consumer Affairs, which your Committee adopts.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1537, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1537, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 776 Consumer Protection and Commerce on H.B. No. 742**

The purpose of this bill is to provide a mechanism to toll the statute of limitations for commencement of an action by the State under Chapter 480, Hawaii Revised Statutes; to provide that corporate officers, directors, or agents may be personally liable for wrongful conduct of a corporation, if those individuals have actively or passively participated in the wrongful conduct; and to clarify the authority of the Office of Consumer Protection to seek an injunction in all cases in which it is empowered to sue.

The Department of Commerce and Consumer Affairs ("DCCA") testified as to the need for a mechanism to toll the statute of limitations for actions brought under Chapter 480 by the State. No tolling provisions for actions commenced by the State currently exist under that chapter, and all such enforcement actions are barred unless commenced within four years after the cause of action accrues. DCCA reports that management of cases has been hampered when respondents have removed themselves from the State, filed petitions for relief under the Bankruptcy Code, or have had criminal actions brought against them. The first section of this bill tolls the running of the statute of limitations for actions under Chapter 480 in these situations.

DCCA testified that the second section of this bill is intended to codify the holding of the recent Hawaii Intermediate Court of Appeals decision in Eastern Star, Inc., S.A. v. Union Building Materials Corp., 6 Haw. App. \_\_, 712 P.2d 1148 (1985). DCCA reads the Eastern Star case to state that where the corporation has been adjudged responsible to pay restitution to injured persons, its individual directors, officers and agents are personally liable if they have authorized, ordered, done, or actively or passively participated in any of the acts which caused the injuries. DCCA submits that this bill would allow an avenue of recovery for the judgment creditor when the corporation is judgment-proof, but the individuals are not.

Pertinent language of this bill is as follows:

(b) Whenever a corporation is ordered to pay restitution under subsection (a) [based on a civil action brought by the director of the office of consumer protection to collect civil penalties or enjoin unlawful acts or practices], the court hearing the action shall include in its orders or judgments that the corporation and the individual directors, officers, or agents of the corporation who authorized, ordered or had done, or actively or passively participated in any of, the unlawful acts and practices which caused in whole or in part, injuries to any person, are jointly and severally liable for the payment of restitution.

Your Committee believes that the foregoing language is too broad to accomplish the purpose of codifying the rule of the Eastern Star case. As written, this provision could have a serious negative impact on Hawaii's small business community. It would theoretically enable a judgment creditor to use the substantial assets of a parent who passively sits on the board of directors of a family-run business, to satisfy a judgment entered against the corporation because of unlawful acts or practices of their son or daughter operating the business.

To better carry out its purpose, and to avoid the inadvertent creation of a new cause of action, your Committee has amended the bill to change the mandatory "shall" language to language of discretion by replacing it with the word "may". This amendment will clarify the power of the court to impose personal liability on corporate actors in a proper case.

Your Committee has also deleted the words "actively or passively" which appear before the phrase "participated in any of the unlawful acts and practices. . ." Your Committee believes that "passive" participation is a vague term, and intends for the courts to determine the level of participation necessary to warrant the imposition of personal liability on corporate actors.

The amended language of this bill is intended to deter arguments that Section 480-17 of the Hawaii Revised Statutes bars the imposition of civil remedies against corporate officers, directors, or agents. This argument was unsuccessfully

raised in the Eastern Star case, based on a negative reading of Section 480-17, which provides that a corporation's violation of a "penal" provision of Chapter 480 shall be deemed to be also that of the individual directors, officers, or agents of the corporation who have authorized, ordered, or done any of the acts constituting in whole or in part such violation. The defendant asserted that the omission of "civil" provisions in Section 480-17 signified that there can be no imposition of personal liability on corporate officers, directors, or agents in a "civil" proceeding under H.R.S. Section 480-13(a)(1) grounded on the corporation's violation of H.R.S. Section 480-2. This argument was rejected by the Court in the Eastern Star case, and is also rejected by this Committee.

With regard to section three of the bill, DCCA testified that that the Office of Consumer Protection ("OCP") should be specifically authorized to seek an injunction in all cases where it is empowered to sue. Your Committee agrees. Under current law, OCP is specifically authorized to bring civil proceedings to enjoin persons from practicing a licensed discipline without the benefit of a license.

Finally, DCCA suggested that the bill be amended by adding a new section which would amend Section 28-1, Hawaii Revised Statutes as follows:

**"§28-1 Appears for State.** [Except in those cases where the director of the office of consumer protection represents the State, the respective counties, and the general public as consumers, the] The attorney general shall appear for the State personally or by deputy, in all the courts of record, in all cases criminal or civil in which the State may be a party, or be interested, and may in like manner appear in the district courts in such cases."

DCCA explained that this section originally appeared as part of the administration bill, and was inadvertently excluded.

The purpose of this amendment is to clarify that the Attorney General's authority with regard to consumer protection matters is not preempted by the authority of OCP. The intent of this amendment is to allow OCP and the Attorney General concurrent jurisdiction over consumer protection matters, and not to derogate the authority of either office. DCCA testified that this change is consistent with statutory provisions which presently allow such concurrent jurisdiction in the area of unfair competition and unfair or deceptive practices under Section 480-20(c), Hawaii Revised Statutes. Your Committee also supports this amendment.

Your Committee believes that this bill, as amended, will strengthen the ability of the Office of Consumer Protection to protect the interests of both the consumer public and the legitimate businessman.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 742, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 742, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 777                      Consumer Protection and Commerce on H.B. No. 1467**

The purpose of this bill is to amend Section 514A-13(d), Hawaii Revised Statutes, to provide clarification in granting the Board of Directors of an association of apartment owners flexibility in the administration and operation of an association's property.

The language in the present law makes it difficult for condominium associations to determine the approval requirements for changes in the uses of common elements or in the uses of previously unused elements for new purposes.

Your Committee finds that the proposed bill would provide safeguards for a Board of Directors by making it easier to determine what approval requirements apply to contemplated changes in the uses of common elements or in the uses of previously unused common elements for new purposes.

The Condominium Property Regime Committee, Real Property and Financial Services Section of the Hawaii State Bar Association, the Hawaii Association of Realtors, and the Blue Ribbon Advisory Panel testified in support of H.B. No. 1467.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1467 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hagino.

**SCRep. 778                      Consumer Protection and Commerce on H.B. No. 1883**

The bill contains seventeen amendments to the Insurance Code with the purpose of resolving inconsistencies and specific issues brought to the Insurance Division's attention over the course of the year since the Code became effective. Inconsistencies resolved by the bill include changing the effective dates of the new capitalization requirements to correspond to the code's effective date, clarifying that article 3 deposit requirements control in the event of a discrepancy with article 7 provisions, decriminalizing surplus lines penalties, and subjecting certain Flesch test score filings to a \$20 filing fee.

The bill also defines "insurance holding corporation" for purposes of determining application of the subsequent financing requirements, amends provisions of article 8 to require that the entire record of a surplus lines transaction be maintained by the surplus line broker, places restrictions on a general agent in his role as a designated representative,

extends nonresident licensing to all individuals under specific conditions, extends the hearing period for holding company filings and eliminates the one-year continuous existence requirement for association captive insurers.

Specific testimony was received in regards to the following sections:

Section 1 of the bill would permit reimbursement of staff examiners from the insurance examiners' revolving fund for expenses incurred in examination-related activities. Presently only contract examiners utilize the revolving fund. Your Committee received testimony from the Department of Commerce and Consumer Affairs that the intent of the amendment was to permit reimbursement of staff examiners for exam-related and educational expenses, and that the proposed amendment neglects to include educational expenses. The Department further testified that coverage of educational expenses is necessary to develop the examiners' expertise in assessing the financial integrity of an insurer, that expertise being paramount to the efficient regulation of the insurance industry.

Section 11 of this bill is proposed to bring the state medicare supplement law in line with federal law. The Department of Commerce and Consumer Affairs testified the concern was raised that the section applied to group policies only, and suggested that the language be changed to clarify that both individual and group policies are subject to the provision.

Section 13 would clarify that an insurer may not implement a rate filing until its effective date, except with the commissioner's written approval. The Committee received testimony from the Hawaii Insurers Council that this amendment, when combined with the requirement that policy renewals be offered at least thirty days prior to the policy's expiration, might prevent insurers from sending out renewals with the proposed new rate, resulting in an impractical situation.

Your Committee believes that staff examiners should be permitted to recoup educational and training expenses, and that the Medicare supplement amendment found in section 11 should be clarified to reflect its application to both individual and group policies. Your Committee has therefore amended the appropriate sections of this bill.

Your Committee also believes that there is currently no apparent necessity for the provision in this bill which would allow for commissioner approval of a motor vehicle rate prior to its proposed effective date, and therefore, your Committee has eliminated subsection (b) of section 13 from the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1883, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1883, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 779                      Consumer Protection and Commerce on H.B. No. 748**

The purpose of this bill is to (1) provide for the automatic termination of a license or certificate granted by the Board of Medical Examiners after the license or certificate has been forfeited for one renewal term (two years), (2) clarify who is required to be certified as a physician's assistant, (3) specify when re-registration for certification is required, and (4) provide authority for the Board of Medical Examiners to impose conditions for licensure under certain circumstances.

Current law does not provide a time limit for the restoration of a forfeited license or certificate. The Board of Medical Examiners testified that consequently, in cases where the holder of a forfeited license is disciplined in another jurisdiction, the Board is forced to also take disciplinary action against the forfeited licensee. This is an expensive process, and a particular waste when prosecution is against an absentee licensee who has forfeited his or her Hawaii license or certificate years ago. These costs may be attributed to medical reasons and may later result in unfair compliance resolution fund assessments for the Board's current licensees.

The Hawaii Federation of Physicians and Dentists also submitted testimony concerning this bill. The Federation requested that an "inactive" category be created for physicians while out of the State, similar to the option given attorneys. The inactive category is needed to provide an alternative to a forfeiture of a physician's license, which cannot be restored, for failure to file all the appropriate papers and pay all necessary fees required of active Hawaii physicians. The Federation also urged that all correspondence relevant to license renewals be sent by certified mail to increase the likelihood that the notice will reach a physician who is temporarily out of the State.

Your Committee believes that it is more cost efficient to deny the new license application of a former licensee who has been disciplined in another jurisdiction, than to revoke the forfeited license which can be restored under the current law. Accordingly, your Committee has amended the bill to provide for an automatic termination of a license that has been forfeited for a period of two or more years which cannot be restored except by written application.

The bill was also amended by making non-substantive changes to phrases such as "biennially in each even-numbered year", "medical discipline" and "podiatric discipline" for purposes of clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 748, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 748, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 780                      Consumer Protection and Commerce on H.B. No. 1816**

The purposes of this administration bill are to clarify the requirements for licensure and to provide the Board of Public Accountancy (hereinafter the "Board") with the authority to initiate quality reviews of the professional work of accounting firms. The Board and the Hawaii Society of Certified Public Accountants testified before this Committee on this bill, and both organizations favored its passage. The bill amends Chapter 466 of the Hawaii Revised Statutes (hereinafter "HRS"), the chapter that governs public accountancy. The Board provided the following analysis of these amendments in its testimony before this Committee.

The proposed addition of a section on "single act evidence of practice" would enable the Board to take quick action against licensees allegedly engaged in wrongful conduct, without compiling evidence to show a "general course of conduct." This provision is currently under Section 466-11(d) where the Board feels it is obscure and could be overlooked. The provision has been expanded to include violations of this Chapter rather than just Section 466-10.

The new section on "quality review committee" establishes authority for the Board to appoint a committee to review the professional work of Hawaii's accounting firms. Available statistics from other states on the quality of work done by firms prior to a review, and after review, are significant. Each state with a quality review program has reported that its licensees more closely adhere to nationally recognized accounting standards than they did prior to implementation of the review program. The review process varies from state to state. Some have report reviews, while others have full field reviews. All states experienced positive enhancement of the professional accounting work performed by their licensees.

The Board, through rule promulgation, will specify the methods and conditions of the review process. The Board hopes for program implementation in the near future, provided the Hawaii Society of Certified Public Accountants and the Department of Commerce and Consumer Affairs (hereinafter "Department") are in agreement on the proposed review process.

The new section on "hearing" establishes the right of a licensee to have a hearing for possible license or permit revocation or suspension. This provision is in the Board's rules, but the Board felt this right should be included in the accountancy statutes.

The new section on "advisory committees" establishes authority for the Board to appoint an advisory committee. The committee is needed to serve as consultants whenever the Department is acting on disciplinary cases. This helps the Board remain unbiased should a final decision of the Board be required.

The new section on "construction; severability" adds a section on severability to ensure that if any portion of the chapter is determined inapplicable, the remainder of the chapter will still apply.

The proposed amendments to Section 466-1, Hawaii Revised Statutes, require persons who wish to hold themselves out to be accountants, and to practice accountancy, to meet the educational, experiential and ethical requirements the Board has prescribed. To continue practicing as accountants, licensees must uphold nationally recognized standards of practice. Like practitioners from other states in the country, Hawaii accountants recognize the American Institute of Certified Public Accountants as the source of these standards. In order to fully protect consumers, these standards must be adopted as state law.

This section also establishes the Board's authority to regulate the professional conduct of licensees if any substandard work or misconduct becomes apparent to the Board. In addition, this section contains a provision that prohibits any person, including an accountant, from using misleading titles relating to the practice of accountancy. Individuals who advertise themselves as licensed accountants, when in fact they are not, may mislead consumers regarding the quality and reliability of their work. This misuse of title is addressed under Section 466-10, but it needs also to be included in this Section because it is directly related to the purpose for licensure and compliance with professional standards.

The proposed amendments to Section 466-3 define several terms appearing in the amendments, and the existing statutes. In order to facilitate understanding of Chapter 466, such terms as "certified public accountant," "department," "director," "firm," "license," "licensee," "permit," "practice of public accountancy," "public accountant," "quality review," and "report" should be added. The term "license" replaces "certificate," "certification," "register," and "registration" since all four terms refer to or mean "license." "License" is also the common term used by other states.

Section 466-4(c) should be amended to reflect the Board's operating needs. The Board's activities do not require the services of a secretary-treasurer. However, a vice-chairperson is of great assistance to the chairperson. Therefore, the term "secretary-treasurer" should be deleted, and replaced with the term "vice-chairperson." The term "chairman" should be replaced with the term "chairperson."

Section 466-4(f) enables the Board to initiate investigations of, and hearings on, the actions of individual accountants, as well as accounting firms. It also enables the Board to adopt, amend and repeal rules governing the Board's administration and enforcement of accounting statutes. These rules will cover:

- (1) board meetings and conduct of business;
- (2) procedures of initiating investigations and hearings;
- (3) educational and experiential requirements for certification, as well as continuing education requirements for a permit to practice;
- (4) professional conduct to ensure a level of quality of work and responsibility to the public and clients;
- (5) specific actions and circumstances of holding oneself out as a licensed accountant;
- (6) quality reviews;



- (7) firms; and
- (8) establishment of other rules as required to implement this chapter.

Section 466-4(f) also enables the Board to grant, deny, suspend or revoke licenses; issue duplicate licenses; make final decisions, grant, forfeit, renew and restore permits to practice; and prescribe the forms to be used for the purposes of Chapter 466.

Section 466-5(b)(1) deletes the requirement that the additional 30 semester hours needed for licensure be counted after 105 semester hours have been completed. The Board believes that this requirement has proven to be an unnecessary restriction and one that is difficult to monitor. As long as the additional 30 semester hours are earned over and above the credits required for a baccalaureate degree, the Board will accept them. The Board is of the opinion that since a minimum of 18 semester hours of upper division or graduate level courses in auditing or accounting is essential to a candidate's educational background, this requirement should be specified in this section.

Section 466-5(b)(2) allows an applicant to substitute the 30 additional semester hours with 30 months of experience to fulfill the educational requirement. This experience may not be credited toward the experience requirement. The Board will allow this substitution only if the applicant has earned a baccalaureate degree and 18 semester hours of upper division or graduate level accounting or auditing.

Should the applicant opt for the 30 months of experience, the Board stipulates that the applicant must earn that experience while employed fulltime (35+ hours a week) at a public accounting firm. The Board will not accept any other type of employment experience. Public accounting firms are required to produce work that adheres to nationally accepted rules and standards of the profession. This is not required of private firms or government agencies. Therefore, it is only fitting that a candidate for certification be required to attain the proper skills and knowledge to produce such work in a public accounting firm.

Section 466-5(d) requires an applicant to present a notarized or certified statement of employment from a present or former employer(s). The Board requires that the employer(s) clearly state that the applicant completed 1500 chargeable hours performing nothing but audits, or completed two years of general professional experience in public accounting.

Section 466-5(e) establishes the content, method of administration, and method of grading of the certified public accountant examination. Hawaii's Board, like the other 49 state boards in the country, recognizes the Uniform Certified Public Accountant Examination developed by the American Institute of Certified Public Accountants as the official examination applicants must pass as one of the requirements for licensure. This section authorizes the Board to contract with third parties for assistance in administering of the examination.

Section 466-5(f) should be repealed and replaced with simpler language which the Board feels is essential to an applicant's understanding of the eligibility requirements to sit for the Uniform Certified Public Accountant Examination.

Section 466-5(f)(3) provides an exemption to the education requirements to sit for the Uniform Certified Public Accountant Examination for an applicant educated outside of the United States. Without this provision, foreign school graduates would not be able to take the examination unless they were educated at colleges or universities accredited by a regional or national accrediting agency recognized by the United States Secretary of Education. With this provision, an accredited United States school's letter of acceptance of a foreign graduate into its advanced degree program will allow the applicant to sit for the examination.

Section 466-5(h) provides exemption from the Uniform Certified Public Accountant Examination requirement for certified public accountants licensed in other states. The Board has chosen to separate the exemption from the examination requirements for accountants licensed outside of the United States since the conditions for exemption are different from those of the United States practitioners. The Board will incorporate the methods and requirements for examination exemption for United States and foreign candidates in its rules.

Sections 466-5(k), (l), and (m) establish the requirements for license renewal, the consequences for failing to renew a license, requirements for restoring a forfeited license, and the effective date of restoration, respectively. In order for licensees to understand the consequences of noncompliance, the Board felt that the requirements and conditions should be stated in the statute.

Sections 466-7(a) and (b) establish the requirements for a permit to practice. It is the Board's intention to specifically state that a permit and a license are required before an accountant can legally practice accountancy. The Board has included a provision which will allow the Board to waive all or part of the continuing education requirement if the licensee shows good cause for not earning 80 credits.

Section 466-7(d) establishes the requirement for all firms to obtain a permit to practice. The Board plans to implement a quality review program in the near future. As a requirement for issuance or renewal of a permit, each firm must submit reports obtained through a quality review of the firm's professional work.

Sections 466-7(e) and (f) establishes the consequences for failing to meet permit renewal requirements and the requirements for restoring a forfeited permit. These sections are intended by the Board to dissuade licensees from practicing unlicensed activity.

Section 466-8 establishes the requirement for the individual accountant and the accounting firm to pay a fee and submit an application for permit renewal.

Section 466-9 has been divided for clarity into three parts relating to disciplinary actions, grounds for disciplinary action, and reinstatement. Each part of Section 466-9 is discussed separately as follows.

Section 466-9(a) has been expanded to include a wider range of disciplinary action the Board may take against a licensee or a firm for violation of this chapter. The list of disciplinary actions is typical of accountancy laws in effect in other states, except for the authority to impose a fine not exceeding \$1,000 which could cover administrative costs in handling disciplinary cases. The list of disciplinary actions includes:

- (1) impose an administrative fine;
- (2) place licensee or firm on probation;
- (3) require quality review of firm; and
- (4) require additional continuing education of licensee.

Section 466-9(b) has been expanded to include the grounds upon which disciplinary action may be taken. These include:

- (1) disciplinary action taken by another state;
- (2) failure to comply with license and permit requirements;
- (3) revocation or suspension by any state or federal agency;
- (4) misconduct in filing and failure to file personal income tax returns;
- (5) professional misconduct;
- (6) conviction of any crime;
- (7) committing fraud while in active practice; and
- (8) any conduct reflecting adversely on licensee or permittee.

Section 466-9(c) establishes the requirements for reinstatement. This section advises applicants that information on applying for reinstatement will be in the Board's rules, and that obtaining specific continuing education requirements, as well as participating in a quality review, may be conditions for reissuance.

Your Committee amended H.B. 1816 by adding a repeal date for the Board of Public Accountancy under Chapter 26H of HRS. The proposed repeal date is December 31, 1995. The repeal date originally appeared in H.B. 220 which your Committee held. Instead of passing both bills, your Committee consolidated the H.B. 220 repeal date into H.B. 1816 H.D. 1.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1816, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1816, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 781            Consumer Protection and Commerce on H.B. No. 221**

The purpose of this bill is to amend Section 26H-4, Hawaii Revised Statutes, to extend regulation of mortgage brokers and solicitors under Chapter 454, Hawaii Revised Statutes. This bill also seeks to make certain amendments to Chapter 454, Hawaii Revised Statutes, which relates to mortgage brokers and solicitors.

The proposed amendments to Chapter 454 would (1) transfer licensing of mortgage brokers and solicitors from the Director of Commerce and Consumer Affairs to the Commissioner of Financial Institutions, (2) exempt transactions between a mortgage broker or solicitor and a lending institution or investor from Chapter 454, and (3) require the execution of an honor agreement between a borrower and a mortgage broker or solicitor, disclosing fees, charges, and the terms and conditions of the loan.

The Mortgage Bankers Association and a private mortgage broker-provider testified that the honor agreement required by this bill is unnecessary since adequate disclosure to the consumer is assured under the Real Estate Settlement Procedures Act of 1974 ("RESPA"), 12 U.S.C. Section 2601, et seq. Your Committee was advised that RESPA covers most residential mortgage loans used to finance the purchase of one to four family properties, such as a house, a condominium or cooperative unit, and certain lots. Additionally, persons who take mortgage loan applications must comply with two other federal laws, the Truth in Lending Act ("TILA"), 15 U.S.C. Section 1601, et seq., and the Equal Credit Opportunity Act ("ECOA"), 15 U.S.C. Section 1691, et seq.

The Division of Financial Institutions testified that it lacked the resources to administer the licensing program. Because of continuing changes in the mortgage banking industry and potential regulation at the federal level, the Division suggested that this chapter be included within the sunset review provisions of Chapter 26H, Hawaii Revised Statutes, for reexamination of the licensing requirements of Chapter 454. Finally, the Division suggested that the bond required of a licensed mortgage broker under Section 454-3(c) be increased from \$15,000 to \$50,000.

Your Committee finds that concerns about adequate disclosure to the consumer can be more efficiently addressed by replacing the honor agreement requirement in this bill with the requirements that a mortgage broker or solicitor (1) comply with all provisions of RESPA, TILA and the ECOA, and (2) honor any written commitment letter to make a mortgage loan, which has been accepted by a borrower, as long as the borrower has completely and timely satisfied all of the conditions of the commitment prior to its expiration.

This bill has also been amended to delete the proposal that the responsibilities of the "mortgage commissioner" be transferred from the Department of Commerce and Consumer Affairs to the Commissioner of Financial Institutions, in view of the concerns raised by the Division of Financial Institutions.

The recommendation of the Division of Financial Institutions, that the bond required of a licensed mortgage broker under Section 454-3(c) be increased from \$15,000 to \$50,000, has been adopted. The increased bonding requirement is reasonable, and is consistent with that required of mortgage and collection servicing agents under Chapter 454D, Hawaii Revised Statutes.

Because of continuing changes in the mortgage banking industry and potential regulation at the federal level, your Committee also agrees that the bill be amended to include Chapter 454 in the provisions for the 1995 sunset review, pursuant to Chapter 26H, Hawaii Revised Statutes.

This bill has been further amended by adding language which exempts an institutional investor from the requirements of Chapter 454, Hawaii Revised Statutes, when handling a loan purchase agreement for resale, placement into pools, or its own portfolio. Favorable testimony on this point was submitted by the Mortgage Bankers Association of Hawaii, and the Department of Commerce and Consumers had no objection. This will incorporate an amendment to Chapter 454 which was proposed by H.B. 1657.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 221, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 221, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

#### **SCRep. 782            Consumer Protection and Commerce on H.B. No. 648**

The purpose of this bill is to enable pre-need funeral authorities and cemeteries to more fully recover the costs of funeral services previously contracted for, by allowing pre-need trust funds to be used to purchase a life insurance policy on the pre-need contract purchaser.

Testimony in support of this bill was presented by the Borthwick Group. The Group advised your Committee that the law currently allows for pre-need funeral plans to be sold at the current retail price of the goods and services available at the mortuaries. The pre-need authority then is allowed to keep thirty per cent of the contract price as the "acquisition cost", and the remaining seventy per cent of the contract must be placed in a trust. The trustee is usually a bank or trust company.

The Group advised your Committee that money is generally paid into the trust over a period of seven to eight years. The trustee invests the funds and a portion of the earnings is returned to pre-need authorities for operations. Upon death of a purchaser, statistically in about thirteen years, the trustee pays to the servicing mortuary the principal held in trust. By that time, the mortuary price has increased considerably due to inflation and the mortuary must deliver the goods and services previously contracted for.

This bill would amend Chapter 441, Hawaii Revised Statutes, to allow the cemetery or pre-need trust to direct the trustee to use the trust principal to purchase a fully paid life insurance policy on the purchaser, the face value of which is greater than the full amount of the pre-need trust. The trustee would deliver the remaining trust principal to the cemetery or pre-need authority. On the purchaser's death, proceeds from the policy would pay for mortuary services. The Group maintains that this plan would adequately protect the purchaser, and would enable pre-need authorities and mortuaries to maintain viability.

The Department of Commerce and Consumer Affairs raised several concerns about the bill. First, in the event the contract is cancelled, face-value of the life insurance policy will cover only part of the purchaser's refund; the balance will have been previously disbursed to the pre-need authority. Second, if life insurance is purchased on the life of the purchaser, it will not provide timely benefits for his or her assignee, if any. Third, the bill does not specify requirements as to the type of insurance product which may be purchased.

To address these concerns, a proposal for amending this bill was jointly submitted to your Committee by the Department and the Borthwick Group. This amendment rewrites the bill. It provides that the trustee of the pre-need fund may apply all or part of payments received from the pre-need authority for deposit into the pre-need trust to purchase a fully paid group whole life insurance policy on the trust beneficiaries. Certain requirements are imposed, relating to concerns such as the type and quality of the policy, and its need for an automatic face value escalation clause. The proposal also requires that the trustee receive written consent from the pre-need contract purchaser authorizing the purchase of such insurance, and informing him or her of the non-assignability of the policy.

Your Committee believes that given certain constraints, the trustee should be able to purchase a whole life insurance policy on the purchaser without undue risk to the purchaser's rights under the pre-need contract. Pre-need authorities would benefit from this enhanced opportunity to recover the costs of funeral services previously contracted for. Your

Committee is in agreement with, and adopts the amendments to this bill jointly proposed by the Department and the Borthwick Group. The bill has been amended accordingly.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 648, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 648, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 783 Consumer Protection and Commerce on H.B. No. 1891**

The purpose of this bill is to amend Chapter 467 of the Hawaii Revised Statutes by clarifying that broker license candidates must possess a current active or inactive real estate salesperson's license in order to qualify to sit for the broker examination. The bill further proposes to clarify that the broker examination requirement of two years full-time sales experience may be satisfied by equivalent education or work experience in other real estate areas, and need not be limited to real estate sales and management experience.

The Real Estate Commission (Commission) testified that it presently expends a great deal of non-productive time in re-notifying broker license candidates that the candidates's salesperson license is forfeited, and that the candidate must first restore his or her salesperson's license before applying to sit for the broker's examination. This bill proposes to clarify this procedure for broker license candidates.

The Commission also testified that when it reviews the broker license candidate's practical experience to insure that the candidate is sufficiently experienced in the practice of real estate, it considers whether the broker has sufficient experience in real estate to sit for the broker's examination, to later supervise other licensees, to work independently, and to make independent judgments about real estate transaction. Current law limits acceptable types of real estate experience to sales and management. This bill recognizes that the practice of real estate has expanded to include areas other than sales and management, and allows other appropriate experiences to be accepted as fulfilling the practical experience requirement.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1891 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hagino.

**SCRep. 784 Consumer Protection and Commerce on H.B. No. 443**

The purpose of this bill is to provide a licensure framework for the regulation of three levels of social workers.

Testimony in favor of this proposal was heard from the National Association of Social Workers, as well as individual social workers both in the private and public sectors. These proponents suggested that licensure of social workers was needed both to assure a high quality of service and to provide an avenue for the handling of complaints against social workers. The proponents argued that the absence of a documented history of consumer complaints indicates only that there is no adequate mechanism at the present time to handle cases of abuse by social workers against their clients, and not that there is no consumer harm which could be minimized by licensure. It was also noted that forty-five other states currently regulate social workers to varying degrees.

Testimony against the licensure proposal was heard from The Reverend Frank Chong, the state Department of Human Services, the Department of Health, the Department of Commerce and Consumer Affairs. These opponents supported the Legislative Auditor's conclusion in sunrise reports in 1988 and previous years, which found that licensure was not warranted.

The Department of Human Services also indicated that it could not support social worker licensure at this time because licensure would complicate the Department's ongoing process of addressing through administrative means problems in critical areas where social workers are employed. The Department was particularly concerned that its present difficulty in recruiting social workers would be exacerbated by the broad definition of the practice of social work. The Department and other testifiers indicated that individuals may qualify for social worker positions in the state civil service without holding academic degrees in social work. The Department testified that the bill, by restricting the practice of social work to those holding such degrees, would make it more difficult to find interested and qualified applicants.

The Department of Commerce and Consumer Affairs further stated that, if licensure were deemed to be appropriate, it should only provide a threshold for showing minimum competency, and that there should not be three levels of licensure.

Your Committee agrees with the Legislative Auditor that the full licensure program proposed in this bill is not warranted at this time. However, your Committee believes that legitimate concerns were expressed by both the proponents and opponents of the measure which can be addressed through amendments to the bill. Your Committee has therefore amended this bill by deleting its contents and inserting new language as described below.

Your Committee has amended this bill to provide a registration option to allow those holding Masters degrees in social work to use the title "registered social worker," and thus to differentiate themselves from those individuals who are currently employed in "social worker" positions but who do not hold academic degrees in social work. This is not to imply that those social workers who may choose not to register or who may not meet the academic requirements of registration are not qualified to perform their duties. In addition, your Committee has provided that this regulatory framework shall be repealed as on December 31, 1992.

Based on the testimony of the National Association of Social Workers and others that abuses by social workers is a significant problem for which there is no adequate remedy at the present time, your Committee has further amended this bill to provide a temporary means for the filing of complaints against all individuals, whether or not registered, who identify themselves as social workers. Your Committee recognizes that it is unusual to allow the Department of Commerce and Consumer Affairs to receive complaints, investigate and prosecute even individuals who are not required to be registered. However, your Committee believes this unique authority is warranted on a temporary basis in this case because there appears to be no hard data available to determine whether or not there are sufficient abuses by social workers to warrant a full licensure program. The intention of this provision is to allow for the temporary handling of complaints and collection of data by the Department of Commerce and Consumer Affairs, so that information regarding this controversial area will be available for consideration in the Legislative Auditor's sunset review of the regulatory chapter established by this measure.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 443, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 443, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 785 Consumer Protection and Commerce on H.B. No. 1112**

The purpose of this bill is to permit stand-alone trust companies that are not subsidiaries or departments of bank holding companies, to establish subsidiaries or affiliates to engage in the real estate, insurance, or securities businesses.

Before acquiring or organizing such businesses, the trust company or holding company must obtain approval from the Commissioner of Financial Institutions. In order to grant approval, the Commissioner must find, among others, that approval of the application would not jeopardize the financial stability of the trust institution or the proposed subsidiary. The bill further protects the soundness of the trust institution by limiting the amount that it may invest in the subsidiary.

To avoid conflicts of interest, the bill requires physical separateness of the subsidiary from other businesses, and separate employees for the subsidiary and the trust institution. It also prohibits a subsidiary from using non-public client information without the client's consent, and it prohibits officers and directors of the subsidiary from serving as officers and directors of the trust company. Further, the bill prohibits the trust institution from conducting business with its subsidiary unless the transaction provides no more advantage to the trust institution than if the transaction were carried out with a comparable unaffiliated company.

Representatives of Bishop Trust Company and American Trust Co. of Hawaii, Inc. testified in support of this bill. They advised your Committee that trust companies have recently seen their major source of revenue, trust administration, reduced by competition from such the trust subsidiaries of traditionally non-bank mainland institutions such as Sears, American Express and Merrill Lynch. In order to effectively compete in the local and national markets, trust companies need to have their former powers to sell real estate, insurance and securities, restored.

The Department of Commerce and Consumer Affairs suggested certain amendments to this bill which are noted below, but took no position on this bill.

The Hawaii Independent Insurance Agents Association presented testimony in opposition to this bill on the grounds that banking and trust operations should be kept separated from insurance. The Hawaii State Association of Life Underwriters submitted that a trust company would be in a conflict of interest if it were allowed to sell insurance and other products, while making investment decisions for its client as a fiduciary.

Your Committee believes that interests of trust company customers will be properly protected by the fire-wall, regulatory, and other provisions of this bill, as amended. Since trust companies do not take deposits or make loans, potential problems of tying-in loan making with the purchase of one of these investments. This bill will enable trust companies to more fairly compete in a market which has changed, without jeopardizing the investments of their trust customers.

Several amendments have been made to this bill. Your Committee agrees with the recommendation of the Department of Commerce and Consumer Affairs, that the capital investment for these new powers must be limited in order to reduce total exposure for the trust or trust holding company. The bill has been amended to clearly specify that the total investment of a trust company or its holding company cannot exceed \$500,000.

Also, the Commissioner of Financial Institutions has been given the discretionary authority to examine any real estate, insurance or securities corporation which is authorized by Chapter 406, Hawaii Revised Statutes.

In another amendment, your Committee has deleted the requirement that the officers and directors of the real estate, insurance or securities corporation be different from those of the trust company. Instead, the amended bill will require that a majority of the board of directors of the business subsidiary or affiliate be composed of persons who are neither directors nor officers of the trust company.

A technical correction has been made to the bill by adding the word "more" before the word "advantage" on page 6, line 14; page 7, line 13; and page 9, line 13. Other technical, nonsubstantive amendments have been made 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. 1112, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1112, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 786 Consumer Protection and Commerce on H.B. No. 1884**

The purpose of this bill is to create a new article in the Insurance Code, Article 10G, to contain those provisions applicable to motorcycle and motor scooter insurance. Presently, motorcycle and motor scooter liability insurance requirements are found in Article 10C, part V, even though motorcycles and motor scooters have been exempt from the requirements of the no-fault law since 1985.

The Committee received testimony from the Department of Commerce and Consumer Affairs that the creation of Article 10G will clarify that motorcycle and motor scooter insurances are distinct from motor vehicle insurance, and that neither the requirements of the no-fault law, nor its benefits, apply to motorcycles and motor scooters. Street Bikers United and the Hawaii Insurers Council each testified in support of the bill.

Your Committee noted there were two motorcycle self-insurance bills being considered on the same agenda proposing to amend the same motorcycle insurance provisions which House Bill No. 1884 proposes to repeal. Your Committee also noted that House Bill No. 1884 does not contain a specific self-insurance provision. In order to allow motorcyclists to self-insure in the event House Bill No. 1884 is enacted, your Committee has therefore amended section 1 of this bill to add a provision permitting self-insurance of motorcycles and motor scooters.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1884, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1884, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 787 Consumer Protection and Commerce on H.B. No. 1890**

The purpose of this bill is to amend Chapter 467 of the Hawaii Revised Statutes by specifying that if the Real Estate Commission is required to compensate an injured consumer from the Real Estate Recovery Fund because of licensee fraud, misrepresentation, or deceit, the licensee must wait two years before reapplying for his or her "terminated" license. In addition, the bill proposes housekeeping revisions to change the term "salesman" to "salesperson" in appropriate statutory provisions.

The Commission testified that at the present time, a "terminated" licensee can become a candidate for a salesperson license by paying back into the Recovery Fund the amount of money owed, plus interest, with no time restriction on how long he or she must wait to reapply for the license. However, individuals whose licenses have been revoked because of identical misconduct, but for whom no money from the Recovery Fund is paid, must wait a minimum of two years before becoming a candidate for a salesperson's license. The proposed bill provides for just and equitable treatment of all real estate licensees by imposing the same waiting period on all licensees who have committed similar wrongs.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1890 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 788 Consumer Protection and Commerce on H.B. No. 596**

The purpose of this bill is to clarify and specify the documents to which owners are entitled to obtain from an association of apartment owners and the types of charges which can be made in connection with the production of the documents.

The present law provides that the minutes of the meetings of the board of directors and association of apartment owners and the association's financial statements and the books of receipts and expenditures and the data on unpaid assessments shall be available for examination by apartment owners.

Section 1 specifies the minimum content of the minutes of meetings of the board and the association, and specifies the availability of minutes, financial and other records of the association. The bill has been amended to add two new sections to delete provisions of existing law which are duplicative of, in conflict with, the disclosure requirements of Section 1.

This Bill also deletes duplicative and/or contradictory provisions from Chapter 514A. The Blue Ribbon Advisory Panel comprised of representatives of the American Arbitration Association, Hawaii Independent Condominium and Cooperative Owners, Community Associations Institute, management companies, the Real Estate Commission, the Legislative Reference Bureau and the Condominium Property Regime Committee of the Real Property and Financial Services Section of the Hawaii State Bar Association as well as the Condominium Specialist supports this bill. The Condominium Subcommittee of the Government Affairs Committee of the Hawaii Association of Realtors, the Condominium Property Regime Committee of the Real Property and Financial Services section of the Hawaii State Bar Association, independently and the Hawaii Independent Condominium and Cooperative Owners, independently also support this bill.

This bill protects the owners right to know about the operations of the association while providing for the reimbursement to the homeowner's association for the costs and expenses associated with the production of the documents.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 596, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 789 Consumer Protection and Commerce on H.B. No. 1892**

The purpose of this bill is to make it a misdemeanor for a real estate license candidate to supply false information on forms provided by the Real Estate Commission's designated testing agency. Under the bill, a violation is made punishable under the Penal Code and not under Chapter 467, Hawaii Revised Statutes.

The Real Estate Commission and the Hawaii Association of Realtors submitted testimony in support of this bill. The Commission testified that it has encountered a number of cases in which it appears that examination candidates have supplied false information on forms provided by the contracted testing agency.

Your Committee believes there is a need for these sanctions to preserve the integrity of the Commission's requirements and testing process.

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

Signed by all members of the Committee.

**SCRep. 790 Consumer Protection and Commerce on H.B. No. 1633**

The purpose of this bill is to direct the Public Utilities Commission to adopt and enforce the operating requirements of "aggregators" of telephone service.

The bill defines an "aggregator" as any person or entity which is not a telecommunications carrier, but which "makes telephones available and aggregates calls made by the public or transient users of its business". An aggregator may include a hotel, motel, hospital, or university, that provides operator-assisted services through access to an operator service provider. The bill provides that the PUC shall impose operating requirements for the provision of operator-assisted services by an aggregator, which shall be limited to (1) the rates, terms, or conditions for operator-assisted calls to be given to customers on request; (2) making the customer aware before inception of billing, of the identity of the operator service provider handling the operator-assisted call; (3) allowing the customer means of accessing any operator service provider operating in the area; and (4) providing the customer notice of how to access the various operator service providers.

Your Committee heard testimony on this bill from the Public Utilities Commission ("PUC"). It advised your Committee that a recent study on "Telecommunications in Hawaii" reported that the Federal Communications Commission ("FCC") authorized the deregulation of operator service providers in 1984, and nationally, there are now more than thirty alternate operator service providers. The study reported numerous consumer complaints where such alternate operator services are provided, concerning excessive rates, misrouted emergency calls, charges for incomplete calls, bills from unknown companies, and the inability to reach the long distance company of choice.

The PUC testified that alternate operator service providers are not subject to regulation by the PUC, unless such services cover intra-state telephone services or where the billing and collection of the services are arranged with Hawaiian Telephone Company.

The PUC submitted that the regulation of aggregators is desirable to the extent that operator service providers that are involved in inter-state and international operator assisted services can be subjected to review by the PUC. It added that the regulation of aggregators should not preclude the regulation of operator service providers, when such services include intra-state telephone services or when the billing and collection of the fees are arranged with Hawaiian Telephone Company.

Your Committee also received testimony on this bill from the Department of Commerce and Consumer Affairs. The Department was of the opinion that this bill does not provide sufficient regulatory safeguards for the protection of consumers. It suggested that the PUC be given greater latitude to impose operating requirements for the provision of operator-assisted services by an aggregator, than the bill allows.

AT&T testified that it supported this bill because it would ensure that hotel guests and other users would receive rate notices, the name of the operator service provider, and other pertinent information.

Amendments to this bill were jointly proposed by the PUC and the Department of Commerce and Consumer Affairs. Under their proposal, subsection (b) of the proposed new statutory provision would be rewritten to provide a more specific, and non-exhaustive list of operating requirements for aggregators. The list would include the following: disclosure of the identity of the operator service provider, rates, complaint handling procedures, and means to access other operator service providers in the area.

Your Committee believes that by regulating aggregators, the negative developments and complaints on operator service providers may be minimized, and the information that aggregators are required to give to users will protect the users from unfair rates and practices by operator service providers. Your Committee finds that the amendments to this bill jointly proposed by the PUC and the Department of Commerce and Consumer Affairs will better protect users. The proposal has been adopted and the bill has been amended accordingly.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1633, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1633, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 791 Consumer Protection and Commerce on H.B. No. 1889**

The purpose of this bill is to amend Chapter 451A, Hawaii Revised Statutes, dealing with hearing aid dealers and fitters, to provide conformity with Chapter 481C, Hawaii Revised Statutes, dealing with door-to-door sale.

Section 451A-14 lists prohibited acts and practices. Subsection (6) forbids a person to solicit for the sale of hearing aids "house to house" as defined in section 476-1."

Your Committee finds that reference to section 476-1 is no longer appropriate, since Chapter 481C now governs door-to-door sales in Hawaii. Your Committee noted that the terminology, house-to-house, has been replaced by the term, door-to-door, in Chapter 481C.

The amendment proposed in this bill would conform the chapter relating to hearing aid dealers and fitters by providing that no person shall sell hearing aids through "door to door" sales as defined in Chapter 481C.

The Board of Hearing Aid Dealers and Fitters presented testimony in favor of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1889 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 792 Consumer Protection and Commerce on H.B. No. 1660**

The purpose of this bill was to limit the circumstances and conditions under which banks could disclose customer and depositor records. The bill also provided that banks would be able to recover the cost of complying with orders, subpoenas and requests for disclosure of bank records, and that banks may notify customers and depositors of the receipt of any subpoena, order or request for production.

Your Committee received testimony that, under present law, third parties can obtain customer records from banks, without customer's knowledge during the course of litigation discovery. Your committee also heard testimony from the Hawaii Bankers' Association that the bill as drafted would limit the disclosure of records in normal banking business activities, such as credit reporting which may be seriously affected or even prevented altogether.

Your Committee has amended this bill to limit its effect to provide only for the circumstances for compliance with court subpoenas and to make the bill apply to all banks and financial institutions covered under Chapter 401, Hawaii Revised Statutes. Additionally, your Committee has made it clear that the notice provisions and payment provisions do not apply to the proper subpoenas of state or federal government law enforcement agencies, taxation authorities or regulatory agencies, unless otherwise provided by law. As amended, the bill would require the party obtaining a court subpoena for customer records to certify to the financial institution that the customer had been given notice ten days prior to the date for compliance with the subpoena. The bill also provides that the financial institution is entitled to recover the reasonable cost of search and reproduction incurred in compliance, with the exceptions noted.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1660, as amended herein, and recommends that it pass Second Reading, in the form attached hereto as H.B. No. 1660, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 793 Consumer Protection and Commerce on H.B. No. 1814**

The purpose of this bill is to make numerous technical changes to the Insurance Code.

Your Committee heard testimony in support of this bill from the Department of Commerce and Consumer Affairs. The department testified that the majority of the amendments proposed by this bill are section reference and punctuation corrections, and the addition of sections or phrases inadvertently omitted during the course of recodification of the Insurance Code, Chapter 431, Hawaii Revised Statutes. Amendments to part 3 of Article 10A of the Insurance Code, Section 431:10A-301 et seq., Hawaii Revised Statutes, which governs Medicare Supplement policies, are made pursuant to federal mandate.

Your Committee finds that this bill is a housekeeping measure. Your Committee agrees with the recommendations for amendment to the Insurance Code presented by the Department of Commerce and Consumer Affairs.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1814 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.



Signed by all members of the Committee.

**SCRep. 794 Consumer Protection and Commerce on H.B. No. 597**

The purpose of this bill is to provide a procedure by which condominium associations may dispose of the abandoned possessions of residents or former residents in or on the common elements of a project in an orderly manner. This procedure will also protect the rights of the owners of the abandoned articles.

Many condominium associations are finding their storage areas becoming filled with property abandoned by residents or former residents, but they have no statutory procedure for disposing of such property. It would be helpful for condominium associations and their members to have a procedure by which they may dispose of abandoned items without being potentially liable to the owners of such property.

Your Committee finds that the Residential Landlord-Tenant Code, Section 521-56, Hawaii Revised Statutes, provides for the disposition of a tenant's abandoned possessions by the landlord, but there is no corresponding statutory provision to govern the disposition of property abandoned in or on the common elements controlled by condominium associations. This bill would confer upon an association the right to dispose of abandoned property corresponding to that which is already accorded to landlords, and would provide suitable protection for the rights of the owners of such property.

The Condominium Property Regime Committee, Real Property and Financial Services Section of the Hawaii State Bar Association, the Hawaii Association of Realtors, and the Blue Ribbon Advisory Panel, Horizontal Property Regime testified in support of H.B. No. 597.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 597 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hagino.

**SCRep. 795 Consumer Protection and Commerce on H.B. No. 1516**

The purpose of this bill is to discourage motorists from driving without having a no-fault policy in effect, by requiring persons convicted of the same to surrender the license plates of the uninsured motor vehicle.

The bill also provides that surrendered plates can be recovered by showing proof of insurance and paying a \$100 fee.

Your Committee heard testimony in support of this bill from the Department of Finance, City and County of Honolulu. The City recommended amending the bill to provide that the proof of insurance be on a form approved by the Director of Finance and issued by an insurance company authorized to do business in the State.

Your Committee believes that this bill will help reduce the number of uninsured motorists on the road, and thereby promote the public interest. The amendment proposed by the City has been adopted because your Committee believes that it may prevent deception by persons who may try to use altered, expired or cancelled insurance documents in an effort to recover surrendered license plates.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1516, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1516, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 796 Consumer Protection and Commerce on H.B. No. 1746**

The purpose of this bill is to clarify that the Legislature did not intend to prohibit owners of motorcycles and motor scooters from self-insuring when motorcycles and motor scooters were exempted from the requirements of no-fault insurance coverage or during the recodification of the state's insurance laws.

Your Committee received testimony that there is presently some confusion as to whether the owners of motorcycles and motor scooters can be allowed to self-insure by the Insurance Commissioner. Presently, the City and County of Honolulu and other counties are self-insured for their motorcycles and motor scooters. At least one private motorcycle owner has applied for self-insurance for motorcycles. Under this bill, owners of motorcycles and motor scooters will clearly be able to self-insure if they otherwise qualify. Your Committee received favorable testimony on this bill from motorcycle owners and from the Insurance Division.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1746 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 797 Consumer Protection and Commerce on H.B. No. 1598**

The purpose of this bill is to clarify the scope of practice of podiatric medicine under Chapter 463E, Hawaii Revised Statutes.

Prior to Second Reading, your Committee received written testimony in support of this bill from the Hawaii Podiatric Medical Association and a number of individual podiatrists. At the hearing on this bill, a representative of the proponents group advised your Committee that they wished to withdraw their written testimony. Further, the proponents proposed that Section 1 of this bill be amended as follows: (1) retain the current definition of "Podiatry" under Section 463E-1, Hawaii Revised Statutes, but expand the definition include diagnosis and treatment of the "malleoli and soft tissues about the ankle, except for ankle fractures", (2) provide that podiatry does not include any amputation, "except digital amputation", and (3) delete the definition of "Podiatric medicine".

The Hawaii Medical Association ("HMA") submitted testimony as to its reservations about this bill. It stated that the bill redefines podiatry in what appears on the surface, to be a much broader scope. The HMA testified that since the bill allows a podiatrist to treat systemic conditions which are locally manifested in the lower extremities below the knees, a podiatrist would theoretically be able to treat all aspects of diabetes, since it manifests itself in numerous individuals as loss of nerve function in the feet. Similarly, meningitis and heart failure sometimes manifest themselves in the lower extremities below the knees, and would come within the scope of podiatric medicine. The HMA explained that while it was not suggesting that podiatrists wanted to treat such conditions, the scope of podiatry proposed in the bill was a very broad one. The HMA suggested that podiatrists work with other health care professionals to develop a revised definition of podiatric medicine.

Your Committee believes that the definition of the term "podiatry" is too limited under current law, and that it should be redefined. It agrees with the HMA, however, that the definition of "podiatric medicine" proposed by this bill is overly broad. Your Committee is in agreement with the amendments to this bill proposed by its proponents, as listed above. The bill has been amended accordingly.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1598, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1598, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 798 Consumer Protection and Commerce on H.B. No. 1638**

The purpose of this bill is to amend Chapter 437, Hawaii Revised Statutes, so as to eliminate certain motor vehicle dealer licensing bond requirements; make the obtaining of an inventory or flooring line of credit a requirement for issuance of a dealer's or auction's license; and to specify the bond requirements of a broker under that Chapter.

The Motor Vehicle Industry Licensing Board presented testimony in support of this bill. The Board submitted that Act 233, SLH 1988 acknowledged the difficulty that licensees experience in obtaining statutory bonds. It noted that in 1988, the Legislature asked the Board to evaluate the need for, and the amount of the motor vehicle dealer licensing bonds. The Board submitted a report to the Legislature in December 1988 recommending that almost all bond requirements within the Board's jurisdiction be eliminated. This bill is a result of that recommendation.

The Hawaii Automobile Dealers Association also submitted testimony concerning this bill. The Association stated that the current bonding requirements have not protected the consumer at all. It noted that most parties who establish new car dealerships in Hawaii must have substantial funds available to meet franchising requirements of the manufacturer.

Your Committee agrees with the Board that the motor vehicle licensing bond requirement under Chapter 437, Hawaii Revised Statutes, is unrealistic and as such does not properly protect the public interest.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1638 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Anderson.

**SCRep. 799 Consumer Protection and Commerce on H.B. No. 839 (Majority)**

The purpose of this bill is to expressly bring dentists' and physicians' offices within the definition of places of public accommodation under Chapter 489, Hawaii Revised Statutes, thereby making applicable to them the chapter's prohibitions against discrimination on the basis of race, sex, color, religion, ancestry or handicap.

The Commission on the Handicapped advised your Committee that it supports this bill, which it views as a clarification of existing law.

The Department of Health also testified in favor of this bill. It submitted that as a matter of public policy, health service and treatment decisions should be made on the basis of the eligibility and appropriateness of the client for the type of service provided, and the qualifications of the provider to render the service.

The Governor's Commission on AIDS offered additional testimony in support of this bill. The Commission advised your Committee that access to dental care in particular has been problematic for people with HIV infection. The Commission's understanding is that no dentists on Maui will treat people with HIV infection, and such services are nearly as scarce on the Island of Hawaii.

Similar testimony in support of this bill was presented by the Life Foundation. It submitted that discrimination will encourage potential patients to be dishonest about their HIV status, which may in turn be detrimental to the care of all patients.

The American Civil Liberties Union ("ACLU") advised your Committee that it supports this bill as necessary to clarify that the anti-discrimination provisions of the public accommodations law apply to dental and medical offices. The ACLU pointed out that the Department of Health's 1988 survey of Hawaii dentists showed that about eighty-five per cent of Oahu dentists surveyed will not treat patients who are known to be HIV infected.

The Hawaii Medical Association ("HMA") informed your Committee of the Principles of Medical Ethics, which are subscribed to by the American Medical Association ("AMA") and component state medical associations. Generally, both the physician and patient are free to enter into or decline to enter the relationship. Physicians who offer their services to the public, however, may not decline to accept patients on a basis that would constitute illegal discrimination. A physician may not ethically refuse to treat a patient whose condition is within the physician's current realm of competence solely because the patient is seropositive. A physician may decline to undertake the care of a patient whose medical condition is not within the physician's current competence.

Your Committee believes that this bill is in the public interest and that it promotes the public health and welfare by ensuring that people will have a wide range of choice and opportunity for vital health services throughout the State. In recommending passage of this bill, however, your Committee does not intend to infringe upon the prerogative of a physician or dentist to decline to undertake the care of a patient whose medical condition is not within his or her current competence.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 839 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Andrews and Anderson.  
(Representative Cavasso did not concur.)

**SCRep. 800 Consumer Protection and Commerce on H.B. No. 1003**

The purpose of this bill is to delete obsolete language and requirements of industrial loan companies licensed under Chapter 408, Hawaii Revised Statutes, that issue thrift loans.

The law currently requires that each new thrift instrument or certificate be approved by the Commissioner of Financial Institutions. Representatives of the Hawaii Financial Services Association ("HFSA") advised your Committee that this requirement is obsolete, and imposes an impossible, unenforceable burden for the Commissioner, and is a meaningless task for the thrift companies.

The bill also eliminates the requirement that the phrase, "THIS IS NOT A CERTIFICATE OF DEPOSIT" appear on the face of each thrift certificate. The HFSA opined that this requirement is also obsolete, and that it is contrary to fact.

The bill also adds language to clarify that the Commissioner retains authority to determine which companies are authorized to issue thrift certificates.

The Department of Commerce and Consumer Affairs advised your Committee that this bill is basically a housekeeping measure. It has no objection to this bill.

Your Committee believes that certain provisions of Chapter 408, Hawaii Revised Statutes, are outdated, and should be deleted.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1003 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 801 Consumer Protection and Commerce on H.B. No. 1888**

The purpose of this bill is to clarify that \$12,500 is the maximum amount payable from the Contractors License Board recovery fund, on a single contract with a licensed contractor. This bill also clarifies that a person may make a claim against the fund for injury caused by the conduct of a licensed contractor, which arises out of a contract for the construction of the injured person's own private residence.

Your Committee heard testimony in favor of this bill from the Contractors License Board, which explained that Section 444-26, Hawaii Revised Statutes, may be read as allowing multiple parties to a single contract with a licensed contractor to recover \$12,500 each from the fund. The Board submitted that limiting recovery from the fund to \$12,500 per contract, regardless the number of parties to that contract, will allow the fund to benefit a larger number of different people. The maximum liability of the fund is \$25,000 for any licensed contractor. Section 444-34, Hawaii Revised Statutes.

As for the proposed amendment allowing claims to be made by persons injured in connection with a contract for the construction of their own private residence, the Board testified that its practice has been to pay such claims on appropriate proof.

Your Committee believes that clarification to Section 444-26, Hawaii Revised Statutes, is necessary, and it is in agreement with the amendments to that section recommended by the Board.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1888 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 802            Consumer Protection and Commerce on H.B. No. 1663**

The purpose of this bill is to amend Section 431:10-219, Hawaii Revised Statutes, regarding the ratesheet required for all multi-peril policies, other than homeowners policies.

Your Committee heard testimony in favor of this bill from the Department of Commerce and Consumer Affairs, Insurance Division. The division testified that the bill will provide the flexibility to allow timely changes in the manner an insurer states all rating factors for multi-peril policies. The statute, as currently written, calls for a rigid ratesheet to apply to all insurers. The division advised your Committee that insurers that currently generate multi-peril policies by computers must manually produce the prescribed ratesheet. Insurers with special programs or who undertake substantive amendments to their programs must do so within the framework of the ratesheet.

The Hawaii Insurers Council also testified in support of this bill.

Your Committee believes that insurers will realize a cost savings if they are given greater flexibility in their ratesheet requirement. It is expected that these savings will inure to the benefit of the public in the form of stable rates, broader innovative coverages and programs, and others.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1663 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 803            Consumer Protection and Commerce on H.B. No. 935**

The purpose of this bill is to amend Section 467-30, Hawaii Revised Statutes, to clarify the requirements for operating a condominium hotel.

The proposed bill is the result of the study by the Hawaii Real Estate Research and Education Center, titled, "Report to the Legislature on a Review of Act 141, SLH 1985, Act 296, SLH, 1987, Act 225, SLH 1988, Relating to Condominium Hotel Operators."

The present law for the licensing of condominium hotel operators requires the following: (1) the applicant must be licensed as a real estate broker; (2) the applicant must provide evidence of surety bonding; and (3) the applicant must register with the Real Estate Commission.

The proposed bill clarifies and extends the regulations for operating condominium hotels. The bill redesignates and reorders the requirements for operating a condominium hotel; provides for exclusion of units in a registered time share plan from the bonding formula; makes clear that required fees be set by the Director of the Department of Commerce and Consumer Affairs; and requires all personnel having custody or control of funds to be covered by fidelity bonds. The bill also exempts a condominium hotel operator from the licensing requirement only if the total condominium is authorized by the respective county as a hotel; and requires condominium hotel operators claiming exemptions to make application to the Real Estate Commission. The proposed bill requires anyone aggrieved by the fraudulent or dishonest acts of the condominium hotel operator to seek recovery first from the fidelity bond, and second, when applicable, from the real estate recovery fund.

Your Committee finds that the proposed changes will result in more appropriate regulatory control of condominium operators. Your Committee wants to emphasize that the real estate license provision is required of condominium hotels, and not to traditional or non-condominium hotels.

The Real Estate Commission and the Hawaii Hotel Association testified in favor of this bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 935 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 804            Consumer Protection and Commerce on H.B. No. 1540**

The purpose of this bill is to amend Section 431:1-204, Hawaii Revised Statutes, to exclude from regulation under the insurance code any nonprofit educational foundation for a public educational institution for the purpose of permitting it to enter into a charitable gift annuity agreement with a donor.

Your Committee heard testimony in favor of this bill from a representative of the University of Hawaii Foundation. The Foundation suggested that exempting charitable gift annuities from the definition of insurance will increase support

for the University of Hawaii through the Foundation. It will enable small dollar donors to enjoy the benefits of deferred giving at little or no cost to the State, while maintaining the oversight and authority of the insurance commissioner.

The Department of Commerce and Consumer Affairs, Insurance Division, advised your Committee that it is not opposed to this bill.

Your Committee believes that the exclusion of certain nonprofit educational foundations from insurance regulation is in the public interest, as it may increase public support of those foundations, particularly through small donor participation.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1540 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 805 Consumer Protection and Commerce on H.B. No. 1538**

The purpose of this bill is to assist corporations in this State in their efforts to retain the best possible individuals to serve on their board of directors.

Current law requires a corporate director to perform his duties as a director "in a manner the director reasonably believes to be in the best interests of the corporation. . ." Section 415-35, Hawaii Revised Statutes. This bill lists specific criteria which a director may consider in determining the best interests of the corporation. Permissible criteria include certain considerations external to the corporation, such as the impact of an action on the community, and the economy of the state and nation.

The Department of Commerce and Consumer Affairs testified in favor of this bill. The department believes that the bill expands the definition of "the best interests of the corporation", and that it would generally apply to decisions made by directors in situations of a hostile takeover bid.

Your Committee also heard testimony in favor of this bill from representatives of Alexander & Baldwin, Inc., who stated that Hawaii corporations need the protection provided by this bill so that directors can make the type of decisions necessary in a risky and confrontational business climate.

Your Committee believes that one acting as a corporate director is obliged to make his decisions in the best interests of the corporation, and that in making those decisions, he should have the discretion to consider certain conditions external to the corporation. This bill promotes the public interest because it allows a director to consider the ramifications of corporate decisions on the community and economy.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1538 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 806 Consumer Protection and Commerce on H.B. No. 1635 (Majority)**

The purpose of this bill is to prohibit insurance companies from refusing to insure, refusing to continue to insure, or limiting the amount of coverage available to an individual because of sexual orientation. In addition, this bill would prohibit an insurance company from obtaining or using HIV test results to determine whether to insure, continue to insure, or limit the amount of coverage provided.

Your Committee received testimony from the Department of Health, the Governor's Committee on Aids, the Life Foundation, the American Civil Liberties Union of Hawaii, and others in support of this bill.

Your Committee notes that the Insurance Commissioner is in the process of drafting rules concerning the implementation of existing laws relating to HIV testing.

Your Committee also recognizes the problem which insurers currently face in the absence of those rules.

Therefore, your Committee has amended the bill to include a provision allowing an applicant to obtain the results of an HIV test, and to provide for confidentiality.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1635, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1635, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.  
(Representatives Andrews, Cachola and Cavasso did not concur.)

**SCRep. 807 Consumer Protection and Commerce on H.B. No. 1747**

The purpose of this bill is make several amendments to Chapter 431K, Hawaii Revised Statutes, regulating risk retention groups and purchasing groups.

The Department of Commerce and Consumer Affairs, Insurance Division, advised your Committee that the enabling legislation for such groups is at the federal level, and for the most part, the states are limited in their ability to regulate them. The Insurance Division views these amendments as in the nature of clarifying its existing regulatory authority.

Section 4 of the bill proposes in part to amend Section 431K-4, Hawaii Revised Statutes, by providing that when a purchasing group obtains insurance covering its members' risks from an authorized insurer, only the risks resident or located in this State shall be covered by the property and liability insurance guaranty association, subject to the provisions of Chapter 431, article 16, Hawaii Revised Statutes. The Insurance Division submitted that this amendment is more restrictive than the coverage provided by the Hawaii Insurance Guaranty Association ("HIGA") under Article 16 of the insurance code. HIGA covers claims for risks located in Hawaii and claims by Hawaii residents. The Division recommended that Section 4, subsection (c) of the bill be amended to read:

"(c) When a purchasing group obtains insurance covering its members' risks from an insurer authorized in Hawaii, claims shall be covered by the property and liability insurance agency association, subject to the provisions of Chapter 431, article 16."

The Hawaii Independent Insurance Agents Association also presented testimony in favor of this bill. The Association noted that this bill imposes financial responsibility provisions on risk retention groups and alerts policyholders that such groups are not subject to insolvency laws. The Association supports risk retention groups and believes that financial responsibility is needed to prevent fly-by-night groups from operating in the State.

Your Committee believes that Chapter 431K, Hawaii Revised Statutes, should be amended to clarify the Division's authority to regulate retention groups and purchasing groups. Your Committee finds that the coverage proposed under Section 4 of the bill should be expanded, and has amended that section of the bill in accordance with the suggestion of the Insurance Division. Sections of the bill have been renumbered beginning with Section 3, to correct numbering. Other technical, nonsubstantive amendments have also been made 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. 1747, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1747, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 808 Consumer Protection and Commerce on H.B. No. 1237**

The purpose of this bill is to require that any person offering policies or contracts for the payment of benefits in case of sickness or other health care services to file with the Insurance Commissioner rates and rules for review prior to implementation.

Your Committee received testimony from the Insurance Commissioner, the Hawaii Association of Domestic Life Insurers, Hawaii Medical Service Association, and Kaiser Permanente on this bill. Testifiers expressed concerns regarding the requirements of the bill, and that this bill would require a complete change in the method of rate filing of health insurance policies. Your committee also noted that the requirement for health maintenance organization to file their policy rates with the Insurance Commissioner under Chapter 431 may not be appropriate. Your Committee has expressed concern over the fact that health maintenance organizations are not required to report their financial statement, or file their subject to the Commissioner's review.

Your Committee has amended the bill by deleting its substance and adding a new chapter for health maintenance organizations. This bill requires that each health maintenance organization submit to the Insurance Commissioner a statement of financial condition audited by an independent certified public accountant and that the Commissioner shall examine these records and submit a report to the 1991 Legislature and annually thereafter on the financial condition of the health maintenance organization.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1237, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1237, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 809 Consumer Protection and Commerce on H.B. No. 1474**

The purpose of this bill is to permit the board of directors of a condominium apartment owners association to restate the project's declaration of condominium property regime or the bylaws in order to incorporate all prior amendments, and to reflect the effects of new statutes, ordinances, rules, and regulations enacted by governmental authorities. The procedures contained in the bill are derived from Section 415B-40, Hawaii Revised Statutes, relating to restated articles of incorporation.

Your Committee finds that in the absence of the provisions of this bill, the declaration of a condominium property regime or the bylaws may be inconsistent with the latest statutes and amended bylaws. This bill, by adding a new section to Chapter 514A, Hawaii Revised Statutes, will help to remove misunderstandings of association members by permitting the board of directors to adopt by resolution restated declarations or bylaws to supersede the original or previous declaration or bylaws.

The Condominium Property Regime Committee, Real Property and Financial Services Section of the Hawaii State Bar Association, the Hawaii Association of Realtors, and the Blue Ribbon Advisory Panel testified in support of H.B. No. 1474.

Your Committee has made a technical, nonsubstantive amendment to this bill by deleting the word "by-laws" and replacing it with "bylaws".

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1474, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1474, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 810 Consumer Protection and Commerce on H.B. No. 1536**

The purpose of this bill is to ensure that alternative and experienced providers are considered when providing a cost effective relay system which allows deaf and hearing-impaired people to fully utilize telephone service.

The law currently requires the Public Utilities Commission ("PUC") to implement a program to achieve twenty-four hour operated-assisted telephone relay services for the deaf and hearing-impaired not later than July 1, 1989. The PUC has been directed to require every utility currently providing local telephone service to file a schedule of rates and charges reflecting the provision of such relay services.

This bill contemplates that the PUC's considerations in implementing such a program would extend beyond the rate schedules being submitted by the utilities. The bill authorizes the PUC to investigate the availability of experienced providers of such relay services to determine if relay services can be provided in a cost effective manner. If the PUC determines that relay services can be provided in a cost effective manner, it may require every telephone public utility to contract with the provider for relay services.

The PUC testified that the consideration of alternative and experienced providers of relay services had merit. If the consideration of other providers were mandated, however, the PUC recommended that the July 1, 1989 deadline for program implementation be extended until December 1, 1989.

The Department of Health testified that it supported the intent of this bill if it would enhance the PUC's ability to implement effective, statewide relay services.

Testimony against the bill was submitted by the International Brotherhood of Electrical Workers ("IBEW"). The IBEW's understanding was that one of the companies seeking consideration as an alternative relay service provider intended to provide service from California. IBEW submitted that both providers of the relay service, and the jobs created by the service, should remain in Hawaii.

The Commission on the Handicapped, the Hawaii State Coordinating Council on Deafness, and the Gallaudet University Center on Deafness also testified against the bill. These organizations stated that the relay service should be provided by the utility responsible for the local telephone service, in this case GTE Hawaiian Tel, as a matter of equal access. Some felt that a competitive bid process for a relay service provider would jeopardize service continuity and reliability.

The Hawaii Services on Deafness expressed concern that the bill would delay relay services beyond July 1, 1989.

GTE Hawaiian Tel testified that it has been working with hearing impaired organizations to make relay services available even before July 1, 1989. GTE Hawaiian Tel submitted that it is the best choice for the relay service for Hawaii because as a regulated utility, its costs are subject to PUC review, and will be fair. GTE Hawaiian Tel also suggested that it could provide relay system users with the same quality and service level as are provided its hearing customers.

AT&T requested that it be considered to provide the relay service. It noted that it currently provides relay service in California, New York and Alabama, and that relay service to Hawaii could be economically implemented to meet the July 1, 1989 deadline by utilizing the California relay service. AT&T suggested that any service contract should extend for at least three years to allow full use of the relay system.

Your Committee also received testimony from a resident of Oahu, who is deaf. The testifier expressed concern that if the bill were enacted, there would be no relay service available after July 1, 1989. The testifier supported GTE Hawaiian Tel for its diligent work to implement proper service.

Your Committee believes that high quality and cost efficient relay services should be readily available to the deaf, as a matter of equal access. Opening the service up to competitive bidding may promote these objectives, but a break in providing relay services must be avoided. To address these concerns, your Committee has amended this bill to allow GTE Hawaiian Tel, as the current local public telephone utility, to provide relay services for three years. Future contracts for relay service shall be awarded based on criteria such as cost, experience and quality, as the PUC deems appropriate.

Your Committee has also made technical, nonsubstantive amendments to the bill 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. 1536, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1536, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hagino.

**SCRep. 811 Consumer Protection and Commerce on H.B. No. 1637**

The purpose of this bill is amend the usury law by making it applicable to certain consumer credit and home business loans, up to \$250,000.

The current ceiling of the usury law is \$100,000.

The Department of Commerce and Consumer Affairs advised your Committee that it does not perceive any regulatory concerns presented by this bill. It does not oppose the bill.

Your Committee believes that the financial interests of consumers will be better protected by extending the applicability of the usury law to certain loans up to \$250,000, as provided by this bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 1637 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 812 Judiciary and Consumer Protection and Commerce on H.B. No. 231**

The purpose of this bill is to extend the 1986 Tort Reform Law.

The measure proposes to extend by three years the expiration date of the sections of the law relating to insurance, addition of joint and several liability with exceptions, and limitation of damages recoverable for pain and suffering.

Your Committee finds that insurance availability and affordability were major issues in 1986. Since the Tort Reform Law was passed, the crisis has abated. Moreover, the abolition of joint and several liability and the limits on pain and suffering have yet to reveal their full impact since the legal issues involved with those provisions have not been extensively litigated. It is appropriate therefore to extend the 1986 Law to fully realize its potential.

Your Committee has amended the bill by:

- (1) Providing for the law to sunset in two years, instead of three;
- (2) Allowing for the continuance of insurance rate reductions; and
- (3) Clarifying the provisions relating to the practice of pleading unidentified defendants.

With regard to the amendment relating to the pleading of unidentified defendants, your Committee finds that at present attorneys filing lawsuits are often faced with a statute of limitations issue that requires them to name many defendants who may or may not be responsible or liable. Due to time constraints, it is at times incumbent upon the attorney who files such claims to name any and all defendants who may potentially be liable to avoid the running of the statute of limitations. In addition, some lawsuits progress to a stage when a defendant or defendants attempt to place blame on other parties who are not in the lawsuit at a time after the statute of limitations has run.

This situation has often required attorneys to name by necessity defendants who might otherwise not have been brought into the lawsuit. Your Committee feels that present pleading requirements should be liberalized to allow additional naming of parties as long as the initial lawsuit has been timely filed.

While current law provides for unnamed defendant pleading practice which allows defendants to be named after the lawsuit has been filed and after the statute of limitations has lapsed, the law is unclear as to requirements and limitations. It is your Committee's intent to liberalize that law thereby encouraging attorneys to avoid naming questionable defendants. This bill will make it clear that parties shall be allowed to add defendants when "John Does" or "Jane Does" are named by general description or category in the initial complaints. The identification shall always be allowed but attorneys utilizing this procedure are held to the rules of civil procedure and such other requirements or conditions the Court may impose to maintain the orderly process of judicial administration. When a "John or Jane Doe" is identified, the naming of that defendant shall relate back to the date the pleading was filed with the use of "John or Jane Does".

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

Your Committees on Judiciary and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 231, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 231, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Andrews and Cachola.

**SCRep. 813 Consumer Protection and Commerce and Judiciary on H.B. No. 1333**

The purpose of this bill is to amend Section 521-78, Hawaii Revised Statutes, to specify instances in which the tenant shall not be required to deposit payment for rent into the rent trust fund in any court proceeding in which payment or



nonpayment of rent is in dispute, and to delineate the court procedure when the tenant asserts that the rent alleged due is not owed.

Your Committees find that under the present statute, if the rent trust fund is requested by one of the parties, a tenant must deposit money for rent into the rent trust fund prior to a hearing when payment or nonpayment is in dispute. If the tenant is unable to deposit the money allegedly owed into the rent trust fund, possession of the residence is awarded automatically to the landlord.

Your Committees find that the present statute may violate the due process clause of the Fourteenth Amendment of the United States Constitution based on a Supreme Court case, *Sniadach v. Family Finance Corporation of Bayview, et al.*, 395 U.S. 337, (1969). In *Sniadach*, the Court held that a state's prejudgment garnishment procedure freezing a defendant's wages between the time of the initial garnishment and the time of the final judgment in the lawsuit violated the Fourteenth Amendment because the garnishment was deemed to constitute a taking of property without a hearing.

Your Committees find that the rent trust fund statute operates in a similar manner because a tenant must pay a sum into the trust fund prior to a hearing. Further, a tenant is deprived of property without due process when a tenant loses an automatic judgment for possession based solely on the fact that the tenant was unable to deposit the disputed rent.

This bill would relieve tenants from depositing payments into the rent trust fund providing that the parties executed a signed, written instrument agreeing that the rent could be withheld or deducted; or that the rent alleged due in the complaint is not owed, based on a legal or equitable defense, or set-off arising out of the tenancy. Assertion by the tenant that rent alleged due is not owed based upon a legal or equitable defense or set-off arising out of tenancy must be made by written statement signed and sworn under penalty of perjury, and such statement must be submitted to the court. Subsection (b) is amended to clarify when the landlord shall have judgment for possession of the premise.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of H.B. No. 1333 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Oshiro.

**SCRep. 814      Planning, Energy and Environmental Protection and Consumer Protection and Commerce on H.B. No. 673**

The purpose of this bill is to grant a franchise for the island of Molokai to Molokai Electric Company, Limited.

Your Committees find that the franchise proposed by this bill is not required by Molokai Electric to continue to provide electric utility service to customers on Molokai. Molokai Electric has the authority to provide electric utility service on Molokai pursuant to section 269-7.5, HRS, which "grandfathers" the appropriate authority to companies such as Molokai Electric that had a bona fide public utility operation in 1978 when the statute was enacted. However, your Committees find that as economic development on the island increases, there will be a need to expand and improve service, and therefore believe there is a need for a new franchise.

This bill, as received, provides that the council of Maui County has the power to make certain rules and regulations. However, the County of Kalawao (which encompasses Kalaupapa, Waikolu and Kalawao, more commonly known as the Kalaupapa Settlement) is not part of Maui County, and is therefore not under the jurisdiction of the Maui County.

Kalawao is under the jurisdiction of the Department of Health and its Director, pursuant to section 61-1, HRS. Your Committees have therefore amended sections 3 and 5 of this bill to reflect the jurisdiction of the Department of Health.

Your Committees have further amended this bill by amending the definition of "Corporation" in section 1 to include Molokai Electric's successors and assigns.

Your Committees on Planning, Energy and Environmental Protection and Consumer Protection and Commerce are in accord with the intent and purpose of H.B. No. 673, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 673, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Apo, Bunda, Fukunaga, Hashimoto, Isbell, Kanoho, Cavasso, Hemmings and O'Kieffe.

**SCRep. 815      Consumer Protection and Commerce on H.B. No. 285**

The purpose of this bill is to place further controls on condominium ownership of agricultural lands to clarify the intent of the condominium property regime law and prevent the creation of subdivisions without meeting the county subdivision requirements or providing the necessary and required infrastructure.

The bill would require a developer to guarantee that each unit in the project shall only be used for the purposes of agricultural activities in perpetuity. The bill would also require that any agriculture condominium project be decided into two separate areas with one area encompassing only agricultural parcels and the other area only homesites which would be clustered together. The bill would also limit the area of homesites to a certain percentage of the total area of the condominium project.

The bill would make violations of this bill a misdemeanor, with each day of violation constituting a separate offense.

Your Committee received testimony that the Horizontal Property Regime law was being or could be used, by developers of questionable integrity, in conjunction with Ohana zoning to circumvent county density and other zoning laws.

Your Committee also received testimony in opposition to this bill, especially questioning the guarantee provision, jurisdictional issues and the distinction between ownership forms as opposed to land use. Your Committee also received testimony that agricultural condominiums have very legitimate uses, which the bill would potentially disallow.

Your Committee recognizes that a potential for abuse exists but does also recognize the difficulty of interpreting and enforcing a guarantee provision, and the jurisdiction of the counties in various zoning matters. Your Committee has therefore amended this bill to make clear that the condominium laws are not to be used to exceed the maximum number of dwelling units permitted on any particular agricultural property by the applicable county zoning ordinances and has deleted all other provisions of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 285, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 285, H.D. 2.

Signed by all members of the Committee.

**SCRep. 816            Water and Land Use on H.B. No. 1415**

The purpose of this bill is to amend Section 171-52, Hawaii Revised Statutes, to prohibit the abandonment and sale of public trails and accesses, which have historical, cultural, recreational, and educational values and uses to the public.

Your Committee finds that under present law, roads, trails, or other right-of-ways are classified as "remnants" solely on the basis of being economically or physically unsuitable for development or utilization as a separate unit by reason of location, size, shape or other characteristics. These lands are then sold to private landowners despite their possible value to and use by the public. In order to protect the public's interest, the proposed amendments include additional criteria by which land may be classified as a "remnant."

The Department of Land and Natural Resources did not support this bill in its present form because of its broad and ambiguous language and the implication that an unnecessary public hearing would be required in order to determine a land "remnant." Further discussion between the Punalu'u Preservation and Cultural Committee and the Department of Land and Natural Resources produced several proposed amendments to this bill, which addressed the concerns of the Department of Land and Natural Resources.

Therefore, your Committee has made the following amendments to this bill that are reflected in the bill as amended:

1. Honing the criteria for remnant classification by deleting "scenic, aesthetic, or other public" on page 1, line 21;
2. Clarifying the disposition restriction by deleting "or in and of itself, it is economically and physically unsuitable or undesirable for development or utilization;" on page 2, line 3; and
3. Clarifying that a public hearing is not required in order to consider public testimony regarding remnant classification by inserting "that is presented at the regular meeting," on page 2, line 8, and page 2, line 9.

Your Committee on Water and Land Use is in accord with the intent and purpose of H.B. No. 1415, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1415, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 817            Judiciary on H.B. No. 105**

The purpose of this bill is to allow the Department of Transportation to penalize persons violating airport rules, including those who are engaged in commercial and noncommercial activities at public airports.

The present statute provides for a misdemeanor penalty for persons who violate the administrative rules of the airport division.

Your Committee has amended this bill by deleting the criminal sanction of a full misdemeanor and substituting instead a schedule of fines. The schedule of fines is to be promulgated by the director who is empowered to amend it from time to time. Your Committee finds that violations of administrative rules should not result in the imposition of criminal sanctions which are more appropriately addressed by the Legislature. Moreover, in enabling the director to amend the schedule of fines, the degrees of severity of any specific violation can be met by a commensurate fine.

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

Signed by all members of the Committee except Representative Andrews.

**SCRep. 818            Judiciary on H.B. No. 142**

The purpose of this bill is to prohibit the sale of liquor filled candies to persons below the age of twenty-one.

While the present law permits the sale of confectionery products with an alcohol content of five percent or less by weight, your Committee finds that there are no prohibitions on their sale to persons under twenty-one. This measure provides such prohibition. Your Committee notes that anyone violating this proposed measure would be subject to the penalty provision in Section 328-29, Hawaii Revised Statutes, which provides for a fine of not more than \$500, or imprisonment of not more than one year, or both.

Your Committee heard testimony in support of this bill from a representative of a local broker who imports liquor filled candies into the State.

Your Committee further notes that the word "confectionery" is not statutorily defined in Chapter 328. Accordingly, the bill has been amended by using the more precise language "food which is a confectionery" in place of the word "confectionery." The bill has been further amended to correct technical, stylistic, non-substantive errors.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 142, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 142, H.D. 2.

Signed by all members of the Committee except Representative Andrews.

**SCRep. 819            Judiciary on H.B. No. 932**

The purpose of this bill is to extend civil rights guarantees to handicapped individuals impacted by programs receiving state funds. This measure provides a definition of "handicapped individual". Additionally, the practice of discrimination in access to public services is added to the list of acts declared to be contrary to public policy.

Your Committee received favorable testimony from the Governor's Committee on AIDS, the State Planning Council on Developmental Disabilities, the Hawaii Center for Independent Living, the Department of Health and the Commission on the Handicapped.

Your Committee finds that Section 504 of the Federal Rehabilitation Act prohibits discrimination under any program or activity receiving federal financial assistance. This measure is intended to extend the protection provided by Section 504 to State financed programs, and establishes investigation and enforcement mechanisms within the State Civil Rights Commission.

Your Committee has amended the measure to clarify the intent of this measure that purchased and contracted services be included as public services.

Your Committee has further amended this bill to correct a technical drafting error.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 932, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 932, H.D. 2.

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

**SCRep. 820            Judiciary on H.B. No. 726**

The purpose of this bill is to establish a statutory penalty provision for the violation of any administrative rule regulating unencumbered public lands. The bill also proposes to add a statutory definition of "unencumbered public lands."

In support of the bill, the Department of Land and Natural Resources testified that current procedures for penalizing violators of the Department's administrative rules are time consuming and frustrating for many members of the general public. This bill would enable the Department's enforcement officers to issue a citation similar to those issued for traffic violations in the event of a suspected violation, thereby expediting matters.

Upon further consideration, your Committee has amended the bill to change the violation from a criminal to a civil offense. Your Committee believes that all penalties for criminal offenses, for which an offender may be imprisoned, should be contained in the penal code.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 726, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 726, H.D. 1.

Signed by all members of the Committee except Representative Andrews.

**SCRep. 821            Judiciary on H.B. No. 1838**

The purpose of this bill is to implement the provisions of the Federal Commercial Motor Vehicle safety Act (CMVSA) of 1986 (Title XII of Public Law 99-570), which requires the implementation of a commercial drivers' licensing program.

The bill would also provide guidelines on the amount of alcohol that must be found in a defendant's blood for this information to become competent evidence of driving under the influence of alcohol in a criminal prosecution.

Your Committee received testimony in support of this bill from the Department of Transportation, and the Hawaii Transportation Association.

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

- (1) Include category 4 drivers in section 286-102 within the program; and
- (2) Insure that a commercial driver's instruction permit is issued only to individuals who meet the qualification standards of the federal law.

Your Committee also made nonsubstantive amendments for purposes of clarity and style.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1838, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1838, H.D. 2.

Signed by all members of the Committee.

**SCRep. 822            Judiciary on H.B. No. 1362**

The purpose of this bill, as received by your Committee, is to allow public employers to provide government records necessary for exclusive bargaining unit representatives to perform their functions.

The bill would create new procedural guidelines delineating what information an exclusive representative shall be entitled to obtain. Moreover, the bill would hold such an exclusive representative who receives government records to the same restriction on disclosure of such records as the originating agency.

Your Committee finds that the current law recognizes the right of the exclusive bargaining unit representatives to act for all employees in the respective unit and to be responsible for the representation of their interests.

To function adequately, exclusive representatives require certain information that are sometimes contained in government personnel and payroll records. This measure is intended to clarify the issue of disclosure and the nature of certain information to the exclusive representatives.

Your Committee has amended the bill by redrafting it in its entirety to better clarify the expressed intent of this measure. As amended, the bill would amend Section 92F-12(a)(14), Hawaii Revised Statutes, so that specific types of information shall be made available or be disclosed. Also, a new section to Chapter 92F will provide in detail what information a government agency must disclose to an exclusive representative. Also, this measure as amended, retains the earlier draft's provision regarding restrictions or disclosure of records by an exclusive representative.

Your Committee, in so amending this measure, notes that such amendments were made after due deliberation among various organizations representing the Office of Information Practice, the Hawaii Government Employees Association, and the Department of Personnel Services.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1362, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1362, H.D. 2.

Signed by all members of the Committee.

**SCRep. 823            Judiciary on H.B. No. 920 (Majority)**

The purpose of this bill is to transfer the Office of the Sheriff and the Judiciary security personnel into the Department of Corrections, which is to be renamed as the Department of Public Safety.

Your Committee has amended this bill to consolidate all public safety functions and employees of state government, including the corrections functions, into a new Department of Public Safety to ensure better organization and coordination of public safety functions, allow for standardized training, and establish a "career ladder" for public safety employees.

As amended by your Committee, this bill provides for the establishment of the new Department of Public Safety upon the effective date of the Act. However, this bill provides that in the interim between the bill's approval and July 1, 1991, the Attorney General shall develop the appropriate transition plans, rework position descriptions, review personnel classifications, develop an organizational structure, submit a proposed budget, and attend to other administrative details to enable the new Department of Public Safety to become operational on July 1, 1991.

The consolidation of public safety functions and employees of state government, including the corrections functions, will take place in two phases. On July 1, 1991, the functions and authority exercised by the Department of Corrections relating to adult and juvenile corrections and the intake service centers; exercised by the Judiciary relating to the Office of the Sheriff and the Judiciary's security personnel; and exercised by the Department of the Attorney General relating to state law enforcement officers, and the Hawaii Paroling Authority and the Criminal Injuries Commission with their functions and authority, shall be transferred to the new Department of Public Safety.

On January 1, 1992, all other public safety functions of the State shall be transferred to the Department of Public Safety. The second phase will transfer the public safety responsibilities of the Department of Land and Natural Resources, the security and enforcement officers of the Department of Transportation, parking control officers of the Department of Accounting and General Services, and of the University of Hawaii, narcotics enforcement officers of the Department of the Attorney General, the Hawaii Criminal Justice Commission, the Criminal Justice Data Interagency Board, and the Hawaii Criminal Justice Data Center.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 920, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 920, H.D. 1, and be placed on the calendar for Third Reading.

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

**SCRep. 824                    Judiciary on H.B. No. 251 (Majority)**

The purpose of this bill is to amend the Constitution of the State of Hawaii to extend the length of the regular session of the Legislature from sixty days to eighty days. The bill would also change the recess to take place between the thirtieth and fiftieth days of the session.

Currently, the Constitution states that the regular session shall be limited to a period of sixty days with a recess for not less than five days. Due to the volume of bills introduced each legislative session and the complexity of the issues, the extension would allow sufficient time to consider proposed legislation and allow for more effective public participation in the legislative process.

Your Committee finds that this thirty percent extension would provide extra time to consider the myriad of bills introduced in the legislature each year.

Testimony in support of this bill was received from the Steering Committee of the Rainbow Coalition.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 251 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.  
(Representatives Andrews and Cavasso did not concur.)

**SCRep. 825                    Judiciary on H.B. No. 254**

The purpose of this bill is to increase the use of the Hawaii Election Campaign Fund by raising the maximum amount available to candidates for all offices from \$50 to \$250.

Your Committee finds that few candidates take advantage of this fund and it has been accumulating a surplus since its inception.

Testimony in favor of this measure was received from the Steering Committee of the Rainbow Coalition.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 254 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 826                    Judiciary on H.B. No. 232 (Majority)**

The purpose of this bill is to amend section 572-6, Hawaii Revised Statutes, to remove from the application for a marriage license questions regarding the applicants' race, their occupation, and whether the applicants' parents are alive; to require that the applicants state that prior marriages if any, have been dissolved by death or dissolution; to require that if all prior marriages, if any, have been dissolved by death or dissolution, the applicants state the date of death of the last prior spouse or the date and jurisdiction in which the last decree of dissolution was entered; and to make optional the provision of certain other information requested for statistical or other purposes. This bill also makes certain stylistic changes in section 572-6.

Your Committee received testimony from the American Civil Liberties Union in support of this bill and from the department of health in opposition to this bill. Some members of your Committee have suggested that data relating to race may be helpful to Native Hawaiians in establishing their eligibility for certain benefits and programs.

Upon further discussion, the department of health has withdrawn its opposition to this bill and has agreed to inform those applicants who may be Native Hawaiians that answering optional questions may be beneficial to them.

For the purpose of consistency, your Committee has amended this bill by substituting the phrase "date of birth" for the term "age" to reflect the actual language of the application form.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 232, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 232, H.D. 1, and be placed on the calendar for Third Reading.

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

**SCRep. 827                      Judiciary on H.B. No. 241**

The purpose of this bill is to allow the parties to a medical tort suit that otherwise might require mandatory arbitration, to elect to bypass the arbitration program and institute litigation in court. The bill would also shorten the period for tolling of any statute of limitation upon the filing of claims with the medical claim conciliation panel from eighteen to twelve months.

In medical tort cases, the parties now must go through three stages. They must first go through the medical claim conciliation panel, then submit the matter to arbitration, finally institute litigation in court. Your Committee finds that this triple stage manner of resolving disputes adds to the expense of case resolution along with unnecessary delays. This measure would eliminate the middle step-arbitration, at the election of either the plaintiff or the defendant.

Your Committee received favorable testimony from the Medical Coalition for Tort Reform. The Hawaii Academy of Plaintiffs' Attorneys and the Judiciary both expressed no strong opposition to the measure.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 241 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 828                      Judiciary on H.B. No. 1656**

The purpose of this bill is to provide a simplified way of making custodial arrangements for the property of adults, by providing that the property be placed for management in a manner that ensures control of the property when a person becomes incapacitated, and by allowing for the passing of property at death, obviating the necessities of probate or guardianships proceedings.

This measure proposes to provide a new, inexpensive alternative to formal trusts and guardianships for those who do not need extensive planning or who do not have sufficient assets to undertake the estate planning necessary for a formal trust.

A person creates a custodial trust under this proposal by signing a simple statement to the effect that the property is being placed in trust in accordance with the provisions under this measure. This statement sets forth in detail all powers of the trustee as well as all aspects of the trust relationship. No elaborate or lengthy legal trust agreement is needed.

During the period when there is no question of capacity, the bill provides that a person, naming himself or herself as the beneficiary, may create a custodial trust of property by conveying the property to a trustee who retains all powers over that property until the occurrence of incapacity. When incapacity occurs, three appointed trustees continue to manage the property for the beneficiary; there is no need for costly guardianship hearings. The beneficiary retains the right to terminate this trust relationship at any time or to instruct the trustee to distribute the property in a specified way at the beneficiary's death. Such distribution is considered a non-probate transfer of the property.

Your Committee received testimony in support of this bill from the Probate and Estate Planning section of the Hawaii State Bar Association as well as from the Commissioner of the Commission to Promote Uniform Legislation. Testimony indicates that our State already has a similar law for minors. The Uniform Transfers to Minors Act, chapter 553A, Hawaii Revised Statutes, has been effective in allowing the transfer of property for the benefit of a minor without the need for a formal guardianship or trust.

Your Committee finds that this bill would greatly ease the anxiety of those preparing for the event of personal incapacity or death. This bill provides the vehicle for that preparation and safeguards the integrity and control over an individual's properties while that individual is able.

Upon further consideration, your Committee has amended the bill by substituting the term "conservator" with "guardian of the property." Your Committee notes that "guardian of the property" is used in the Uniform Probate Code, see section 560: 1-201 (19), Hawaii Revised Statutes. Your Committee finds it appropriate to delete the archaic term "conservator" to conform the language of this bill to the statutory language already used in section 560.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1656, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1656, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 829                      Judiciary on H.B. No. 316**

The purpose of this bill is to amend the Hawaii Code of Evidence to create an alternative whereby a declaration is permitted in lieu of an affidavit in a court proceeding.

Your Committee heard testimony in support of this measure from a practicing attorney who indicated that attorneys often experience difficulty finding a notary public to notarize sworn statements of their clients.

Your Committee finds that this bill addresses the problem by allowing a declaration which states, "I declare under penalty of perjury that the foregoing is true and correct," to be used in court in lieu of an affidavit. Your Committee further finds that under Section 710-1060, Hawaii Revised Statutes, anyone making a false declaration such as the one above, can be charged with perjury, a class C felony. This bill therefore simplifies the process while ensuring the truthfulness of the contents of court documents.

Your Committee further notes that a number of other states, including California, have adopted the same statutory scheme.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 316 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Andrews and Cachola.

**SCRep. 830            Judiciary on H.B. No. 1649**

The purpose of this bill is to expand the crime of sexual assault in the third degree to include engaging in compulsive sexual behavior while unlawfully in a dwelling.

Upon further consideration, your Committee has amended this measure by deleting the original purpose and inserting provisions to amend the crime of criminal trespass in the second degree to include remaining on the premises of any governmental building or facility after reasonable warning to leave is given.

Your Committee finds that under current statutes, the Department of Accounting and General Services is not empowered to adopt rules relating to the use of public buildings. Consequently, the department is unable to regulate certain activities such as a trespass, littering, and unruly conduct in and around public buildings. This amendment addresses this problem by allowing the police to apprehend and charge offenders with criminal trespass.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1649, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1649, H.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Andrews, Cachola and Shon.

**SCRep. 831            Judiciary on H.B. No. 1382**

The purpose of this bill is to expressly declare that Hawaii elects not to adopt the Federal Health Care Quality Improvement Act of 1986 because our State statutes already provide adequate protection and incentive for physicians engaging in professional peer review. The bill would also expand peer review immunity and hospital or clinic quality assurance immunity and provide protection against discovery of quality assurance records.

Currently, peer review materials are protected from discovery; they focus primarily on the care and treatment rendered to patients by a particular physician or health care professional with a view towards imposing discipline or remedial requirements on the physician or health care provider. These materials are properly confidential and not subject to discovery.

Your Committee finds, however, that quality assurance materials do not focus on a particular physician or health care professional for disciplinary or remedial purposes, but rather concern the improvement of the quality of care rendered to patients generally. Such materials are not, and should not be, protected from discovery and civil actions or claims brought by injured patients.

In many instances, studies concerning quality assurance provide critical and valuable factual information concerning known or identified problem areas in hospitals or health care providing organizations. Such information goes to the issues of the existence and extent of the duty owed to a patient and the discharge of that duty by the health care provider or health maintenance organization. The information is vital to the preservation of existing rights of patients injured or killed as a result of negligence. Elimination of quality assurance materials from discovery would severely curtail the rights of injured parties.

Accordingly, your Committee has amended this bill by deleting the provision prohibiting discovery of records of quality assurance committees.

Your Committee has further amended the bill by providing that all witnesses who participate with or who assist a peer review committee, or quality assurance committee, are immune from civil liability.

Your Committee received favorable testimony from the Department of Commerce and Consumer Affairs, the Department of Health, the Medical Coalition for Tort Reform, Kapiolani Medical Center, Healthcare Association of Hawaii, Kaiser Permanente, and the Hawaii Interhospital Quality Assurance Group.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1382, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1382, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Shon.

**SCRep. 832                    Judiciary on H.B. No. 551**

The purpose of this bill is to set a minimum fine of at least \$25 for each offense of littering.

Your Committee received testimony in support of this measure from the Department of Transportation and the West Diamond Head Community Association. This testimony indicated that currently, the State spends more than \$1 million annually cleaning up litter at our airports, harbors and highways. It is apparent that clean up work is not enough. There has to be stricter enforcements coupled with higher fines in order to preserve the natural beauty of our islands.

The bill amends various sections of the Hawaii Revised Statutes pertaining to littering from vehicle, litter control and criminal littering, to set a minimum fine of \$25 therein. Your Committee finds that setting a minimum fine would serve to deter such illegal behavior.

This bill further provides that half of all fines collected be allocated to the county in which the offense occurred. Of those monies, no less than 15% shall be spent on anti-litter programs.

Your Committee has amended this bill by enabling the court in a criminal littering case to sentence the defendant to some other form of community service should the defendant be found to be unable to perform the task of picking up litter. This would provide consistency with the current penalty provision under chapter 339, relating to litter control.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 551, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 551, H.D.1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Andrews, Cachola and Shon.

**SCRep. 833                    Judiciary on H.B. No. 583**

This bill would add a new section to Chapter 663, Hawaii Revised Statutes, to provide that in cases brought by one health care professional against another for losses resulting from information provided by the second health care professional in any situation related to a professional review proceeding, it shall be a complete defense to the action that the information was provided by the second professional in the reasonable belief that the information was warranted by the facts after a reasonable effort to obtain the facts.

The bill also provides for the awarding of fees and costs to the defendant where the suit is found to be frivolous, unreasonable, without foundation, or in bad faith.

Your Committee finds that a truly effective peer review process can only exist where participants are free to involve themselves without fear of reprisal.

Testimony in support of this measure was received from the Department of Commerce and Consumer Affairs and the Medical Coalition for Tort Reform.

Upon further consideration, your Committee has amended the bill by deleting the provisions relating to the elements of a complete defense available to the second health care professional. Your Committee is concerned about the variety of standards protecting witnesses and reviewing entities. More various protections ought to be standardized with the purpose of affording the greatest liability protections for participants in professional review proceedings.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 583, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 583, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hayes, Hirono, Oshiro and Shon.

**SCRep. 834                    Judiciary on H.B. No. 538**

The purpose of this bill is to amend the Hawaii Rules of Evidence by adding a rule relating to the competency of children as witnesses in criminal prosecutions. Under the proposed rule the testimony of a child who is a victim of, or witness to a crime shall not be excluded by virtue of that child's age. Furthermore, it shall be for the trier of fact to determine the weight and credibility of the testimony.

Your Committee finds that the credibility of the testimony of a child should be judged by the circumstances of the case and not solely based on the age of the child.

Your Committee on Judiciary has made technical amendments to the bill to make clear that, as with other witnesses, a child witness must declare that he or she will testify truthfully and be able to express himself or herself in a manner that



can be understood and has personal knowledge of the matter testified to. Your Committee deleted the prohibition of a cautionary jury instruction based upon the fact that such cautionary instructions are not now given.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 538, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 538, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Andrews.

**SCRep. 835                    Judiciary on H.B. No. 1593**

The purpose of this bill is to amend HRS 571-46 by adding evidence of spousal abuse to the court's criteria for awarding custody of minor children.

Your Committee has received favorable testimony from the Department of the Prosecuting Attorney of the City and County of Honolulu, family law attorneys engaged in private practice and several individuals who related personal experiences of spouse abuse and concerns regarding custody of their children. All of the foregoing witnesses expressed concern that a custodial parent who is also an abusive spouse places the child in danger as well, that battered spouses often remain in an abusive relationship because of concerns regarding custody and that an abusive spouse who is awarded custody may create an environment for the child that is detrimental to the child's health and well-being.

Your Committee has also heard testimony from the Judiciary indicating that evidence of spousal abuse is not a factor that is relevant to "the best interests of the child," and that this bill will give greater weight to evidence of spousal abuse, which the court deems to be only one of several criteria to be considered. In short, the Judiciary is concerned that judicial discretion may be limited.

Therefore, your Committee has amended this bill to make clear that evidence of spousal abuse shall be considered only as it relates to the best interests of the child.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1593, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1593 H.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Andrews.

**SCRep. 836                    Judiciary on H.B. No. 447**

The purpose of this bill is to allow the Director of the Department of Corrections to conduct criminal history record checks through the Hawaii Criminal Justice Data Center on all staff members and new staff members of the department. The bill would also exempt the department from the statutory requirement pertaining to the prohibition against disqualifying a person from public employment solely by reason of a prior convictions.

Your Committee received testimony in support of this measure from the Office of the Attorney General and the Director of the Department of Corrections. Testimony indicates that this measure would afford the opportunity for the state to screen applicants seeking employment as well as current employees who may have been convicted of certain criminal offenses, and whose employment with the department give them access to or continual contacts with inmates or wards of the State. Your Committee finds that a criminal history record check would allow the department to have employees placed into positions of responsibility who are sound of character and who will not compromise the health, safety, security and well-being of fellow staff, inmates and wards.

Your Committee, upon further consideration, has amended this measure by:

1. Clarifying that new staff members must be fingerprinted and have their criminal history record check completed prior to starting employment.
2. Exempting current staff members from being assessed a fee for the record check.
3. Providing that the department may only deny employment to a new staff member who was convicted of a crime.
4. Adding a new provision stating under what circumstances a current staff member may be terminated.

It is to be noted that the bill, with the above amendments, would balance the rights and concerns of all current staff members with the department's desire to hire and retain employees who exhibit the requisite moral character. Your Committee also finds that many current staff members who had expressed opposition to an early draft of this bill have voiced their acceptance of this measure as amended herein.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 447, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 447, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Andrews, Cachola and Shon.

**SCRep. 837                    Judiciary on H.B. No. 1680**

The purpose of this bill is to enact the Uniform Durable Power of Attorney Act. Current State law provides for a durable power of attorney but gives little guidance to those who use it. The Uniform Act will provide comprehensive guidelines including the effectiveness of a power and the obligation of a third party to honor a power.

Your Committee received testimony in favor of this bill from the Commission to Promote Uniform Legislation and an attorney practicing in the area of estate planning.

Upon further consideration, this bill has been amended by including an option that a durable power of attorney can be effective as a power of attorney both before the principal's disability and after it. The bill already provides that a durable power of attorney may also be drawn up before any disability occurs so that the durable power will become effective upon any disability.

Your Committee has also made technical, nonsubstantive amendments for style and clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1680, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1680, H.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 838                    Judiciary on H.B. No. 1711**

The purpose of this bill is to create a class of marijuana felony offense to be designated as "commercial promotion of marijuana in the first degree" which is to be classified as a class A felony. The bill would also change the existing crime of commercial promotion of marijuana to the crime of commercial promotion of marijuana in the second degree, and would reduce the threshold quantities of controlled substances necessary to constitute commercial promotion of marijuana in the second degree and promoting a detrimental drug in the first and second degrees. The bill also contains certain evidentiary provisions.

Your Committee heard favorable testimony from a representative of the State Attorney General, county prosecutors, and police chiefs which indicated that the drug problem in Hawaii has become epidemic and is probably the worst in the United States. During a nationwide marijuana eradication program, Hawaii accounted for twenty-five per cent of all the marijuana seized. This is cause for alarm in light of the size and population of our State.

It becomes manifestly apparent that the cost of the illegal possession, cultivation, and distribution of drugs is enormous, to be measured in millions of dollars, shattered lives, and the destruction of families.

Your Committee finds that currently, Hawaii does not have a class A felony marijuana statute. Those who are involved in the activities of possessing, cultivating, or distributing marijuana at any level would never face any penalty higher than a class B felony. Such offenders impact most negatively on our communities and your Committee finds they should be punished accordingly.

Your Committee has amended this measure by deleting from Section 1 of the bill, subsection (f) pertaining to the distribution of drugs to minors. Also deleted were Sections 2 and 3, relating to reduction of the threshold quantities of controlled substances needed to constitute promotion of detrimental drugs.

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

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1711, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1711, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 839                    Judiciary on H.B. No. 1476**

The purpose of this bill is to limit tort liability for persons who give shelter or support to runaway or endangered minors.

The bill does not absolve from liability persons who abduct or otherwise compel or induce children away from their legal custodians. The bill expressly subjects those persons to tort liability to the minor's parent. But when a person gives a runaway minor shelter, food, clothing and care, and knows that the minor left home without permission, then no tort liability shall be attached.

Your Committee received favorable testimony from an attorney practicing in Kona, Hawaii, while testimony in opposition to the measure was received from the Hawaii Academy of Plaintiffs' Attorneys.

Your Committee finds that the problem of runaway children presents a real and present danger. Runaways face possible molestation, exploitation, and are subjected to abuse or neglect. Limited resources and shelters in this State present an incomplete solution to the problem. Individuals can help and should be encouraged to do so. This measure is intended to alleviate the fear of or reluctance to rendering aid to a runaway because of the likelihood of being sued.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1476 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 840                      Judiciary on H.B. No. 662**

The purpose of this bill is to provide for the imposition of liens against the real and personal property of absent parents who owe overdue child support payments.

Your Committee finds that this bill is necessary to meet the federal requirement of a lien law in the State for the pursuit of overdue child support. The passage of this bill will make it possible to recover a portion of the \$46,000,000 that is currently owed to children in delinquent child support payments.

Your Committee has amended this bill to lengthen the period of overdue support before a lien could be declared from one to three months.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 662, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 662, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 841                      Judiciary on H.B. No. 658**

The purpose of this bill is to define what an "automatic firearm" is, and to make it illegal for someone to convert a firearm into an automatic firearm.

Your Committee finds that the current statutory provisions do not define "automatic firearms" nor provide for a penalty for the conversion of any firearm to an "automatic firearm." This measure provides for such a definition and makes it a class C felony, for any person who installs, removes, or alters a firearm part with the intent to convert an ordinary firearm into an automatic firearms.

Your Committee received favorable testimony in support of this measure from the Honolulu Police Department and the Schofield Rod and Gun Club.

Your Committee has amended the bill to correct certain typographical errors; no substantive changes were made.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 658, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 658, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 842                      Judiciary on H.B. No. 650**

The purpose of this bill is to better ensure the effectiveness of hospital peer review systems.

This bill would amend Section 663-1.7, Hawaii Revised Statutes, to include hospital ethics committees among those bodies immune from civil liability for acts which fall within the purview of the committee.

Your Committee finds that an effective hospital peer review system requires that members of an ethics committee be free from fear of reprisal.

Testimony in support of this measure was received from the Department of Health, the Healthcare Association of Hawaii, and the Medical Coalition for Tort Reform.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 650 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 843                      Judiciary on H.B. No. 569**

The purpose of this bill is to provide a process for removal or resignation of a guardian of the person without the necessity of a hearing when the Public Guardian is to be appointed as a temporary or successor guardian.

This bill would allow guardianship of over 900 wards of the Department of Health to be easily transferred to the Public Guardian, thereby removing the conflict of interest which exists because the Department of Health currently acts as both guardian and service provider to each of these wards.

Your Committee received testimony from the Family Court, the Commission on the Handicapped, and the National Association of Social Workers, Inc., in favor of this bill.

Your Committee has amended this bill to clarify the scope and procedures of the proposed process.

Your Committee has further amended this bill to correct technical drafting errors.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 569, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 569, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 844                    Judiciary on H.B. No. 564**

The purpose of this bill is to define the word "conviction" as applied in the revocation or modification of probation conditions.

Your Committee finds that the Hawaii Supreme Court, in State v. Rodrigues, 68 H. 125 (1985) at 133, stated: "...in the eye of the law a person is not deemed to have been convicted unless it is shown that a judgment has been pronounced upon the verdict." The measure would ensure clarification of when a conviction has occurred for the purpose of revocation or modification of probation conditions by setting forth the definition of conviction based on State v. Rodrigues.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 564 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 845                    Judiciary on H.B. No. 536**

The purpose of this bill is to establish a mechanism for the licensure of private persons to serve process, who will function in addition to the current sheriffs, deputy sheriffs and police officers.

Your Committee finds that the Police Departments are often not available to serve process on private civil actions. Moreover, the Legislative Auditor's 1989 report to the Legislature on the management and financial audit of the Judiciary strongly recommended that the service of process be removed from the Judiciary, which should only be involved in training, qualifying and certifying process servers. This would alleviate the tremendous manpower demands currently placed upon the Office of the Sheriff, while promoting a healthy competition in the market which could culminate in more efficient process serving and lower cost to those who seek access to our legal systems.

Your Committee received favorable testimony, upon this measure from the Administrative Director of the Courts and the Hawaii Bar Association.

Your Committee has amended this bill by allowing the licensed process servers to serve and collect fees for service of district court as well as Circuit Court documents. Additionally, your Committee has amended sections 651-1, 653-6, and 654-2, Hawaii Revised Statutes, pertaining to attachments and execution, garnishment and beneficiaries and immediate possession respectively. These three sections will incorporate the license process servers as serving officers that a court can utilize.

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

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 536, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 846                    Judiciary on H.B. No. 453**

The purpose of this bill, as received, is to increase from three to five years the length of time which prosecution must be commenced for cases involving a sexual assault of a child under the age of eighteen.

The Attorney General testified in favor of amending the bill to delete its substance and to substitute in its place an amendment to the State's unclaimed property law which would clarify that the existing ten year limitation for the Director of Finance to take action to recover unclaimed property does not apply when the holder is a federal, State, or local government.

According to the Attorney General this clarification would enhance Hawaii's ability to recover abandoned property from the federal government. Several states recently sued the United States to recover property, and Hawaii is presented an opportunity to join as a plaintiff in that action. It has been estimated that Hawaii's chances of recovering would be improved by at least as much as \$500,000 if the Hawaii law were changed.

Your Committee is in agreement with the recommendations made by the Attorney General, and has amended the bill accordingly.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 453, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 453, H.D. 1 and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 847                    Judiciary on H.B. No. 523**

The purpose of this bill is to amend Section 574-2, Hawaii Revised Statutes, and Section 574-3, Hawaii Revised Statutes, by amending the parts of these sections that infringe on the constitutional rights of parents to give a child any surname they choose.

Your Committee received testimony from concerned private citizens, the Kapiolani Medical Center for Women and Children, and the Hawaii Medical Record Association in support of this measure. In addition, testimony received from the Department of Health suggested that since the ruling which held the Hawaii Revised Statutes to be unconstitutional, with regard to the matter of giving children a surname, was rendered by the United States District Court for the District of Hawaii, not by the Hawaii Supreme Court, it should be so cited in the bill.

Your Committee concurs with the Department's suggestion on this matter and has amended the measure accordingly.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 523, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 523, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 848                    Judiciary on H.B. No. 302 (Majority)**

The purpose of this bill is to make various statutory changes relating to education and the Department of Education.

Your Committee has made comprehensive revisions to this bill. As amended, this bill now proposes to improve the organizational structure of the Department of Education. This bill makes several statutory changes designed to clarify the lines of authority to place accountability and responsibility of the various components of the Department in clearly identifiable areas. In particular, the powers, duties, and functions of the Superintendent as well as the Board of Education are clearly delineated.

The Superintendent, not the Board of Education, is intended to have jurisdiction over the management of the public school system and the internal organization of the Department. Thus, statutory provisions which assigned managerial duties to the Board have been changed to reflect the role of the Superintendent.

Your Committee believes that this bill will make it clear that the Superintendent, not the Board of Education, shall be fully accountable and responsible for the management of our public school system and for the internal organization of the education department. The Board of Education will continue to set overall policies for the Department of Education, and will advise the Superintendent on all matters within the jurisdiction of the Department. The Board will also have an important role in reviewing and making recommendations on the operating budget and the capital improvements program of the Department. It will also play a vital role in advising the Governor on collective bargaining matters involving the personnel of the Department.

Your Committee recognizes, however, that the matters contained in this bill are all contingent upon the ratification of proposed amendments to the State Constitution relating to the Board of Education and the Superintendent of Education. Thus, your Committee notes that this bill will, upon approval by the Governor, take effect as law only if the proposed amendments to the State Constitution contained in H.B. No. 352, H.D. 1, are approved by the electorate in compliance with Article XVII, section 3, of the Constitution of the State of Hawaii.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 302, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 302, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hagino.  
(Representative Shon did not concur.)

**SCRep. 849                    Judiciary on H.B. No. 352 (Majority)**

The purpose of this bill is to propose amendments to Article X, Sections 2 and 3 of the Constitution of the State of Hawaii to change the elected Board of Education (Board) to an appointed board and to limit the Board's power.

Your Committee has amended the bill in basically two ways. As amended, this bill now proposes an amendment to Article X, Section 3 of the State Constitution to remove from the Board the power to appoint the Superintendent of Education, and the jurisdiction over the internal organization and management of the public school system. The Board will continue to set overall policy for the Department and will advise the Superintendent in the affairs of the Department.

Secondly, this bill, as amended, proposes a new section to Article X of the State Constitution. This new section provides that the Superintendent of Education shall be appointed by the Governor with the advice and consent of the Senate. It also provides that the Superintendent, not the Board of Education, shall have jurisdiction over the internal organization and management of the public school system.

Your Committee believes that this fundamental change in our constitution will result in a clear, improved line of accountability and responsibility in our vital education system.

Your Committee has determined that the primary responsibility for the overall management and control of the Department of Education should rest in the single department head - the Superintendent of Education. Further, the Superintendent shall be fully accountable to the appointing authority - the Governor.

In order to ensure a broad-based community support for the Office of the Superintendent, the appointment is made subject to confirmation by the Senate. Finally, the Board will continue to have the important role of setting overall policies for the Department of Education. The Board will also advise the Superintendent on all matters within the jurisdiction of the Department of Education.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 352, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 352, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hagino.  
(Representative Shon did not concur.)

**SCRep. 850                      Judiciary on H.B. No. 837**

The purpose of this bill is to make a technical correction to section 333F-16, Hawaii Revised Statutes. Presently, all wards admitted to Waimano Training School and Hospital are under the care of the Department of Health. The director of the department is designated as the guardian of these wards, unless a private guardian has been appointed. Section 333F-16, pertaining to effect on prior commitments, provides that any parent or other interested person may petition the family court for removal of the director as guardian of any ward committed to Waimano. However, section 333F-16 is worded in a manner that implies that only the parents or interested persons of those wards who are committed on July 1, 1987 are allowed to so petition. This bill is intended to correct this technical error.

Your Committee has received testimony in favor of this bill from the Department of Health, the Commission on the Handicapped and the State Planning Council on Developmental Disabilities.

Your Committee has amended this bill by amending section 2, lines 14 and 15, to read "these persons shall have met the criteria for admission under this chapter," rather than the current statutory language of "these persons shall be deemed to have met the criteria for admission under this chapter". Your Committee finds that this amendment is necessary to protect individuals from unnecessary institutionalization as a former resident of Waimano may no longer meet the criteria for commitment, and the fact that the ward was once a resident of Waimano should not be a criteria or serve as a guarantee for re-admission.

Your Committee has also amended this bill to correct certain typographic, technical, and stylistic errors.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 837, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 837, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 851                      Consumer Protection and Commerce on H.B. No. 945 (Majority)**

The purpose of this bill is to expressly authorize insureds and claimants damaged by certain unfair claim settlement practices in the business of insurance, to bring a private action for damages.

This bill would amend Section 431:13-204, Hawaii Revised Statutes, by adding a new subsection which would read as follows:

(b) Insureds and claimants who are damaged by a violation of any provision of section 431:13-103(10) may bring an action for damages in any court of competent jurisdiction.

Your Committee heard testimony in support of this bill from the Hawaii Academy of Plaintiffs' Attorneys. Testimony in opposition to this bill was presented by representatives of insurance companies, insurance trade associations and local attorneys.

This bill would expressly allow aggrieved persons, whether they are insured policyholders or injured persons who are claimants, to bring actions for damages based on violations of unfair claims settlement practice standards set forth in section 431:13-103(10).

Your Committee finds that the legal community has recognized the existence of such rights in favor of policyholders (insureds), but uncertainty exists concerning rights of third-party claimants.

This bill is intended to clarify that such rights exist for policyholders to afford the protection necessary from insurance claims practice violations.

However, because of the concerns raised by several testifiers, your Committee has deleted the words "and claimants" from line 8 of the bill. It should be noted that this bill, as amended, is not intended to affect one way or the other or imply the absence of third party rights of claimants; nor affect the existing right of insureds to assign their rights to claimants.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 945, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 945, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.  
(Representatives Andrews, Bellinger, Cachola, Peters, Yoshimura, Anderson and Cavasso did not concur.)

**SCRep. 852 Consumer Protection and Commerce on H.B. No. 946 (Majority)**

The purpose of this bill is to enable lessees of condominiums and cooperatives who are offered their lessor's fee interest, to acquire such interests at a fair price as determined by a panel of arbitrators. This bill also amends several sections of Chapter 514C, Hawaii Revised Statutes, for purposes of clarification.

Section 1 of the bill provides that the board of directors of a condominium or cooperative housing project may make a written demand on the lessor for arbitration of the sales price of the leased fee interest within thirty days of its receipt from the lessor of the written notice and purchaser's written offer pursuant to Section 514C-2, Hawaii Revised Statutes. In such a case, the sales price of the leased fee interest would be the fair market value of the leased fee interest as determined by three impartial real estate appraisers.

Section 2 replaces the term "horizontal" property regime, with the term "condominium" property regime, to provide for consistent use of terminology in Chapter 514C.

Sections 3 and 4 clarify that the scope of Chapter 514C is intended to include only residential units, and is not intended to pertain to commercial apartments. These sections also clarify that for projects containing both residential and nonresidential units, the right of first refusal extends to allow the condominium association or cooperative corporation to purchase the portion of the leased fee or improvements that corresponds to the leasehold interests of the residential lessees.

Section 5 of the bill is intended to clarify that condominium and cooperative boards are empowered to reject lessors' offers which are made pursuant to the right of first refusal.

The change proposed by Section 6 of the bill is to clarify that condominium lessees who do not buy their proportionate shares of the lessor's interest are nonetheless subject to the payment of their proportionate shares of the common expenses of their condominium association or cooperative, and that those common expenses may include the carrying cost borne by their condominium associations or cooperatives on account of its exercise of their statutory right of first refusal.

Testimony in support of this bill was presented by the Hawaii Leaseholders Equity Coalition, the Hawaii Independent Condominium and Cooperative Owners, leasehold apartment owners, several local attorneys, and others. Your Committee was advised that since the enactment of Section 514C-2, Hawaii Revised Statutes, less than a year ago, concerns have been raised about the effectiveness of the act. Some lessors have refused to negotiate with either the board or the individual apartment owners. Others have made non-negotiable offers to the individual apartment owners at take-it-or-leave-it prices and with relatively short deadlines.

Opposition to this bill was presented by small landowners, a realtor-developer, several local attorneys, and others. They maintained that requiring arbitration to establish the selling price or other terms of sale of private land is unconstitutional, and would cause voluntary fee sales to stop.

Your Committee finds that the statutory right of first refusal needs to be strengthened and clarified. There is a need for condominium associations and cooperative corporations to be able to acquire the lessor's fee interest at a fair price, when it is offered to them pursuant to Section 514C-2. Your Committee believes that the solution to this problem, however, better lies in a negotiated agreement as to terms of sale rather than by a determination through arbitration.

This bill has been amended to delete the arbitration requirement under Section 1, and has been replaced with a provision requiring the seller and board of directors, during the one hundred twenty-day first refusal period, to negotiate in good faith to attempt to reach a mutually acceptable agreement as to the terms and conditions upon which the leased fee interest will be sold. If such an agreement cannot be reached during the period, then the seller may sell the leased fee interest free of the right of first refusal. If the seller fails to negotiate in good faith pursuant to this section, then any sale of the leased fee interest becomes voidable under Section 514C-8.

Additionally, Section 4 of the bill has been amended so as to delete the words "or offer" in Section 514C-5. This amendment is made to clarify that it is the sale of the property, rather than the conditional offer to sell the property, that is prohibited during the right of first refusal period.

Technical, nonsubstantive changes have been made for purposes of style and clarity, and sections of the bill have been renumbered to accommodate the deletion of Section 1.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 946, H.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 946, H.D. 2, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

(Representatives Amaral, Andrews, Bellinger, Peters, Yoshimura, Anderson and Cavasso did not concur.)

**SCRep. 853                      Judiciary on H.B. No. 1870**

The purpose of this bill is to expressly include programs, projects, and activities on the subject of crime, including crime research, prevention, and education, as functions of the Department of the Attorney General. The bill also sunsets the Hawaii Criminal Justice Commission, which was established within the Department of the Attorney General for administrative purposes only. Further, the bill establishes a Criminal Justice Advisory Board within the Department of the Attorney General. The bill provides general rule-making authority for the Department of the Attorney General and transfers the Commission's functions, staff, appropriations, and records to the Department.

The Attorney General has testified that he requires statewide information on various aspects of the crime problem in Hawaii but he does not have the staff or the expressly assigned statutory functions to research and obtain the needed statewide information.

The Attorney General has testified further that the Hawaii Criminal Justice Commission has had the experience of independent and comprehensive research on crime and the criminal justice system; that function was deleted when the Commission was reorganized in 1988, and that the Commission presently has focused its functions on developing crime prevention and education programs, projects, and activities; that the research function of the Commission should be restored and its staff and functions transferred to the Department of the Attorney General; that this will assure the continuation of the Commission's programs, projects, and activities as well as provide the staff nucleus to perform the additional research function; that a Criminal Justice Advisory Board should be created to advise the Attorney General on the subject of criminal justice, including crime research, prevention, and education; and that it would be appropriate to sunset the Hawaii Criminal Justice Commission at this time.

The Attorney General has testified also that there is presently no general rule-making authority to cover the functions of the Department of the Attorney General similar to the power provided for in section 26-9(k), Hawaii Revised Statutes, to the Department of Commerce and Consumer Affairs and by sections 321-9 and 321-10, Hawaii Revised Statutes, to the Department of Health; that the express mention of general rules of practice and procedure to cover all administrative offices, boards, and commissions placed or established within the Department of the Attorney General would avoid any contention that rules of practice and procedure will have to be specifically adopted for each office, board, or commission, especially if the agency is placed within the Department for administrative purposes.

Your Committee generally agrees with the testimony provided by the Attorney General but finds that citizen and community input into crime prevention and reduction is critical as proven by the successes of the programs, projects, and activities of the Hawaii Criminal Justice Commission. Your Committee desires that the Commission be retained within the Department for administrative purposes to serve as the mechanism for citizen and community input. A staff should be assigned to it by the Attorney General to continue and further develop the program, projects, and activities that the Commission currently performs.

Accordingly, your Committee has amended the bill by providing for the establishment of the Criminal Justice Commission within the Department of the Attorney General for administrative purposes only. The seven members of the Commission will be appointed by the Governor with the advice and consent of the Senate. Your Committee requires the Commission to perform research on matters directed to it by the Attorney General and to advise the Attorney General on matters directed to it for review and on matters of interest and concern to the residents of the members' community.

In addition, your Committee has amended section 3 of the bill to reflect the transfer of the employees of the Hawaii Criminal Justice Commission to the Department of the Attorney General. Your Committee also has made technical, nonsubstantive amendments to the bill.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1870, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1870, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 854                      Judiciary on H.B. No. 1709**

The purpose of this bill is to:

- (1) Mandate the Department of Health to establish and administer a statewide program for the chemical testing and detection for drugs of persons suspected of driving under the influence of drugs;
- (2) Allow evidence of refusal to submit to a blood or breath test to detect alcohol or blood to be admissible in any civil or criminal action;
- (3) Mandate those qualified to take blood specimens to keep records of a chain of custody to be given the police upon request;



- (4) Allow blood to be drawn from a person who is unconscious or otherwise unable to give consent without regard to reasonable grounds to believe the person was driving under the influence or the required notification of a right to refuse the test or possible options to the blood test; and
- (5) Apply the testing provisions to all persons in control of a motor vehicle in the State and not just on the public highways.

Your Committee finds that the present law prohibiting driving under the influence of drugs is difficult to enforce unless the implied consent law is applicable to blood tests for those suspected of driving under the influence of drugs. This measure would provide that all drivers in our State are deemed to have given consent to blood tests if there are reasonable grounds to believe that the drivers are suspected of being under the influence.

Your Committee is deeply concerned that there are currently no drug testing or screening procedures authorized. As a result, many drivers impaired because of the influence of drugs are released unprosecuted.

It is important that drivers in this State realize that driving under the influence of any substance that has been deemed illegal is dangerous and that they will be arrested and prosecuted for such offenses. By this measure, it is intended that drug users who drive, who ignore the law, and who put the community at risk will be penalized accordingly.

Notwithstanding the foregoing, it is your Committee's finding that evidence of drugs or alcohol be considered with other competent evidence by the court in determining whether or not the person was, at the time of the alleged violation, under the influence. Such evidence shall not of itself give rise to any presumption.

Your Committee received favorable testimony on this measure from the State Attorney General, county prosecutors and police chiefs, the Department of Transportation, and a representative from Mothers Against Drunk Driving.

Your Committee has amended this bill by including a provision mandating those drivers who are convicted of driving under the influence of drugs to make restitution to the police department or other agency incurring the expense of the blood test. Your Committee finds that blood testing is costly in time and money. Such tests will continue to be an ever-increasing burden upon the State as medical costs keep escalating and the number of suspected drivers increases. It is appropriate to require those who engage in illegal activities to make restitution.

Upon further consideration your Committee also amended the bill by:

- (1) Clarifying the testing language of section 286-151(c);
- (2) Deleting the provision mandating persons authorized to draw blood pursuant to section 286-152 to make tests and analyses as requested by the police;
- (3) Retaining the provision that these laws apply to those on public highways;
- (4) Insuring that reasonable grounds to believe a person was under the influence exists before blood can be drawn even if the person is unable to give expressed consent; and
- (5) Retaining the provision prohibiting admissibility in civil or criminal actions of a person's refusal to submit to a blood or breath test.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1709, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 1709, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 855                      Judiciary on H.B. No. 1340**

The purpose of this bill is change the current schedule of fees charged for services of court process, so that all such fees as provided in the statute would be maximum, rather than a fixed amounts.

Your Committee finds that this measure would permit process servers to charge less than the amount specified in the schedule, thus fostering healthy competition and helping to reduce court costs for citizens who need access to the court system.

Your Committee received favorable testimony from the Hawaii State Bar Association and finds that this measure would not only reduce court costs in general, but the quality and speed of process serving would be enhanced thereby.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1340 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                      Judiciary on H.B. No. 1213**

The purpose of this bill is to amend Section 572-5, Hawaii Revised Statutes, to increase the marriage license fee from the current \$8 to \$16, of which \$8 is retained by the part-time, non-civil service marriage license agents and the remainder is remitted to the Director of Finance.

Your Committee received testimony in support of this measure from the Department of Health as well as a host of marriage license agents. From the testimony, it appears that at minimum, a marriage license agent must do the following before issuing a marriage license: (1) check the premarital health certificate; (2) verify the applicant's age, and if a minor, require proper identification together with parental consent; and (3) ask additional questions of the minor applicant, such as whether his or her parents are divorced, or whether the minor is a ward of the court. The aforementioned requirements coupled with the fact that marriage license agents are called at odd hours to answer inquiries about how to obtain a license has caused your Committee to conclude that this modest fee increase be allowed.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1213 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 857                      Judiciary on H.B. No. 111**

The purpose of this bill is to ensure the safety of passengers in pickup trucks. Specifically, the bill forbids attempts to control unlash cargo and standing in the bed or load-carrying area of any pickup truck while the vehicle is in operation and forbids the operator of a pickup truck from operating it, and the owner of a pickup truck from permitting it to be operated, with a passenger seated in the bed or load-carrying areas unless:

- 1) There is no seating available in the cab; and
- 2) The side racks are securely attached and the tailboard or tailgate is securely closed.

This bill contains an exemption related to business persons and business corporations.

While this measure places numerous restrictions upon the operation of pickup trucks, your Committee finds that restrictions are necessary in light of the number of fatal and near fatal accidents in which persons riding in the back of pickup trucks are ejected during an accident or simply fall out of the truck while it is in operation.

Your Committee received favorable testimony on this measure from the Department of Transportation, the Honolulu Police Department, and the Humane Society.

Upon further consideration, your Committee has amended this bill by adding provisions prohibiting operators of pickup trucks from operating them, and owners of pickup trucks from permitting them to be operated, unless those passengers seated in the bed or load-carrying area are seated on the floor, and unless there is no unlash cargo in the bed or load-carrying area. These amendments clarify the intent of the bill.

Your Committee has further amended this bill by making minor, nonsubstantive amendments for purposes of style and clarity.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 111, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 111, H.D. 2.

Signed by all members of the Committee.

**SCRep. 858                      Judiciary on H.B. No. 1756**

The purpose of this bill is to allow a tax exemption of vehicles owned or leased by police officers, the State, or the counties. The bill would expand the vehicle tax exemptions to motor vehicles leased for more than six months by the State or any county, and motor vehicles and motorcycles leased by police officers used in their travel on official business.

Your Committee finds that the present statute does not afford a tax exemption for motor vehicles leased by the State, counties, and police officers.

Your Committee received testimony in support of this measure from the Department of Taxation and the Honolulu Police Department.

Your Committee has amended the bill by clarifying that to be tax exempt, a vehicle must be leased by the State or county for six months or longer. Moreover, this lease period is to be applicable to all motor vehicles and motorcycles leased by the police.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1756, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 1756, H.D. 2.

Signed by all members of the Committee.

**SCRep. 859 Finance on H.B. No. 213**

The purpose of this bill is to create an oceanbook for Hawaii which integrates current knowledge about the ocean, noting present and future developments in human activity in the ocean.

Such a publication, which is nonexistent in this State, would be a valuable educational tool, not only in schools but for all residents of and visitors to Hawaii. In addition, this publication would provide valuable information to both professionals and the general public, enrich our understanding of the complexity of the ocean which surrounds Hawaii, and enable the people of Hawaii to make well-informed decisions about the future uses of the ocean resources of our State.

Your Committee received testimony from the University of Hawaii Sea Grant College Program in support of this measure.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 213, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 860 Finance on H.B. No. 552**

The purpose of this bill is to: (1) increase the number of associate judges of the State Intermediate Court of Appeals from two to four; and (2) appropriate \$189,608 for fiscal year 1989-1990 to accommodate the additional judges.

Your Committee finds that increasing the number of judges on the State Intermediate Court of Appeals from three to five will allow that court to sit in panels of three of the five judges, enabling this court to efficiently and expeditiously dispose of the increased number of appeals filed.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 552 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 861 Finance on H.B. No. 1195**

The purpose of this bill is to permit the University of Hawaii to receive funding for the Discoveries and Inventions Revolving Fund from sources other than legislative appropriations.

Your Committee finds that this bill provides for greater operational latitude in implementing the University's technology transfer and economic development program. In addition, it provides the capability to pursue new program initiatives.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1195, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 862 Finance on H.B. No. 80**

The purpose of this bill is to continue the expansion of visitor industry training and educational programs in growing resort areas on all islands.

The visitor industry continues to be the mainstay of Hawaii's economy, generating thousands of jobs in the hotel, food and beverage, retail, entertainment, and transportation industries. The number of jobs is expected to increase on all islands. However, due to the small labor market and the lack of training in the principles and practices of the tourism industry, the workforce does not appear to be prepared to provide the high-quality services for which the State's visitor industry is renowned. To meet these needs, the bill appropriates funds to continue the availability of visitor training and educational programs on all islands.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 80, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 863 Finance on H.B. No. 79**

The purpose of this bill is to appropriate funds to conduct a study of the "carrying capacity" or impact of an increasing resident and visitor population on the State's infrastructure, social, and economic system to the year 2011.

Your Committee finds that the State's resources will be subject to great strain as the resident and visitor populations continue to increase and compete for limited resources.

Your Committee further finds that prior to making a plan to deal with this potential problem it is necessary to determine if the State can absorb the predicted growth.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 79, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 864            Finance on H.B. No. 81 (Majority)**

The purpose of this bill is to establish an international tourism consulting center and clearinghouse to promote, assist, and coordinate the provision of tourism-related training and research services by private consultants, nonprofit organizations, and educational institutions in the State and the Pacific and Asian areas.

Your Committee finds that the growing economic and strategic importance of the Pacific has emphasized the need for increased interaction between Hawaii and countries of the Pacific and Asia.

Your Committee further finds that in order to diversify its own economic base as a business center to the region, the state must continue to promote itself as an international consulting, training, and research center in areas of expertise such as tourism.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 81, H.D. 1, and recommends that it pass Third Reading.

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

**SCRep. 865            Finance on H.B. No. 1337**

The purpose of this bill is to appropriate \$34,000 for fiscal year 1989-1990 for the purchase of ten stream flow gauges and ten rainfall gauges to be installed in Windward Oahu.

Your Committee received testimony from the Department of Land and Natural Resources indicating that there is a need for more stream flow gauges and rainfall gauges in Windward Oahu.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1337 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Isbell.

**SCRep. 866            Finance on H.B. No. 457**

The purpose of this bill is to change the factor used in determining the maximum and minimum weekly benefits for dependents as described in Section 386-41, Hawaii Revised Statutes, from .667 to .6667.

Your Committee finds that this change would be consistent with the factor (.6667) currently used in computing total disability and partial disability benefits as prescribed by Sections 386-31 and 386-32, Hawaii Revised Statutes.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 457 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Say.

**SCRep. 867            Finance on H.B. No. 6**

The purpose of this bill is to appropriate funds for the continued promotion of fresh Hawaii-grown pineapple.

The bill requires a dollar-for-dollar matching contribution by the pineapple industry.

The pineapple industry has long been an important part of Hawaii's economy. As the second largest agricultural industry, it provides year-round employment for Hawaii residents and generated an annual payroll of \$91.6 million in 1988. It has also been used to promote Hawaii's image, thereby encouraging tourism and the purchase of other island products.

Your Committee finds that past appropriations have enabled the pineapple industry to expand its promotional activities from eleven states to cover all twenty two states west of the Mississippi River. This area covers sixty five percent of the United States land mass and forty percent of its population, thus offering a potentially strong growth area.

Your Committee further finds that it is important to continue efforts being made to increase the consumption of fresh pineapple and to continue the expansion of this market while retaining those currently established.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 6 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 868 Finance on H.B. No. 1292**

The purpose of this bill is to appropriate funds to the Hawaii Housing Authority (HHA) to plan, design, construct, purchase, or acquire teacher housing on the Island of Lanai and in Hawaii County in Kau, Waimea, and Kohala.

Your Committee finds that teacher housing units located in these areas are in need of major rehabilitation, and, in most cases, the cost of building new housing would be less than rehabilitating existing structures. Testimony submitted by HHA indicated that although the 1988 Legislature appropriated funds to construct teacher housing on Lanai and in Waimea and Kohala on the Big Island, additional funds are needed because the low bids on these units exceeded the amounts appropriated. HHA also indicated that extra funds are now needed to rehabilitate teacher housing in Kau.

Your Committee finds that replacement or rehabilitation of teacher housing is indeed necessary and has appropriated \$970,000 to cover the cost of additional planning, design, and construction.

It is the intent of your Committee that the HHA use a portion of these funds to purchase units already constructed on Lanai.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1292, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 869 Finance on H.B. No. 1331**

The purpose of this bill is to: (1) establish a Governor's task force with at least fifteen appointed members for the development of a masterplan to coordinate the provision of services by public and private entities to native Hawaiian and Hawaiian populations; and (2) appropriate \$100,000 for task force activities, including the hiring of necessary staff.

Over the years, an increasing amount of federal, state and private resources have been directed towards the needs of native Hawaiian and Hawaiian populations. As necessary services are established, improved or expanded, it is critical that the provision of services be coordinated to avoid duplication or waste, and to ensure the judicious and focused expenditure of still limited resources.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1331, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 870 Finance on H.B. No. 1661**

The purpose of this bill is to: (1) Permit the Public Utilities Commission to be a party to an appeal of its order on a discretionary basis, unless there is no adverse party at the hearing or on the appeal and (2) Appropriate funds to the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs to conduct a comprehensive study of local measured service in telecommunications.

Your Committee received testimony from the Public Utilities Commission and the Department of Commerce and Consumer Affairs supporting the intent of this bill.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1661, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 871 Finance on H.B. No. 1299**

The purpose of this bill is to provide funds to the Hawaii International Film Festival and promote the development of the film industry in conjunction with greater international activity for Hawaii.

Your Committee finds that the Hawaii International Film Festival is world renowned and has strengthened Hawaii's film industry by introducing filmmakers around the world to Hawaii's talented people and unique resources.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1299 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 872 Finance on H.B. No. 782**

The purpose of this bill is to fund an older adult legal services coordination program to be developed by the Executive Office on Aging.

Your Committee finds that access to legal assistance for older adults is limited. Many older adults may not recognize that the answers to their particular problems or inquiries have a legal basis necessitating a legal remedy. Older adults may be intimidated by the complex and oftentimes confusing legal system. These problems are further magnified for older incapacitated adults who may not be able to seek the help and counsel needed to protect their interests because of functional impairments.

Your Committee further finds that the limited affordable legal resources currently available does not allow for adequate responses to the present demand for casework and education and other preventative measures. Moreover, the demand for these types of services are expected to increase as the older adult population continues to grow. A comprehensive legal services program will help ensure access for older adults who require this type of counsel or assistance.

Your Committee on Finance is in accord with the intent and purpose of H.B. 782, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 873                      Finance on H.B. No. 474**

The purpose of this bill is to assist certain obstetricians and gynecologists practicing in rural areas of the State with their medical malpractice premium payments.

Your Committee supports this legislation as a temporary method for ensuring adequate obstetrical and gynecological care to those areas requiring care, but not generating adequate revenue to justify the physician's additional expense for obstetrical coverage.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 474, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 874                      Finance on H.B. No. 436**

The purpose of this bill is to appropriate funds to increase the reimbursement for dental health services in areas of the State where the Department of Human Services determines that service is inadequate.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 436, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 875                      Finance on H.B. No. 1717**

The purpose of this bill is to comply with a constitutional mandate by establishing a five-member judicial salary commission which reports to the Legislature on a biennial basis.

Your Committee finds that the State Constitution mandates that there be a salary commission to review and recommend salaries for justices and judges of all state courts. This measure is intended to satisfy the mandate by establishing such a commission.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1717 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 876                      Finance on H.B. No. 1351**

The purpose of this bill is to make the State of Hawaii responsible for workers' compensation coverage whenever an exceptional child undertakes to perform work for a private employer as part of the child's instructional program.

Your Committee finds that this bill would encourage employers to participate in work programs that provide special training for exceptional children.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1351, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 877                      Finance on H.B. No. 1549**

The purpose of this bill is to provide funds to the Waikiki Convention Center Authority to carry out the purposes of Chapter 206X, Hawaii Revised Statutes, including the hiring of staff.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1549, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 878                    Finance on H.B. No. 1258**

The purpose of this bill is to provide funds for the Legislative Auditor to conduct a study of the other forty-nine states to determine how they provide public access to the legislative process and data through electronic means and how they administer automated systems in the legislative process.

In addition, the bill provides funds for the House of Representatives, the Senate, and Legislative Reference Bureau to coordinate efforts to improve public access to legislative information.

Your Committee finds there is a need to accelerate the establishment of legislative data systems to ensure public access and participation.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1258, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 879                    Finance on H.B. No. 1256**

The purpose of this bill is to alleviate the financial burden of legislative employees by authorizing advances from the state general fund to pay legislative expenses pending the enactment of the legislative appropriations bill.

The bill also appropriates funds to conduct an in-depth study to survey the administration and automated operations of the legislatures of the other forty-nine states to determine the most efficient and equitable means of conducting legislative operations in the State.

Your Committee finds that during the legislative session, hundreds of temporary employees, who demonstrate dedication and commitment under tremendous pressure, are hired to support legislative activities. Unfortunately, these session employees do not receive any compensation until the legislative appropriation measure is passed at the beginning of each legislative session. It takes several days to pass the new legislative appropriations bill and once it is enacted, it takes several days for processing, causing another delay in paying the session staff. Your Committee finds that this bill would address this problem on a short-term basis.

In addition, your Committee finds that a study is needed to determine how best to ameliorate this situation on a long-term basis. Currently, the Hawaii State Legislature operates using legislative staff on a part-time basis, with a regular session generally lasting sixty working days each year. The national trend appears to favor full-time legislative staff because this practice encourages continuity and a higher level of competence and efficiency.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1256, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 880                    Finance on H.B. No. 1718**

The purpose of this bill is to revise the salary schedule of justices and judges of all state courts.

Your Committee finds that adequate judicial compensation is a prerequisite for the attainment of a highly competent and independent judiciary.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1718 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 881                    Finance on H.B. No. 937**

The purpose of this bill is to appropriate funds to establish a permanent condominium association registration clerk in the Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs, and to purchase equipment necessary for the registration of condominium associations.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 937 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 882            Finance on H.B. No. 875**

The purpose of this bill is to appropriate the sum of \$808,473 to restore Department of Land and Natural Resources operating funds, which were diverted to prepay a federal loan for the Molokai Irrigation Project, currently managed by the Department of Land and Natural Resources.

Your Committee finds that the early payment of this federal loan provided a substantial savings to the State and that this bill will permit the Department of Land and Natural Resources to resume and complete its scheduled FY 1989 program activities.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 875 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 883            Finance on H.B. No. 1837**

The purpose of this bill is to amend Section 171-6, Hawaii Revised Statutes, to authorize the Board of Land and Natural Resources to set a service charge, not to exceed \$50 per month, for each delinquent payment due on lease rental, sales, and other accounts of the Department of Land and Natural Resources.

The Legislature finds that delinquent accounts require special handling by department staff. The service charge imposed by this bill would compensate the department for time and money spent handling these delinquent accounts. Additionally, the imposition of the service charge will encourage timely payments.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1837 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 884            Finance on H.B. No. 542**

The purpose of this bill is to increase the percentage of employment-related expenses that may be claimed for dependent care expenses from fifteen percent to thirty percent, with the minimum credit to be phased out at twenty percent instead of ten percent.

Your Committee finds that the increasing number of families headed by single persons or couples in which both spouses work make it likely that the demand for affordable child care will continue. The increase in the tax credit is necessary to help working parents pay the increasingly high costs of child care.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 542 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 885            Finance on H.B. No. 1842**

The purpose of this measure is to provide executive departments, generally, and the Department of Transportation, in particular, increased flexibility in the disposition of excess moneys in special funds.

This bill will allow executive departments to transfer moneys in their special funds determined to be in excess of 150 percent of their fiscal year requirements to another special fund. Such transfers are discretionary and may not be made except with the approval of the Governor.

Your Committee finds that this bill will strengthen the State's financial administration of moneys in special funds while protecting the integrity of the funds.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1842 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 886            Finance on H.B. No. 1824**

The purpose of this bill is to compensate certain persons or their providers of services pursuant to Chapter 351, Hawaii Revised Statutes.

Your Committee received testimony supporting the intent of this bill from the Criminal Injuries Compensation Commission of the Department of Corrections.



Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1824, H.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 887                    Finance on H.B. No. 470**

The purpose of this bill is to provide funds to the Office of State Planning for a study of coastal erosion along south-central and west Maui.

Your Committee is concerned about the erosion of beaches throughout the State. By conducting this study, your Committee finds that valuable information regarding coastal erosion along the shores of all Hawaiian islands, as well as specific information regarding erosion of Maui's beaches, will be provided. Precise knowledge regarding our world renowned beaches is critical to maintaining one of Hawaii's most valuable natural resources.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 470, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 888                    Finance on H.B. No. 1266**

The purpose of this bill is to appropriate funds for the development of solar energy technology and technology opportunities.

Your Committee finds that there is a need now to transfer and apply an appropriate mix or combination of solar renewable energy technologies that would result in real world implementation of electrical power producing systems, particularly for rural and isolated communities that cannot be economically served by conventional electric grid systems.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1266, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 889                    Finance on H.B. No. 1832**

The purpose of this bill is to increase the allowable expenditures from the land maintenance fund from \$200,000 to \$500,000, and to allow the Department of Land and Natural Resources to exceed the \$500,000 limit with the prior approval of the Governor.

At the present time, Section 171-19, Hawaii Revised Statutes, authorizes the Board of Land and Natural Resources to use \$200,000 per year out of the special land and development fund for the incidental maintenance of lands under the control and management of the Board. The fund is used for repair of sidewalks, removal of fallen trees or trees posing a danger to structures, stream clearing, marijuana plant eradication, and many other uses associated with the statewide maintenance of lands under the control of the Board.

Your Committee finds that experience has shown that the present land maintenance fund is inadequate. With an increase in the Department's land maintenance fund, the State would be better able to maintain priority problem areas statewide.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1832, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 890                    Finance on H.B. No. 958**

The purpose of this bill is to assist the sugar industry as it struggles through a time of economic difficulties by authorizing \$8.5 million to the existing agricultural loan revolving fund to provide the Hilo Coast Processing Company (HCPC) with the necessary emergency funding to purchase the power plant.

Under this bill, the Department of Agriculture would be authorized to issue a 14-year loan to HCPC which would enable it to purchase the electrical power generating plant it operates from the current owners, BancNewEngland and the First Hawaiian Bank.

HCPC will be required to put up the power plant facilities and underlying land, or other collateral to secure the loan and comply with other terms and conditions as may be required by the Board of Agriculture.

Your Committee finds that this bill will allow HCPC to continue its efforts to become financially independent, to develop new products made out of sugar cane, and to provide employment and electricity to the island of Hawaii.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 958, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 891            Finance on H.B. No. 708**

The purpose of this administration housekeeping bill is to expand the Health Fund Board of Trustees' authority to contract for various types of dental, prescription drugs, and vision care benefit plans.

Your Committee finds that the current language of section 87-22, Hawaii Revised Statutes, is grammatically deficient because of the incorrect use of the term "plan". By using the plural form "plans", the Board of Trustees will be able to contract for various types of employee benefit plans to meet the health care needs of State and county employees.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 708 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 892            Finance on H.B. No. 1867**

The purpose of this bill is to enable the Department of Agriculture to recover loan proceeds for the agricultural loan revolving fund.

More specifically, this bill authorizes the Department of Agriculture to sell real property acquired through its agricultural revolving loan program and includes an exception to the definition of public land for the lands described above.

The Department of Agriculture testified that it acquires secured property through its Agricultural Loan Division from foreclosures or voluntary transfer cases when the borrowers fail to meet the terms of the loan. Under current statutes, these acquired properties fall under the definition of public lands, and consequently, come under the jurisdiction of the Department of Land and Natural Resources. When this situation occurs, recovery for the agricultural revolving loan program becomes complicated.

Your Committee finds that the Department of Agriculture is not a landholding agency and that it should have the necessary authority to sell such properties to recover funds for the agricultural revolving loan fund.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1867 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 893            Finance on H.B. No. 1879**

The purpose of this bill is to amend Chapter 209E of the Hawaii Revised Statutes to clarify terminology and eligibility criteria to ease implementation of the enterprise zones program.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1879 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 894            Finance on H.B. No. 672**

The purpose of this bill is to establish a library special fund into which moneys collected as fines, fees, and charges for overdue, lost, or unreturned books would be deposited.

Moneys in the library fund would be used for the replacement or repair of lost, damaged, and stolen books, serials, periodicals, and other library materials.

Under current law moneys collected are deposited in the State general fund. This bill will allow the State Librarian to expend the funds directly rather than by legislative appropriation.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 672, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Kotani.

**SCRep. 895 Finance on H.B. No. 1876**

The purpose of this bill is to authorize the Housing Finance and Development Corporation (hereafter referred to as "Corporation") to carry out federal programs, which are designated for implementation by state housing development or housing finance agencies.

This bill requires the Corporation to adopt any rules that may be necessary to carry out federal programs. The bill also allows the Corporation, for services rendered, to charge necessary administrative fees and to deposit those fees into an appropriate special fund administered by the Corporation.

The Corporation testified that this bill would facilitate the implementation of federal programs, and allow the State to take full advantage of any new federal housing program in a timely manner.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1876 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 896 Finance on H.B. No. 1862**

The purpose of this bill is to transfer the Housing Finance and Development Corporation to the Department of Budget and Finance for administrative purposes and to add the Director of Finance to the Board of Directors of the Housing Finance and Development Corporation as an ex officio voting member.

Your Committee finds that the expansion of the stock of affordable housing in Hawaii demands high priority and immediate attention. The Corporation was established to perform the housing finance, housing development, and residential leasehold functions of the State.

The Corporation relies upon the Director of Finance for efficient and effective operations since the Director of Finance is responsible for approving the issuance of bonds, the expenditure of proceeds of bond issues, and the expenditure of advances from the State general fund for projects which it may undertake. The intent of this bill is to increase the involvement of the Director of Finance in the activities of the Corporation, thereby expediting the processing of administrative approvals of the Corporation's projects and programs.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1862 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 897 Finance on H.B. No. 1611**

The purpose of this bill is to provide the State an opportunity to assist, in the form of special purpose revenue bonds to both Chronar Corporation and Energy Conversion Devices Inc., in the establishment of photovoltaic-panel manufacturing facilities in Hawaii, rather than limiting assistance to one, or the other.

Your Committee finds that both candidate companies have the capability of satisfactorily constructing and operating a photovoltaic-panel manufacturing facility. Assisting both companies would provide greater benefits to the State.

Your Committee received testimony supporting the intent of this bill from the Department of Business and Economic Development, the Energy Conversion Devices, Inc., the Solar Electric Co. Inc., and the Solar Energy Research Institute.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1611 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 898 Finance on H.B. No. 127**

The purpose of this bill is to allow the Department of Transportation to explore low-cost transportation alternatives by emphasizing transportation systems management (TSM) programs.

Your Committee finds that transportation systems management techniques offer low cost solutions to traffic problems and have the potential to alleviate traffic congestion.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 127, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 899 Finance on H.B. No. 856**

The purpose of this bill is to appropriate funds for the convening of a "Hawaii and the Sea '90" Conference.

The Sea Grant College Program of the University of Hawaii has been designated as the coordinating agency. A final report summarizing the findings and recommendations of the conference is due prior to the convening of the 1991 Session.

Your Committee received testimony in support of this bill from the Department of Business and Economic Development, the University of Hawaii, the Ocean Recreation Council of Hawaii, and the SEAGRANT Advisory Council.

Your Committee finds that the conference envisioned would strengthen the State's effort to become the leader of ocean-related activities within the Pacific Basin by reflecting upon past accomplishments and developments relating to the sea, and assessing our ocean resources and exciting opportunities.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 856 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 900            Finance on H.B. No. 1900**

The purpose of this bill is to change the description of the position of vice-director of civil defense from "chief administrative assistant to the director" to "first assistant to the director."

Testimony received by your Committee in support of this measure from the Department of Defense noted that the continued increase in the state population, changes in demography, and the growth in technology have increased the scope and complexity of civil defense operations, and the responsibilities for managing, directing, and controlling these operations have expanded concomitantly. Therefore, it was recommended that the vice-director be compensated at the first assistant level.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1900 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 901            Finance on H.B. No. 1882**

The purpose of this bill is to delete references to the Post Retirement Fund pursuant to Act 41, Session Laws of Hawaii 1988, which merged the Post Retirement Fund with the Annuity Savings Fund. The bill also deletes the average final compensation amendment provision.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1882, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 902            Finance on H.B. No. 1492**

The purpose of this bill is to establish a Hawaiian genealogy bank to be administered by the Department of Health to provide consistent and accurate records of Hawaiian genealogy.

Your Committee received testimony favoring the bill from the Department of Health and several individuals.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1492 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 903            Finance on H.B. No. 1798**

The purpose of this bill is to continue to provide the Department of Education and the University of Hawaii administrative flexibility with respect to the management of certain aspects of their fiscal and procurement operations by extending the original repeal date of Act 321, Session Laws of Hawaii 1986, by five years, from June 30, 1989, to June 30, 1994.

This bill also authorizes the temporary suspension of Act 321 if any of the provisions relating to the University of Hawaii impairs the Governor's ability to efficiently manage State resources.

Act 321 provided the University and the Department of Education greater administrative flexibility in the management of certain aspects of their fiscal and procurement operations. This legislation has enabled the University to meet the demands of its instruction, research, public service, and other primary units by enabling its financial and procurement support units to respond to needs in a more efficient and effective manner.

Your Committee finds that the flexibility legislation has been beneficial to the University of Hawaii and evaluations of Act 321 by the Legislative Auditor have been generally positive.

Your Committee heard testimony in support of the bill from the University of Hawaii and the Department of Accounting and General Services.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1798 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 904                      Finance on H.B. No. 1906**

The purpose of this bill is to provide basic health care insurance coverage for Hawaii residents who are medically uninsured or unable to meet the income and assets eligibility for the Medicaid program.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1906, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 905                      Finance on H.B. No. 1912**

The purpose of this bill is to authorize the establishment of a special fund for the University of Hawaii system's libraries into which will be deposited all receipts from fines, fees, and other revenue derived from those libraries' operations.

The money deposited into the fund may be expended to replace or repair lost, damaged, stolen, or outdated books, serials, and periodicals, or to support and improve the services provided by the libraries from which the revenue is derived.

Your Committee heard testimony in support of the bill from the University of Hawaii.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1912 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 906                      Finance on H.B. No. 692**

The purpose of this bill is to allow the Department of Agriculture (Department) to transfer funds among the Agricultural Products Revolving Fund, the Agriculture Loan Revolving Fund, and the Aquaculture Loan Revolving Fund.

The Department will be required to submit to the Legislature, twenty days prior to the convening of each regular session, a report of all transfers made during the preceding calendar year and the balance of each revolving fund as of December 31st of each year.

Your Committee finds that all three revolving programs are similar, and that the transfer flexibility will allow the Department to meet the objectives of each program on a timely basis and permit a more efficient use of available funds.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 692 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 907                      Finance on H.B. No. 1859**

The purpose of this bill is to provide one additional deputy in the Department of Taxation to perform the duties assigned by the Director of Taxation and approved by the Governor.

Your Committee finds that an additional deputy will be an important asset for departmental operations.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1859 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 908                      Finance on H.B. No. 1544**

The purpose of this bill is to appropriate \$25,000 to transport the historic 24-foot boat the Lady Timarau, or replica thereof, that adventurer Florentino Das used in 1955 on his one-man, five thousand mile voyage from Hawaii to the Philippines to the Hawaii Maritime Museum.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1544 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 909 Finance on H.B. No. 1829**

The purpose of this bill is to allow the Board of Land and Natural Resources the option of establishing lease rental payment on a monthly basis, in addition to the presently allowed quarterly, semi-annual, or annual payment options.

Lessees under leases issued by the Board of Land and Natural Resources are presently restricted to paying their rentals quarterly, semi-annually, or annually. Your Committee finds that with the option of allowing rental payment on a monthly basis, the Board of Land and Natural Resources would have increased flexibility in establishing payment schedules which would be less burdensome to these lessees.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1829 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 910 Finance on H.B. No. 1812**

The purpose of this bill is to continue to provide the Department of Education and the University of Hawaii administrative flexibility in their budget execution process by extending the original repeal date of Act 320, Session Laws of Hawaii 1986, by five years, from June 30, 1989, to June 30, 1994.

This bill also authorizes the temporary suspension of Act 320 if any of its provisions relating to the University of Hawaii impairs the Governor's ability to promote and ensure the economic and efficient management of the State's financial resources.

Act 320 provided the Department of Education and the University of Hawaii greater administrative flexibility in the budget execution process to allow more effective and responsive management of their programs. Furthermore, this Act allowed allotments and expenditures of appropriations to be made according to internal priorities of the Department and University, provided they are within the budget and allotment ceilings established by the Governor.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 1812 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 911 Consumer Protection and Commerce on H.B. No. 520**

The purpose of this bill is to specifically authorize the Board of Nursing to issue advisory opinions concerning the authority of various categories of nurses to perform particular acts.

The Department of Health testified in support of this bill, stating that it was initiated on the recommendation of the Office of the Attorney General, to clarify and allow the Board of Nursing to issue advisory opinions.

The Board of Nursing advised your Committee that it recently obtained a legal opinion that legislation is not necessary to implement the purpose of this bill.

The Hawaii Nurses' Association testified in support of this bill, advising your Committee that it periodically receives requests from individual nurses and employers of nurses for opinions on the scope of permissible nurse activity under Hawaii law. It forwards these requests to the Board. This bill would insure that the Board's response would follow a well-defined procedure. Similar reasons for supporting the bill were given by a Licensed Professional Nurse.

Your Committee feels that the advisory opinions contemplated by this bill will provide useful guidance to health care professionals and consumers. It believes that the Board of Nurses should be given express statutory authority to render such opinions.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of H.B. No. 520 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Hagino.

**SCRep. 912 Planning, Energy and Environmental Protection on H.B. No. 1827**

The purpose of this bill is to authorize the Department of Transportation to regulate the transportation of hazardous materials, hazardous waste, and etiologic agents by motor carriers. It further requires that the Department of Transportation adopt the hazardous materials regulations established by the United States Department of Transportation and permits inspection by enforcement personnel appointed by the Director of Transportation.

Your Committee finds that safe and proper transportation of hazardous materials and waste by motor carriers is necessary to minimize the risk to public health from accidents or incidences involving hazardous materials, hazardous waste, and etiologic agents.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.B. No. 1827 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Hashimoto.

**SCRep. 913            Labor and Public Employment on H.B. No. 712**

The purpose of this bill is to provide civil service exemptions to the Department of Health for three additional Deputy Director positions to head the administrations of Personal Health, Health Promotion and Disease Prevention, and Behavioral Health.

Your Committee finds that the Department of Health has one of the highest ratios of employees to deputies. The additional three deputies will help insure openness to the public and groups interested in various areas of public health, develop better management by providing a narrower span of control, allow more concentration on specific issues, and provide a better basis for active planning for the future.

Your Committee has received favorable testimony on this measure from the Department of Health.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of H.B. No. 712 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 914            Labor and Public Employment on H.B. No. 33 (Majority)**

The purpose of this bill is to provide for a more coordinated shoreline and ocean waters enforcement program with regard to recreational activities by transferring the marine patrol program from the Department of Transportation to the Department of Land and Natural Resources.

Your Committee finds that the management of our ocean recreation activities has received much public attention over the past year, during which the Department of Transportation finalized its statewide ocean recreation management plan. The rules instituted by the Department of Transportation have been in place since October 1, 1988, however, it is difficult for the department to enforce and monitor these rules because of inadequate resources.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of H.B. No. 33 and recommends that it pass Third Reading.

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

**SCRep. 915            Judiciary on H.B. No. 304**

The purpose of this bill is to amend Section 342-43, Hawaii Revised Statutes, to exempt authorized school activities from the provisions of this section.

Your Committee finds that participation in extra-curricular activities such as sports and the marching band is to be encouraged. These activities help foster a positive relationship between students, school officials, and parents.

Your Committee recognizes the State's responsibility in balancing the interests of students and those of the public residing near school campuses.

It is the intent of your Committee that this measure encourage tolerance among members of this community, especially where the development of our youth is concerned. We would expect, however, that school officials exercise discretion in authorizing activities which generate noise and that these activities be confined to reasonable hours as determined by the Department of Health.

Testimony in support of this measure was received from the Superintendent of Education, the Department of Health, the Chairman of Neighborhood Board No. 18, and several concerned members of the public.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 304, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 916            Judiciary on H.B. No. 988**

The purpose of this bill is to repeal Section 322-5, Hawaii Revised Statutes, authorizing the use of prisoners to assist in the removal of nuisance and causes of sickness.

As enacted in 1869, Section 322-5, Hawaii Revised Statutes, allows the Department of Health to require the Prison Superintendent or Chiefs of Police to cause prisoners under their charge to aid in the removal of nuisance. Since the enactment of the statute, the serious problem of nuisance, and in particular hazardous waste, has become so complex that the proper removal should be accomplished by personnel skilled in the most appropriate methods utilizing the correct equipment. Proper removal is vital to the safety and well-being of our community. Moreover, the use of prisoners to assist in the removal of nuisance and causes of sickness, many of whom might not have the necessary skills for the task, may expose them to unnecessary illness or injury.

Your Committee received favorable testimony from the Department of Health and the Department of Corrections on this measure.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 988 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 917                      Judiciary on H.B. No. 1828**

The purpose of this bill is to increase the fines imposed for vehicles that are over-loaded or overweight. The bill also provides for further increases in the fine for repeated offenses.

Your Committee finds that vehicles traversing our state highways and roads while greatly exceeding the applicable maximum weight, damage our highway systems to the extent that makes it necessary for the State or County to effectuate more frequent road repairs and resurfacing. The increase in the schedule of fines proposed by this bill will serve to deter offenders of overloading and promote highway safety as well.

Your Committee received testimony from the Hawaii Transportation Association which encouraged more stringent enforcement of the present schedule.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1828 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Peters.

**SCRep. 918                      Judiciary on H.B. No. 259**

The purpose of this housekeeping measure is to replace obsolete language in Section 134-34, Hawaii Revised Statutes, dealing with the determination of a national emergency.

This bill would replace references to military titles no longer in use with the more enduring generic term "senior United States military commander." The intent of the law thus remains unaltered.

Your Committee received testimony in support of this measure from a concerned member of the public.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 259, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Hirono, Peters, Takamine and Cavasso.

**SCRep. 919                      Judiciary on H.B. No. 711**

The purpose of this bill is to amend Section 298-9, Hawaii Revised Statutes, to reflect current practices with regard to exceptions to compulsory school attendance.

Certain exceptions enumerated in the existing statute encompass situations which no longer exist. This bill would delete such obsolete references and would provide for the inclusion of current situations under this section. Obsolete references to the district court are also deleted.

The bill would additionally enable the Superintendent of Education to delegate the authority to approve exceptions to District Superintendents.

Your Committee received testimony in support of this measure from a representative of the Department of Education.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 711 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Peters and Takamine.



**SCRep. 920                    Judiciary on H.B. No. 20**

The purpose of this bill is to add a new section to Chapter 188, Hawaii Revised Statutes, which would prohibit the possession or use of drift gill nets.

While gill nets laid by fishermen from Asia may be found in Pacific waters, such are not currently used by domestic fishers. This bill would ensure that gill nets are not put into use in Hawaiian waters.

In supporting testimony before your Committee, representatives from the Department of Land and Natural Resources and the Hawaii Humane Society stated that because of their size and strength, gill nets pose a danger to boats and indiscriminately entangle all types of marine life.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 20, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representative Peters.

**SCRep. 921                    Judiciary on H.B. No. 1413**

The purpose of this bill is to ensure adequate hiking and other recreational opportunities in the State by strengthening the Statewide Trail and Access System.

Specifically, this bill will:

- (1) Authorize the Chairperson of the Department of Land and Natural Resources to accept interests in private lands from private landowners and enter into agreements with those landowners to develop and manage trails or accesses located wholly or partially on those lands; and
- (2) Absolve adjoining property owners of liability from actions taken by trail or access users.

Your Committee finds that the liability issue has long been an obstacle to gaining access to public trails. This bill will provide a mechanism allowing private landowners to grant access without exposing themselves to liability if they desire to do so. This bill does not mandate such access.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 1413, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Andrews, Cachola and Shon.

**SCRep. 922                    Judiciary on H.B. No. 124**

The purpose of this bill is to make it a criminal offense for a person to enter or remain unlawfully on the premises of a school.

Your Committee received testimony in support of this measure which indicates that presently such illegal activities are classified as a violation. This bill proposes to elevate the penalty by making it a petty misdemeanor under the Penal Code.

The bill would include within the crime of criminal trespass in the second degree the illegal act of entering or remaining unlawfully in or upon the premises of a school. This crime is classified as a petty misdemeanor.

Your Committee notes that there is already a statutory prohibition encompassing the offense of trespassing on school property. In Section 708-813(c), Hawaii Revised Statutes, such acts are deemed to be a criminal trespass in the first degree and is classified as a full misdemeanor. Moreover, this section requires that the defendant must be first given reasonable warning or request to leave by school authorities or a police officer. It is this refusal to leave after proper warning which elevates this to a higher offense.

Your Committee finds that trespass upon school premises usually occur during the hours when it is unlikely that any school authorities or police officers would be present. As such, in order to deter illegal activities which could lead to vandalism, theft, burglary, or drug trafficking, it is appropriate to have in the Penal Code a provision addressing this problem albeit the penalty be only a petty misdemeanor.

Your Committee heard testimony in support of this measure from the Honolulu Police Department.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 124 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 923                    Judiciary on H.B. No. 122**

The purpose of this bill is to amend Section 279G-2, Hawaii Revised Statutes, to remove impediments to the participation in and promotion of ridesharing.

The existing statute exempts from liability employers who encourage participation in ridesharing. This bill would extend the exemption to include the State, counties, schools, community organizations, and rideshare coordinators.

Your Committee finds that participation in ridesharing can help to alleviate traffic congestion.

Testimony in support of this measure was received from the Department of Education and the Department of Transportation.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 122, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 924            Judiciary on H.B. No. 716**

The purpose of this bill is to include hospice programs into the list of subjects under the regulation of the Department of Health.

The Department of Health currently does not license hospice programs. This measure enables the Department to adopt rules to regulate hospices, which are facilities that assist the terminally ill patients and their families to face impending death with dignity by providing counseling, social services, volunteer assistance, bereavement follow-ups and other services as appropriate.

Your Committee received favorable testimony from the Department of Health which indicated that in this state, there are well-meaning groups who have developed programs which are called "Hospice," but which few of the requirements for legitimate hospice programs are met. Your Committee therefore finds that state licensure and regulation is appropriate to distinguish legitimate programs and to assure the public that basic or minimum level of standards are adhered to. As for any person who intentionally operates a hospice without a license, they would be guilty of a full misdemeanor under this measure.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 716 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 925            Judiciary on H.B. No. 533**

The purpose of this bill is to raise the fine for violation of the State Water Code from a maximum of \$1,000 to \$5,000 per offense.

Your Committee finds that increasing the fine will discourage violations and bring about greater awareness of the Water Code permit requirements and the State's goal of protecting Hawaii's instream resources.

Testimony in support of this measure was received from the Department of Land and Natural Resources.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 533 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 926            Judiciary on H.B. No. 725**

The purpose of this bill is to make the requirement that a grantee's address be indorsed upon every deed, consistent in the recording systems of both the Land Court and the Bureau of Conveyances. The bill would also systematize the exact location of recording information on all filed or recorded documents. Recording fees are to be adjusted in accordance with schedules promulgated by the Supreme Court under this measure, and fees for copies of the computerized data of the daily entry record, or inquiries into the Land Court automated title system are specified.

Your Committee finds that currently, the Land Court, on every deed presented for registration, requires the grantee's place of residence or post office address, while the Bureau of Conveyances requires both. This bill would amend the Land Court's requirement so that the address of the grantee must be given. As for the recording of information on documents, the current practice is that the information recorded in the Bureau of Conveyances is placed on the first page of each document while information for documents recorded in the Land Court is placed on the back of each document. Consequently, the back of each Land Court document must also be microfilmed, which could add about 85,000 extra pages a year. This measure eliminates this by requiring both recording systems to place their respective recording information onto the first page. The remainder of this bill would provide for greater flexibility in the adjustment of recording fees by empowering the State Supreme Court to adjust the same by rules.

Your Committee received testimony in support of this measure from the Ad Hoc Committee of the Department of Land and Natural Resources.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 725 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 927            Judiciary on H.B. No. 722**

The purpose of this bill is to shorten the time period after which a penalty can be levied for a default in payment of compensation under the terms of a final decision or judgment from the current thirty-one days to twenty-one days. The bill would also shorten the time period after which a penalty can be assessed for a default in payment of temporary total disability (TTD) benefits from within ten days exclusive of Saturdays, Sundays and holidays, to just ten days after notification of the disability to the employer or carrier.

Your Committee received favorable testimony from the Director of the Department of Labor and Industrial Relations and the Hawaii Federation of Physicians and Dentists. Testimony indicates that the proposed amendments to section 386-92, Hawaii Revised Statutes, would allow for internal consistency with other statutory provisions. For instance, the proposal to amend the thirty-one day period to twenty-one days would conform with the statutory twenty-one day period allowed for appeals from Director of Labor and Industrial Relations decisions to the Labor and Industrial Relations Appeals Board. As for the proposed change in the Temporary Total Disability payment period to just ten days, this would conform with the current requirement of section 386-31 (b), which mandates employers to make the first TTD payment no later than on the tenth day after being notified of the occurrence of the total disability.

In addition, your Committee finds that this measure will not only promote statutory consistency, but will expedite payment of benefits to claimants.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 722 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 928            Judiciary on H.B. No. 118**

The purpose of this bill is to amend Section 291-11.5, Hawaii Revised Statutes, in order to strengthen its enforceability by excluding for-hire motor vehicles and type I school buses from the listed exemptions. The bill also defines certain terms used in the section.

Your Committee finds that the existing section contains certain terms which are defined in section 291-11.6. This bill would accordingly adopt the definitions of "emergency vehicle," "mass transit vehicle," and "seat belt assembly" contained in Section 291-11.6. This bill also defines a "commercial vehicle".

Your Committee finds that this bill would further the objectives of the 1990 Accident Prevention and Injury Control Task Force of the Governor's Conference on Health Promotion which seeks to reduce the motor vehicle accident fatality rate.

Your Committee received testimony in support of this measure from the State Department of Health and the State Department of Transportation.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 118, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 929            Judiciary on H.B. No. 104**

The purpose of this bill is to amend section 290-2, Hawaii Revised Statutes, to make available more storage space for vehicles suspected of being abandoned by shortening the duration of time for which such vehicles must be held in a tow contractors' storage area.

Your Committee finds that the entire process from the marking of the vehicle to the expiration of the claim period consumes approximately fifty to sixty days, during which time the owner has the right to claim the vehicle.

This measure would shorten the required storage time from twenty to ten days. Your Committee finds that this amendment would still allow sufficient time for owners to claim their vehicles.

Testimony in support of this measure was received from the Honolulu City and County Department of Finance.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 104 and recommends that it pass Third Reading.

Signed by all members of the Committee.

**SCRep. 930            Judiciary on H.B. No. 388**

The purpose of this bill is to repeal Chapter 129, Hawaii Revised Statutes, relating to civil defense.

Your Committee finds that the powers granted by Chapter 129, which relates to blackouts and illumination control, are included in Chapter 128. The repeal of Chapter 129 would not be detrimental to Hawaii's civil defense preparedness, provided that the present provisions in Chapter 128 remain.

Your Committee on Judiciary is in accord with the intent and purpose of H.B. No. 388 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Peters.

**SCRep. 931            Finance on H.B. No. 205**

The purpose of this bill is to appropriate funds for the operating and capital improvement programs of the executive branch for the 1989-1991 fiscal biennium.

Your committee has received executive budget requests in two forms: the first request was submitted through the executive biennium budget request, and the second, through three supplemental messages which were submitted subsequent to the initial budget request.

Your Committee has made every attempt to thoroughly review each funding request and has considered recommendations from the various House Standing Committees, and hereby submits a budget which will provide for the immediate and future needs of the State.

**FINANCIAL AND BUDGETARY OVERVIEW**

Your Committee began pre-session fiscal deliberations enjoying an estimated \$483 million surplus. This surplus, most notably due to increases in tax revenues generated by the State's strong economy and tourism industry, has far exceeded the prior estimates of the Council on Revenues.

The estimated growth rate for fiscal year 1987-88 rose from 9.2% to 11.5%. Moreover, a review of the general fund tax revenues for the first five months of this fiscal year revealed a 13.3% increase.

Projected tax revenue growth for the fiscal years 1989-90 1990-91 show increases of 11.5% and 11.0% respectively. Continued tax revenue growth is expected for the next four years.

To address the increasing general fund surplus, your Committee is recommending various tax relief packages which will reduce tax revenues. These proposals include the Administration's tax relief package (\$50 million), a food tax credit (\$13.5 million), a child care tax credit (\$3.5 million), and the transfer of the liquor and tobacco tax revenues to the counties (\$60 million). These and other various tax relief proposals will reduce the general fund tax revenues and the burden on taxpayers by more than \$127 million.

Additionally, your Committee is recommending a \$200 million tax rebate in response to constitutionally mandated requirements.

However, your Committee is also cognizant of the fact that this State must meet the urgent needs of today in order to prepare for meeting the new challenges and exciting opportunities of the future. Your Committee has therefore taken steps to assure that commitments are made to provide a strong base for needed support through the funding of positions, equipment, and technologies for State programs which affect the daily lives of our citizens.

Of particular importance is the education of our children in our public schools, and continued education through our University system. Also funded were programs to assure the health and well-being of all people to bring about a society which provides for economic opportunity and dignity to all citizens.

In the remainder of this report, your Committee highlights some of the program and budgetary decisions made for the 1989-91 fiscal biennium.

**ECONOMIC DEVELOPMENT**

Tourism. Cognizant of competing markets for travelers, your Committee has made funds available for a more aggressive promotion of Hawaii as a visitor destination point by strengthening existing markets, as well as establishing new ones.

Business. The future of our State depends on an economy that is vigorous, diverse, and has strong growth potential. A strong State economy supports local business and also provides a desirable arena for international trade. Your Committee has therefore provided funds to strengthen the State's economy, as well as to enhance Hawaii's role as an international leader.

Your Committee recognizes the importance of small business on the State economy and has provided funding for the small business industry section of the Department of Business and Economic Development to provide financial, legal, and promotional assistance.

Funds have also been provided for the continued research and development of geothermal power and other sources of alternate energy, telecommunications, space technologies, and other high technology areas.

Agriculture. Your Committee continues to support the promotion and marketing of diversified agricultural products, in order to broaden and expand Hawaii's economy. To support efforts to increase exportability of agricultural products, your Committee has provided funds for a fruit fly survey and to continue research and development of fruit fly control methods. Also provided are funds for the development of agricultural and irrigation services to continue the delivery of needed water resources to agricultural industry.

#### EMPLOYMENT

With the overall goal of making Hawaii the center of the Pacific-Asian basin, your Committee has funded programs for job training in the high-technology and visitor industries. Funds are also allocated for programs to improve the overall "employability" of the work force. Specifically, funds are appropriated for the training of immigrants, the handicapped, and the marginally employable.

#### TRANSPORTATION FACILITIES AND SERVICES

To accommodate the increasing number of visitors to Hawaii, and especially international arrivals, your Committee has provided for the continued development of the State's airport facilities. Funds have been provided for continued renovation, increased security, and to upgrade visitor information assistance.

Traffic congestion continues to plague the residents on all islands of our State. Your Committee has provided funds for a pilot ridesharing program, contra-flow lanes to serve windward Oahu, and upgrading of our highway system. Additionally, funds are authorized for upgrading Kalaniana'ole Highway, Interstate H-3, Honoapiilani Highway, and the Saddle Road.

#### ENVIRONMENTAL PROTECTION

The purpose of the Environmental Protection program is to restore, protect, and enhance the natural environment of the State. To this end, your Committee has made funds available for the implementation of a cooperative five-year scientific research initiative, the establishment of the Natural Area Reserves System (NARS), and the continuation of projects designed to reduce the amount and intensity of environmental pollution.

#### HEALTH

Case management upgrade for mental health. Your Committee is concerned with the quality of services provided to the mentally ill. Funds have been provided to upgrade the case management and community-based services for the severely disabled mentally ill, and for the necessary manpower to enable rehabilitated patients to return to the community.

County/State hospitals. The County/State Hospital program is an integral part of our health service delivery network, especially in the more rural areas of the State. Your Committee has provided the necessary funds to ensure the health of all individuals in the community by providing quality medical care facilities.

Universal health insurance. The absence of a health insurance program to service the unemployed, low-income, self-employed, and part-time workers is a concern of your Committee. However, as requested by the Administration, such a program may be too aggressive at this time. Your Committee, nonetheless, supports the universal health insurance program to assure that all our citizens have access to basic prevention-oriented health care services.

#### SOCIAL SERVICES

Child protective services. In its continuing effort to enhance and improve services to children and families, your Committee has provided funds to strengthen Child Protective Services. Increased personnel are authorized to address the rising number of abuse/neglect cases and growing concerns of "worker burnout". Additionally, to help alleviate problems of retention and recruitment of social workers, funding has been provided for shortage pay differential for Child Welfare case workers.

Child foster care. Your Committee has provided funds to ensure that children needing foster care attain an adequate standard of living through an increase in foster board payments. Also funded are programs to support these children and their foster parents.

Services to the elderly. In reviewing services to the elderly, your Committee provided funds to address long term care needs for this rapidly growing and very diverse segment of the State's population. Additionally, funds are appropriated for the construction of elderly housing facilities in central and leeward Oahu.

Automated information systems. Increased automation has been recognized as a valuable means of improving efficiency and ultimately service delivery. Appropriations have been made to continue integration of the Hawaii automated welfare system (HAWI). Additionally, funds have been provided in the biennium to complete the Child Protective Service System and creation of the new Social Service Information System.

#### LOWER EDUCATION

Your Committee is acutely aware that the future of the State rests on the quality of its educational system. To assure that Hawaii's youngsters are provided with the best educational opportunities, your Committee has concentrated its efforts on strengthening the basic foundation of our public school system with a substantial financial investment and commitment to achieve excellence.

School based management. Your Committee is aware of the benefits of the school based management program and has supported funding for the decentralization of authority to allow for more involvement in improving education for the students at each school. Funds have been provided to begin a program to enable thirty schools to participate in the school based management program.

Teacher and administrator training. The teaching profession requires continual efforts to acquire, maintain and increase important skills and knowledge. Additionally, efforts to move toward a school based management system would require administrators to possess special skills to coordinate and integrate school programs. Therefore, your Committee has provided funds for training and development for teachers and school administrators.

Telecommunications branch. Systematic planning is needed to prepare for the infusion of technology, such as the distance learning program and the use of interactive television, into our schools and classrooms. Furthermore, coordination is necessary to prevent duplication of effort and expense. Therefore, your Committee has provided a new telecommunications branch to research, evaluate and coordinate the use of educational activities.

Construction and upgrade of school facilities. Your Committee has taken bold steps to provide significant funding for construction of new schools and facilities. These include school dining facilities, libraries, and administration buildings, as well as classroom facilities. Also funded is the upgrade and replacement of existing facilities to address increasing enrollment, lowering of class size, and provide a safe and accessible environment.

In addition to efforts toward construction of facilities, your Committee has provided significant funding for school repairs and maintenance.

Public libraries. For library users statewide, your Committee has funded the upgrading of the present computer system. In addition, funds are provided to extend library hours, late night phone reference services, dial-in/on line access, and inter-library facsimile networks.

#### HIGHER EDUCATION

Your Committee is committed to providing quality post-secondary educational programs through the University and Community College systems.

Teacher training. Recognizing that the caliber of educators has a direct bearing on the quality of our State's public school system, your Committee has supported the upgrading of teacher training programs operated by the College of Education. These areas include vocational education, guidance and counseling, continuing education, graduate programs, new teacher education programs, special education, and faculty research.

Student services. The University of Hawaii provides a variety of diverse services and activities to better the quality of student life outside the classroom and to assist the students' academic progress. Your Committee has funded programs to expand services and activities for all students, and to support the construction of a new student services complex on the Manoa Campus.

Continued support of program initiatives and other specific areas. Your Committee has provided for the continued support of the College of Ocean and Earth Science and Technology, and the School of Hawaiian, Asian and Pacific Studies. Support has also been provided to expand nursing programs system-wide, to address the State's nursing shortage. Furthermore, to insure the continued viability and excellence of the architecture program, funds are provided for a new building and parking area for the School of Architecture.

Repair and maintenance, and operational expense. The Fourteenth Legislature provided substantial sums of moneys to correct long standing operational deficiencies. Your Committee continues to fund these operational needs by providing for the purchase of equipment, and by upgrading facilities in order to keep pace with technological advances in the area of higher educational studies.

#### CULTURE AND RECREATION

The purpose of the Culture and Recreation program is to enrich the lives of people of all ages, to facilitate opportunities for cultural events, and to promote recreational activities. To this end, your Committee has made funds available for the expansion of public television programs, establishment of commemorative and historical commissions, support of the Honolulu Symphony, and for improvement and maintenance of Aloha Stadium, Hawaii state parks, and other recreational areas.

#### PUBLIC SAFETY

Pursuant to the dictates of the Spear Consent Decree, your Committee has made funds available for the Department of Corrections to continue improvements in three critical areas at its facilities: health, sanitation, and safety. Though the consent decree targets the Oahu Community Correctional Center and the Women's Community Correctional Center, your Committee has also made funds available for other statewide facilities to improve living conditions and thus avoid future litigation.

Additionally, your Committee has made funds available for the construction and renovation of the Oahu Community Correctional Center and the Women's Community Correctional Center.

#### INDIVIDUAL RIGHTS

Increased consumer demands, technological changes, and federal deregulation have necessitated a higher level of review and regulation by the Department of Commerce and Consumer Affairs and the Public Utilities Commission. Your Committee is also cognizant of the need for increased staffing and office automation to accommodate the increased workload.

#### GOVERNMENT WIDE-SUPPORT

Voting. In order to improve voter awareness and to increase voter participation, your Committee has made funds available for voter education and information campaigns and for the improvement and upgrading of election operations.

Taxation. Since there are a significant number of individuals who should, but do not, pay taxes to the State, your Committee has made funds available for an integrated computerized system to help detect noncompliance. Such a system would link the General Excise Tax, the Comprehensive Net Income Tax, and the Transient Accommodations Tax programs.

Agricultural activities. Your Committee has made funds available for agricultural activities to promote the growth and vitality of Hawaii's diversified agriculture industry, and for research on pest control, pest management, pesticide testing and registration.

Information network. Your Committee has made funds available for an informational network known as Hawaii Inc. Such a network would provide all citizens of the State with equal access to public information through electronic means.

#### SUMMARY AND RECOMMENDATION

In summary, your Committee has thoroughly reviewed the numerous and varied funding requests and concerns of the Administration, the House of Representatives, and the citizens of the State. Your Committee believes that it has molded a comprehensive budget which meets and addresses these major issues.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 205, as amended herein, and recommends that it pass Second Reading in the form attached hereto as H.B. No. 205, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

#### **SCRep. 932                      Finance on H.B. No. 189**

The purpose of this bill is to appropriate funds to the programs of the Judiciary for the 1989-91 biennium.

In reviewing the biennial budget of the Judiciary, your Committee carefully examined each item, keeping in mind the overall objectives and outcomes desired based on the planning, programming and budgeting system of the State.

Your Committee has provided staffing and funds to enable the Judiciary to meet the growing demands placed upon it. In order to rectify recruiting and retention problems, permanent positions and funds have been provided in critical service areas in the Circuit, Family, and District Courts. Your Committee also provided deputy sheriffs to the Office of the Sheriff to assist in meeting a significantly increased workload.

Your Committee recognizes the need for modernization of the courts and therefore has appropriated funds to facilitate office automation, increase technical support, and ensure overall coordination. Specifically, funds were provided for optical disk hardware to reduce the need for records storage space; automation and integration of the district courts in the second, third, and fifth circuits; and the establishment of a statewide telecommunications network to facilitate system interconnections for the Juvenile Justice Information System.

Your Committee is concerned with the rising number of reported cases of physical and other abuse in Hawaii's households. To address this problem, funds have been provided to establish a Domestic Violence Unit in the Family Court, which will monitor cases and counsel both the abused and the abusers. Your Committee has also moved to establish the Children's Advocacy Center, as interagency effort to coordinate the response to child abuse, as a permanent entity on Oahu by converting temporary positions to permanent status. Positions and funds are also provided to establish similar centers on the neighbor islands.

Your Committee, after examining the budgetary request of the Judiciary, has amended the bill to carry out the aforementioned recommendations while maintaining many of the recommendations suggested by the Committee on Judiciary.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 189, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 189, H.D. 2.

Signed by all members of the Committee.

#### **SCRep. 933                      Finance on H.B. No. 646**

The purpose of this bill is to appropriate funds for the 1989-91 biennium budget of the Office of Hawaiian Affairs (OHA).

Your Committee carefully examined the biennial budget request submitted by OHA and made provisions for those program activities which were more clearly focused toward achieving OHA's objectives. In its deliberations, your Committee remained cognizant of the areas of concern which were addressed through the appropriations in Act 376, Session Laws of Hawaii 1988, and provided additional appropriations relevant to furthering efforts towards these goals.

Your Committee has addressed OHA's concern for reparations by providing funds for the refinement of the draft legislation and supporting documentation. In addition, funds have been provided to plan and develop OHA's proposal to resolve identified controversies relating to the Hawaiian home lands trust and the native Hawaiian public trust.

As in the prior session, your Committee recommends that OHA increase its efforts to improve its working relationship with other public and private agencies. Greater cooperation and coordination would eliminate the duplication and overlapping of services and would foster increased and improved services for Hawaiians and native Hawaiians.

Your Committee on Finance is in accord with the intent and purpose of H.B. No. 646, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 646, H.D.2

Signed by all members of the Committee.

**SCRep. 934                      Transportation on H.R. No. 18**

The purpose of this resolution is to request that the Director of Transportation initiate improvements to the entrance channel of the Barbers Point deep draft harbor to accommodate large container cargo vessels.

Your Committee received favorable testimony on this resolution from the Office of State Planning, the Department of Transportation, the Estate of James Campbell, and various users of the harbor.

The testimony presented by both the Office of State Planning and the Department of Transportation indicated that there have been no studies conducted regarding the nature, extent, and costs of modifications to the harbor channel, and the immediate need for these improvements have not yet been clearly established.

Your Committee finds that initiating improvements to the harbor channel without first assessing the economic feasibility of such an undertaking would not be in the State's best interests.

Your Committee has amended this resolution by requesting the Department of Transportation to initiate appropriate economic feasibility studies and other technical studies to identify potential long and short-range improvements to Barbers Point Harbor and by requesting the department to submit its findings and recommendations to the Legislature. The title of the resolution has been amended to reflect this change. Your Committee has further amended this resolution by making minor, nonsubstantive changes in the interest of clarity.

Your Committee on Transportation concurs with the intent and purpose of H.R. No. 18, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 18, H.D. 1.

Signed by all members of the Committee.

**SCRep. 935                      Transportation on H.C.R. No. 16**

The purpose of this concurrent resolution is to request that the Director of Transportation initiate improvements to the entrance channel of the Barbers Point deep draft harbor to accommodate large container cargo vessels.

Your Committee received favorable testimony on this concurrent resolution from the Office of State Planning, the Department of Transportation, the Estate of James Campbell, and various users of the harbor.

The testimony presented by both the Office of State Planning and the Department of Transportation indicated that there have been no studies conducted regarding the nature, extent, and costs of modifications to the harbor channel, and the immediate need for these improvements have not yet been clearly established.

Your Committee finds that initiating improvements to the harbor channel without first assessing the economic feasibility of such an undertaking would not be in the State's best interests.

Your Committee has amended this concurrent resolution by requesting the Department of Transportation to initiate appropriate economic feasibility studies and other technical studies to identify potential long and short-range improvements to Barbers Point Harbor and by requesting the department to submit its findings and recommendations to the Legislature. The title of the concurrent resolution has been amended to reflect this change. Your Committee has also amended this concurrent resolution by inserting nonsubstantive language that was omitted during drafting. Your Committee has further amended this concurrent resolution by making minor, nonsubstantive changes in the interest of clarity.

Your Committee on Transportation concurs with the intent and purpose of H.C.R. No. 16, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 16, H.D. 1.

Signed by all members of the Committee.



**SCRep. 936 Health on H.R. No. 12**

The purpose of the resolution, in requesting a Report on the Status of Implementing the Native Hawaiian Health Care Act of 1988, is to check on the progress of Papa Ola Lokahi in planning for the implementation of the federal Act. Only with comprehensive planning in place and \$5,000,000 secured from non-federal sources during the next biennium can Papa Ola Lokahi obtain matching funds of \$3 of federal funds for every \$1 of non-federal contributions up to approximately \$15,000,000.

Your Committee received testimony in support of the resolution from the Department of Health, E Ola Mau staff and board members, Alu Like, Office of Hawaiian Affairs, Na Pu'uwai, the People's Coalition, Mililani Trask and Dr. Brian Martin, as well as an oral message through one of the testifiers of the University of Hawaii's support.

Your Committee believes that a full report on the progress of our local institutions in addressing the problems of health for Native Hawaiians is in order. Your Committee is dismayed that there does not appear to be an equal commitment among the groups involved. For example, while E Ola Mau has contributed many hours in developing a plan, the Department of Health has not yet released E Ola Mau's funds which were made available in July by the 1988 Legislature. In addition, the Office of Hawaiian Affairs appears to have little or no interest in the project as evidenced by their very short written testimony, the absence of any representative at the hearing, and the fact that none of the funds in their proposed multi-million dollar budget appears to be earmarked for Hawaiian health needs.

Your Committee has accepted the suggested revisions in the language of the resolution as provided by E Ola Mau.

Your Committee on Health concurs with the intent and purpose of H.R. No. 12, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 12, H.D. 1.

Signed by all members of the Committee.

**SCRep. 937 Health on H.C.R. No. 10**

The purpose of the concurrent resolution, in requesting a Report on the Status of Implementing the Native Hawaiian Health Care Act of 1988, is to check on the progress of Papa Ola Lokahi in planning for the implementation of the federal Act. Only with comprehensive planning in place and \$5,000,000 secured from non-federal sources during the next biennium can Papa Ola Lokahi obtain matching funds of \$3 of federal funds for every \$1 of non-federal contributions up to approximately \$15,000,000.

Your Committee received testimony in support of the concurrent resolution from the Department of Health, E Ola Mau staff and board members, Alu Like, Office of Hawaiian Affairs, Na Pu'uwai, the People's Coalition, Mililani Trask and Dr. Brian Martin, as well as an oral message through one of the testifiers of the University of Hawaii's support.

Your Committee believes that a full report on the progress of our local institutions in addressing the problems of health for Native Hawaiians is in order. Your Committee is dismayed that there does not appear to be an equal commitment among the groups involved. For example, while E Ola Mau has contributed many hours in developing a plan, the Department of Health has not yet released E Ola Mau's funds which were made available in July by the 1988 Legislature. In addition, the Office of Hawaiian Affairs appears to have little or no interest in the project as evidenced by their very short written testimony, the absence of any representative at the hearing, and the fact that none of the funds in their proposed multi-million dollar budget appears to be earmarked for Hawaiian health needs.

Your Committee has accepted the suggested revisions in the language of the concurrent resolution as provided by E Ola Mau.

Your Committee on Health concurs with the intent and purpose of H.C.R. No. 10, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 10, H.D. 1.

Signed by all members of the Committee.

**SCRep. 938 Health on S.B. No. 195**

The purpose of this bill is to provide a greater degree of accessibility for the physically handicapped to public buildings and facilities. The bill amends section 103-50, Hawaii Revised Statutes, to replace the American Standards Specifications for Making Buildings and Facilities Accessible to and Usable by the Physically Handicapped (ANSI) with the more stringent Uniform Federal Accessibility Standards (UFAS). The bill requires consultation with the Commission on the Handicapped prior to construction of public buildings. The bill also creates a three-person Architectural Access Committee to review and grant variance requests.

Your Committee on Health heard testimony in support of the bill from the Department of Health, the State Planning Council on Developmental Disabilities, the Commission on the Handicapped, and Hawaii Centers for Independent Living.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 195, S.D. 1 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Amaral and Liu.

**SCRep. 939 Health on S.B. No. 849**

The purpose of this bill is to open the possibility of employing a person other than qualified Kalaupapa resident patients on a salaried basis to serve as the Sheriff of Kalaupapa.

Your Committee heard testimony in support of the bill from the Department of Health, who noted that the availability of qualified patients interested in serving in this capacity is steadily diminishing with time.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 849 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Amaral and Liu.

**SCRep. 940 Health on S.B. No. 765**

The purpose of this bill is to appropriate \$50,000 in 1989-90 and \$75,000 in 1990-91 through the Department of Health to establish a bone marrow donor registry at St. Francis Medical Center. Such a registry would enable St. Francis to initiate tissue typing and screening of potential donors for persons who have leukemia, are under 50 years of age, and can benefit from bone marrow transplants from donors who must closely match the marrow of the leukemia patient.

Your Committee heard strong support for this bill from the Department of Health, St. Francis medical Center, the Hawaii Medical Association, and a citizen who has leukemia. Discussion focussed on the need for such a donor registry, particularly by Hawaii residents with Asian and Pacific Island backgrounds. Most of the donors to the five mainland registries are of European heritage and have tissue types that often do not match Asians and Pacific Islanders. The benefit of a bone marrow donor registry could potentially extend from beyond our Hawaii residents to Asians and Pacific Islanders, since no bone marrow registry is known to be located in those regions.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 765 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Amaral and Liu.

**SCRep. 941 Transportation on S.B. No. 18**

The purpose of this bill is to issue special two year licenses to individuals who are between fifteen and seventeen years of age.

Your Committee received testimony on this bill from the State Department of Transportation; the Governor's Executive Office on Aging; and the Department of Finance, City and County of Honolulu.

Your Committee finds that currently, individuals between fifteen and twenty-four years of age or sixty-five years of age or older are issued a two-year driver's license. However, statistics indicate that the more frequent driver's license renewal required of persons seventeen to twenty-four years of age and individuals sixty-five years of age or older does not change driving habits and thereby lower accident rates. Furthermore, because drivers in the sixty-five and over age group have the lowest accident involvement index, 0.6 percent, and because this same age group has a license examination pass rate close to 100 percent, your Committee finds it unnecessary to require individuals sixty-five years of age or older to renew their driver's license on a biennial basis.

Your Committee has amended this bill substantially by making an amendment to Section 286-106, Hawaii Revised Statutes, which would allow the issuance of driver's licenses valid for four years to individuals eighteen years of age and over. Your Committee has also amended this bill by changing its effective date.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 18, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 18, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Baker.

**SCRep. 942 Transportation on S.B. No. 1851**

The purpose of this bill is to clarify Section 286-106, Hawaii Revised Statutes, to ensure that an original driver's license remain valid for a full two-year or four-year period.

Your Committee received testimony in support of this bill from the Department of Transportation and the Department of Finance of the City and County of Honolulu.

Your Committee has amended this bill by adding language to ensure that the term of a Hawaii driver's license shall not exceed two years and six months or four years and six months, pursuant to present licensing criteria.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1851, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as S.B. No. 1851, H.D. 1.

Signed by all members of the Committee except Representative Baker.

**SCRep. 943            Intergovernmental Relations and International Affairs on S.B. No. 162**

The purpose of this bill is to amend Section 286-41, Hawaii Revised Statutes, to provide for the establishment of a transfer fee payable by the owner of motor vehicles. The fee is assessed for each vehicle owned and transferred to another county and is separate and distinct from the annual registration fee.

Your Committee received testimony in favor of the intent of this bill from Council Chairman Goro Hokama and Mayor Hannibal Tavares on behalf of the County of Maui.

However, your Committee has amended this bill by incorporating the language of H.B. 332, H.D. 1, which was heard previously by the House Judiciary Committee.

Your Committee on Intergovernmental Relations and International Affairs is in accord with the intent and purpose of S.B. No. 162, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 162, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Yoshimura and Marumoto.

**SCRep. 944            Labor and Public Employment on S.B. No. 1812**

The purpose of this bill is to delete references to the Post Retirement Fund in Chapter 88, Hawaii Revised Statutes, because the Post Retirement Fund no longer exists as a separate fund. The Post Retirement Fund was merged into the Annuity Savings Fund pursuant to Act 41, Session Laws of Hawaii 1988. This bill eliminates obsolete references to a nonexistent fund in the Hawaii Revised Statutes.

Technical, nonsubstantive amendments have been made for the purposes of style and clarity.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of S.B. No. 1812, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1812, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 945            Labor and Public Employment on S.B. No. 1859**

The purpose of this bill is to simplify the definition of an "employee" as it relates to the Public Employees Health Fund by eliminating redundant language.

This bill also provides a vehicle by which the Legislature can determine the amount of employer contributions to the fund to be made by the State and the counties on behalf of retirees with fewer than ten years of service for fiscal years 1989-1991. In addition, this bill enables State and county employees employed by contract for less than one year to receive Public Employees Health Fund benefits where the Director of Personnel Services has certified that the service is special or unique or is essential to the public interest, and that, because of circumstance surrounding its fulfillment, personnel to perform the service cannot be obtained through normal civil service recruitment procedures.

Your Committee finds that this housekeeping bill not only allows deserving short-term employees to receive the benefits of the Public Employees Health Fund, but also allows State and county departments and agencies increased leverage to contract for short-term personnel for positions that are difficult to fill.

Your Committee has amended this bill by inserting the amounts of the public employer contributions for retirees with fewer than ten years of service to the medical plan, dental plan, and group life insurance plan.

The bill has also been amended to include legislative employees within the definition of "employees" to ensure they are provided Health Fund benefits pursuant to Act 90, SLH 1988.

Technical, nonsubstantive amendments have also been made for the purposes of style and clarity.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of S.B. No. 1859, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1859, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 946            Labor and Public Employment on S.B. No. 1863**

The purpose of this bill is to provide state employees the opportunity to participate in a wage and salary reduction program that qualifies as a cafeteria benefit plan under Section 125 of the Internal Revenue Code of 1986, as amended.

There is no current program under state law that qualifies as a cafeteria benefit plan within the meaning of Section 125 of the Internal Revenue Code. This bill would establish a qualifying cafeteria benefit plan, allowing participating state

employees to reduce their before-tax compensation in return for payment by the State of the costs of eligible benefits. The plan would be an adjunct to the Public Employees Health Fund.

Your Committee finds that the establishment of a cafeteria benefit plan will allow participating employees to take home more pay per pay period.

Your Committee has amended the effective date of this bill to take effect January 1, 1990. This will provide the Department of Budget and Finance sufficient time to comply with the provisions of this measure.

Technical, nonsubstantive amendments have also been made for the purposes of style and clarity.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of S.B. No. 1863, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1863, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 947            Labor and Public Employment on S.B. No. 1975**

The purpose of this bill is to make investigators of the narcotics enforcement division of the Department of the Attorney General, who begin employment after June 30, 1984, class A (contributory) members of the Employees' Retirement System. The bill also authorizes them to receive the same retirement benefit allowances which police officers receive.

Your Committee has amended this bill by deleting the substance and inserting the provisions of H.B. No. 1306 H.D. 1, which provides for classification within the Employee Retirement System, of narcotics investigators in the Attorney General's office.

Your Committee received testimony from the Employees' Retirement System, State Attorney General and narcotics enforcement officers with the State Attorney General Office.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of S.B. No. 1975, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1975, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 948            Human Services on S.B. No. 1321**

The purpose of this bill is to provide a central planning, development and coordinating source for programs that control violent behavior. Those responsibilities are assigned to the Office of State Planning.

Your Committee heard from the Office of State Planning that the bill amended the office's enabling statute and that was unnecessary in carrying out the intent of the bill. Your Committee agreed with that suggestion and amended the bill so that it no longer amends the Hawaii Revised Statutes.

Your Committee also heard testimony in support of the bill from the Criminal Investigation Division of the Honolulu Police Department. After discussion with the police representative, your Committee decided to amend the bill requiring the Office of State Planning to provide access to violence control training and other resources to all county police departments.

Your Committee also amended the bill to increase the appropriation to \$150,000 for both years of the biennium, and to add reporting requirements.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1321, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1321, H.D. 1 and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 949            Human Services on S.B. No. 1367 (Majority)**

The purpose of this bill is to establish a definition of "disabled" and "sedentary work" in the State's general assistance program. The bill also allows general assistance recipients to receive the same earned income exemptions provided to recipients of other financial assistance programs.

Your Committee heard testimony that a clearer definition of sedentary work would make the determination of disability more consistent and subject to less arbitrary decision making. Your Committee adopted the suggestions of the Department of Human Services and deleted language allowing the general assistance earned income exemptions to be greater than that allowed other programs, and amended the appropriations to include the full amounts requested by the department.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1367, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1367, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Metcalf.  
(Representative M. Ige did not concur.)

**SCRep. 950 Human Services on S.B. No. 1897**

The purpose of this bill is to establish a program of grants to improve or renovate facilities used for a variety of services to the elderly.

Your Committee heard testimony on the present and growing need for safe and appropriately equipped facilities. Your Committee decided to amend the bill by adding new sections requiring the executive office on aging to conduct a study on the liability risks for organizations considering the establishment of adult day care and adult day health programs. The study will include ways to provide affordable liability insurance or to limit the liability of such organizations. The amendments include an appropriation of \$120,000 for fiscal year 1989-1990, for the study.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1897, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1897, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 951 Human Services on S.B. No. 16**

The purpose of this bill is to provide special recognition to select groups of veterans who have served their country with distinction through the issuance of special license plates. The groups include members of the Pearl Harbor Survivors Association, veterans who became one hundred percent disabled while providing military service, prisoners of war and recipients of the Medal of Honor, the Air Force Cross, the Navy Cross, the Distinguished Service Cross or the Silver Star.

Your Committee heard testimony from representatives of veterans groups and individuals as well as the Licensing Officer of the City and County of Honolulu's Motor Vehicle and Licensing Division. After some discussion of various sections of the bill, those testifying were in general agreement with the Committee on the following amendments to the bill.

First, the special plates will be provided to only four groups of veterans: former prisoners of war, Pearl Harbor survivors, one hundred percent disabled veterans and Medal of Honor recipients. Second, the plates for former prisoners of war will carry the full designation "Former Prisoner of War", rather than "Former-P.O.W."

Third, specific reference to the City and County of Honolulu will be replaced with a reference to all Hawaii's counties. Finally, a new subsection (d) has been added to allow the surviving spouse of anyone who has received the special plates to utilize those plates until the spouse remarries.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 16, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 16, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 952 Human Services on S.B. No. 1416**

The purpose of this bill is to establish a state funded supplemental payment program to provide temporary assistance when persons and families on public assistance suffer a loss of earned income.

Your Committee heard testimony on the merits of this bill as it affects families living on extremely tight budgets, who cannot wait two months for an adjustment in their public assistance allowance to make up for a loss of wages. Your Committee amended the bill to add that a loss of unearned income would also qualify an individual or family for the supplemental payment. Your Committee amended the appropriation for the program to include the budget estimate prepared by the Department of Human Services.

After hearing testimony on the financial difficulties faced by families on public assistance, your Committee also decided that the assistance allowance should be increased to sixty-five per cent of the standard of need. Your Committee then added an appropriation of \$1,900,000 to cover the costs of the increase.

Your Committee on Human Services concurs with the intent and purpose of S.B. No. 1416, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1416, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 953 Consumer Protection and Commerce on H.R. No. 68**

The purpose of this resolution is to urge Congress to amend the Cable Communications Policy Act of 1984 (the "Cable Act") to allow regulation of cable television rates and to allow regulation of cable television as a utility.

Your Committee heard testimony in favor of this resolution from the Director of the Department of Commerce and Consumer Affairs ("DCCA"). DCCA testified that prior to enactment of the Cable Act, it was able to regulate rates charged by cable television operators under Chapter 440G, Hawaii Revised Statutes. The Cable Act, however, prohibits regulation of rates for all cable services except when franchising authorities can demonstrate that the cable system is not subject to "effective competition." If this can be shown, then franchising authorities may regulate charges for basic cable service. The definition of "effective competition" adopted by the Federal Communications Commission ("FCC"), however, effectively precludes the regulation of basic service rates in virtually every community in the nation.

DCCA testified that as directed by section 19 of Act 301 of the Fourteenth Legislature, Regular Session of 1987, it appealed the State's lack of regulatory authority to the FCC. DCCA filed comments with the FCC in the rule-making, which urged that the FCC adopt a more realistic definition of effective competition. The FCC, however, did not change its definitional standard. That standard was upheld by the U.S. Court of Appeals for the D.C. Circuit, and the U.S. Supreme Court has declined to review the decision.

Since the FCC standard for effective competition has been upheld in the courts, and since the composition of the FCC has not changed since the standard was promulgated, DCCA suggests that the State look to Congress for a fair definition of effective competition. DCCA testified as to its belief that the significant rate increases by cable operators both in Hawaii and on the mainland provide compelling evidence that general authority to regulate cable rates in all circumstances should now be given back to franchising authorities.

DCCA also supports the request to Congress made in this resolution, to allow regulation of cable television as a utility when appropriate. It testified that the Cable Act prohibits any regulation of cable television as a common carrier or utility. DCCA believes that rate regulation is one area in which regulation by a public utilities commission may be merited.

Your Committee heard testimony in opposition to this resolution from the Executive Director of the Hawaii Cable Television Association ("HCTA"). The HCTA's position is that the cable operators on all islands of the State have been very judicious in the handling of basic rate charges following the enactment of the Cable Act. HCTA testified that the quality of service provided by Hawaii systems is superior to that provided in most mainland communities.

HCTA submitted that despite the increased cost of doing business in Hawaii, basic rates charged customers by systems in the State are probably lower than, or on par with, rates charged for similar services in mainland jurisdictions. It suggests that before adopting this resolution, your Committee should secure more information comparing local and mainland cable rates. The organization also pointed out that the issue of rate regulation is currently being debated in Washington, and may not be resolved for many months. It advised your Committee that nationally and locally, the industry is experiencing a shift from pricing based on regulation to pricing based on market demand, and that over time, the market will set the proper prices for cable television services.

Your Committee believes that cable television is a natural monopoly, and that the "effective competition" standard for rate regulation under the Cable Act is an erroneous one. Accordingly, your Committee believes that cable rate regulation is needed.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of H.R. No. 68 and recommends its adoption.

Signed by all members of the Committee.

**SCRep. 954            Consumer Protection and Commerce on H.C.R. No. 52**

The purpose of this concurrent resolution is to urge Congress to amend the Cable Communications Policy Act of 1984 (the "Cable Act") to allow regulation of cable television rates and to allow regulation of cable television as a utility.

Your Committee heard testimony in favor of this concurrent resolution from the Director of the Department of Commerce and Consumer Affairs ("DCCA"). DCCA testified that prior to enactment of the Cable Act, it was able to regulate rates charged by cable television operators under Chapter 440G, Hawaii Revised Statutes. The Cable Act, however, prohibits regulation of rates for all cable services except when franchising authorities can demonstrate that the cable system is not subject to "effective competition." If this can be shown, then franchising authorities may regulate charges for basic cable service. The definition of "effective competition" adopted by the Federal Communications Commission ("FCC"), however, effectively precludes the regulation of basic service rates in virtually every community in the nation.

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Since the FCC standard for effective competition has been upheld in the courts, and since the composition of the FCC has not changed since the standard was promulgated, DCCA suggests that the State look to Congress for a fair definition of effective competition. DCCA testified as to its belief that the significant rate increases by cable operators both in Hawaii and on the mainland provide compelling evidence that general authority to regulate cable rates in all circumstances should now be given back to franchising authorities.

DCCA also supports the request to Congress made in this concurrent resolution, to allow regulation of cable television as a utility when appropriate. It testified that the Cable Act prohibits any regulation of cable television as a common

carrier or utility. DCCA believes that rate regulation is one area in which regulation by a public utilities commission may be merited.

Your Committee heard testimony in opposition to this concurrent resolution from the Executive Director of the Hawaii Cable Television Association ("HCTA"). The HCTA's position is that the cable operators on all islands of the State have been very judicious in the handling of basic rate charges following the enactment of the Cable Act. HCTA testified that the quality of service provided by Hawaii systems is superior to that provided in most mainland communities.

HCTA submitted that despite the increased cost of doing business in Hawaii, basic rates charged customers by systems in the State are probably lower than, or on par with, rates charged for similar services in mainland jurisdictions. It suggests that before adopting this concurrent resolution, your Committee should secure more information comparing local and mainland cable rates. The organization also pointed out that the issue of rate regulation is currently being debated in Washington, and may not be resolved for many months. It advised your Committee that nationally and locally, the industry is experiencing a shift from pricing based on regulation to pricing based on market demand, and that over time, the market will set the proper prices for cable television services.

Your Committee believes that cable television is a natural monopoly, and that the "effective competition" standard for rate regulation under the Cable Act is an erroneous one. Accordingly, your Committee believes that cable rate regulation is needed.

Your Committee on Consumer Protection and Commerce concurs with the intent and purpose of H.C.R. No. 52 and recommends its adoption.

Signed by all members of the Committee.

**SCRep. 955 Ocean and Marine Resources on H.R. N. 48**

The purpose of this resolution is to request the assistance of the Armed Forces of the United States in ensuring Hawaii's clean environment with respect to the disposal of wastes in the ocean.

Hawaii derives many of its economic, social, nutritional, and recreational benefits from surrounding ocean waters. Offshore pollution created by vessels dumping waste poses a significant threat to those ocean waters and the resources therein.

Your Committee finds that a recent incident, which gave rise to much concern, involved medical waste in the form of laboratory needles which washed ashore at Hanauma Bay and were believed to have been dumped by an ocean vessel.

In the wake of these events, concerns have been expressed over the fact that the United States military forces dispose of waste, including medical waste, by incinerating it and later dumping it at sea.

Additionally, your Committee finds that the State has no authority to regulate waste disposal from offshore vessels beyond the three-mile offshore limit. The dangers caused by discarded waste do not recognize jurisdictional boundaries or the fact that the method of disposal complied with legal requirements.

Your Committee on Ocean and Marine Resources concurs with the intent and purpose of H.R. No. 48 and recommends its adoption.

Signed by all members of the Committee except Representative Hashimoto.

**SCRep. 956 Ocean and Marine Resources on H.C.R. No. 38**

The purpose of this concurrent resolution is to request the assistance of the Armed Forces of the United States in ensuring Hawaii's clean environment with respect to the disposal of wastes in the ocean.

Hawaii derives many of its economic, social, nutritional, and recreational benefits from surrounding ocean waters. Offshore pollution created by vessels dumping waste poses a significant threat to those ocean waters and the resources therein.

Your Committee finds that a recent incident, which gave rise to much concern, involved medical waste in the form of laboratory needles which washed ashore at Hanauma Bay and were believed to have been dumped by an ocean vessel.

In the wake of these events, concerns have been expressed over the fact that the United States military forces dispose of waste, including medical waste, by incinerating it and later dumping it at sea.

Additionally, your Committee finds that the State has no authority to regulate waste disposal from offshore vessels beyond the three-mile offshore limit. The dangers caused by discarded waste do not recognize jurisdictional boundaries or the fact that the method of disposal complied with legal requirements.

Your Committee on Ocean and Marine Resources concurs with the intent and purpose of H.C.R. No. 38 and recommends its adoption.

Signed by all members of the Committee except Representative Hashimoto.

**SCRep. 957            Ocean and Marine Resources and Intergovernmental Relations and International Affairs on H.R. No. 58**

The purpose of this resolution is to urge the Federal Government to discourage the government of Japan from the disposing of radioactive waste in the Marianas Trench.

Your Committees find that in recent years, the cost of disposing low-level radioactive waste has increased, thereby providing an incentive for inappropriate disposal of the waste. The components of high level radioactive waste take over 10,000 years to decay to levels that are safe, and the containers that insulate radioactive waste from the environment for over 1,000 years have yet to be developed.

The United States has a vested interest in the protection of the ocean environment. The disposal of radioactive waste is an issue of international concern. Methods for land disposal of radioactive waste are being thoroughly researched and are in use in many areas of the world.

Additionally, your Committees find that the government of Japan is proposing to dispose of radioactive waste in the Marianas Trench of the Western Pacific. Pacific island governments, such as the Commonwealth of the Northern Marianas Islands, a trust territory of the United States, are located fewer than 200 miles from the Marianas Trench. The people of the State of Hawaii, other Pacific island governments, and the Northern Marianas Islands consider the surrounding ocean to be sacred and the only resource for the economic development of the islands besides the fragile tourism industry.

The people of the State of Hawaii and other Pacific island governmental entities have been dependent on the surrounding ocean resources for transportation, economic development, recreation, food, and other benefits.

Your Committees received testimony in support of this resolution from Hawaii's Thousand Friends.

Your Committees have corrected a technical drafting error by adding the phrase "United States" between "the" and "Senate" in the last clause.

Your Committees on Ocean and Marine Resources and Intergovernmental Relations and International Affairs concur with the intent and purpose of H.R. No. 58, as amended herein, and recommend its adoption in the form attached hereto as H.R. No. 58, H.D. 1.

Signed by all members of the Committees except Representative Hashimoto.

**SCRep. 958            Ocean and Marine Resources and Intergovernmental Relations and International Affairs on H.C.R. No. 45**

The purpose of this concurrent resolution is to urge the Federal Government to discourage the government of Japan from the disposing of radioactive waste in the Marianas Trench.

Your Committees find that in recent years, the cost of disposing low-level radioactive waste has increased, thereby providing an incentive for inappropriate disposal of the waste. The components of high level radioactive waste take over 10,000 years to decay to levels that are safe, and the containers that insulate radioactive waste from the environment for over 1,000 years have yet to be developed.

The United States has a vested interest in the protection of the ocean environment. The disposal of radioactive waste is an issue of international concern. Methods for land disposal of radioactive waste are being thoroughly researched and are in use in many areas of the world.

Additionally, your Committees find that the government of Japan is proposing to dispose of radioactive waste in the Marianas Trench of the Western Pacific. Pacific island governments, such as the Commonwealth of the Northern Marianas Islands, a trust territory of the United States, are located fewer than 200 miles from the Marianas Trench. The people of the State of Hawaii, other Pacific island governments, and the Northern Marianas Islands consider the surrounding ocean to be sacred and the only resource for the economic development of the islands besides the fragile tourism industry.

The people of the State of Hawaii and other Pacific island governmental entities have been dependent on the surrounding ocean resources for transportation, economic development, recreation, food, and other benefits.

Your Committees received testimony in support of this concurrent resolution from Hawaii's Thousand Friends.

Your Committees have corrected a technical drafting error by adding the phrase "United States" between "the" and "Senate" in the last clause.

Your Committees on Ocean and Marine Resources and Intergovernmental Relations and International Affairs concur with the intent and purpose of H.C.R. No. 45, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 45, H.D. 1.

Signed by all members of the Committees except Representative Hashimoto.



**SCRep. 959            Ocean and Marine Resources and Intergovernmental Relations and International Affairs on H.R. No. 59**

The purpose of this resolution is to urge the extension of the territorial sea from three to twelve miles and the formation of a national oceans policy committee.

Your Committees received testimony from the Office of State Planning (OSP), the Department of Transportation (DOT), and the Department of Business and Economic Development (DBED). In light of a proclamation issued by President Reagan on December 27, 1988, extending the territorial sea from three to twelve miles, both DOT and DBED concurred with OSP's position that a re-drafted resolution, which incorporates references to the proclamation and recommends the establishment of a National Oceans Policy Commission, be substituted for the original language.

Your Committees find that the revised resolution offered by OSP specifically references a jurisdictional disclaimer from the proclamation. The disclaimer, as noted in the original resolution, raises more problems of interpretation than it resolves. This is of particular concern relative to interpreting other domestic laws regarding Federal/State relations and rights not only within the extended territorial sea but also within the 200-mile U.S. Exclusive Economic Zone (EEZ).

Accordingly, your Committees have amended this resolution to urge Congress to establish a National Oceans Policy Commission to prepare findings and recommendations concerning a long-range national oceans program which will address such issues within the EEZ.

Your Committees have further amended this resolution to declare that the Pacific states and Pacific island governments should be partners with the Federal Government in managing ocean areas and should share in the revenues generated within the territorial sea and adjacent maritime zones.

Your Committees have also changed the title of this resolution to better reflect the intent and purpose of the revised resolution.

Your Committees on Ocean and Marine Resources and Intergovernmental Relations and International Affairs concur with the intent and purpose of H.R. No. 59, as amended herein, and recommend its adoption in the form attached hereto as H.R. No. 59, H.D. 1.

Signed by all members of the Committees except Representative Hashimoto.

**SCRep. 960            Ocean and Marine Resources and Intergovernmental Relations and International Affairs on H.C.R. No. 46**

The purpose of this concurrent resolution is to urge the extension of the territorial sea from three to twelve miles and the formation of a national oceans policy committee.

Your Committees received testimony from the Office of State Planning (OSP), the Department of Transportation (DOT), and the Department of Business and Economic Development (DBED). In light of a proclamation issued by President Reagan on December 27, 1988, extending the territorial sea from three to twelve miles, both DOT and DBED concurred with OSP's position that a re-drafted concurrent resolution, which incorporates references to the proclamation and recommends the establishment of a National Oceans Policy Commission, be substituted for the original language.

Your Committees find that the revised concurrent resolution offered by OSP specifically references a jurisdictional disclaimer from the proclamation. The disclaimer, as noted in the original concurrent resolution, raises more problems of interpretation than it resolves. This is of particular concern relative to interpreting other domestic laws regarding Federal/State relations and rights not only within the extended territorial sea but also within the 200-mile U.S. Exclusive Economic Zone (EEZ).

Accordingly, your Committees have amended this concurrent resolution to urge Congress to establish a National Oceans Policy Commission to prepare findings and recommendations concerning a long-range national oceans program which will address such issues within the EEZ.

Your Committees have further amended this concurrent resolution to declare that the Pacific states and Pacific island governments should be partners with the Federal Government in managing ocean areas and should share in the revenues generated within the territorial sea and adjacent maritime zones.

Your Committees have also changed the title of this concurrent resolution to better reflect the intent and purpose of the revised concurrent resolution.

Your Committees on Ocean and Marine Resources and Intergovernmental Relations and International Affairs concur with the intent and purpose of H.C.R. No. 46, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 46, H.D. 1.

Signed by all members of the Committees except Representative Hashimoto.

**SCRep. 961            Human Services on S.B. No. 211**

The purpose of this bill is to create a volunteer program administered by a new agency called the "Hawaii Community Action Volunteers Agency". The agency will encourage and inspire Hawaii residents to volunteer with nonprofit organizations in depressed or deprived communities.

Your Committee finds the this new volunteer service very appealing. It has added an appropriation of \$250,000 for fiscal year 1989-1990 and has placed the program in the Department of Labor and Industrial Relations.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 211, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 211, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 962 Labor and Public Employment and Judiciary on S.B. No. 1551**

The purpose of this bill is to allow employees in the Employee's Retirement System of the State of Hawaii to purchase membership service credits for military service that was rendered before entering public service.

Your Committees find that under present statutes, certain military service is recognized for membership service credit:

- (1) Military service when a member is inducted into the Armed Forces after June 24, 1950, in which event the employer government contributes to the account of the member during his leave of absence; and
- (2) Military service during the period of 1941-1949, provided the person was an employee of the Territory or county prior to his induction into the Armed Forces and subsequently returned to the employment of the Territory or county.

This service may be purchased by the member and restricted to four years. This bill would allow the purchase of a third type of military service, which may be purchased for membership service credit. This would be military service rendered at any time by the member even if rendered prior to his membership in the System. The purchase would be limited to two years of service, which may be purchased if the member has fifteen years of credited service.

Your Committees have amended this bill by deleting the substance and inserting the provisions of H.B. No. 1181, H.D. 1, which provides that any employee of the State or county, who has had prior military service before entering the service of the State or county, the option to purchase two years prior military credit in the Employee's Retirement System after the employee has served for fifteen years in the State or county. After twenty years of service in the State or county, the employee may purchase up to three years. And after twenty-five years of employment with the State or county, the employee may purchase up to four years.

In addition, the amended bill provides noncontributory members of the Employees' Retirement System the same opportunity as contributory members for the acquisition of military service credit.

Your Committees on Labor and Public Employment and Judiciary are in accord with the intent and purpose of S.B. No. 1551, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1551, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees.

**SCRep. 963 Labor and Public Employment on S.B. No. 646**

The purpose of this bill is to expand the Health Fund Board of Trustees' authority to contract for various dental, prescription drug, and vision care benefit plans.

Your Committee finds that under the current language of section 87-22, Hawaii Revised Statutes, the Board of Trustees may contract for only one type of dental plan, one type of prescription drug plan, and one type of vision care plan.

This bill allows the Board of Trustees to contract for multiple plans by amending the singular references to the various plans in section 87-22, Hawaii Revised Statutes, to their plural forms.

Your Committee has received favorable testimony on this bill from the Department of Budget and Finance.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of S.B. No. 646 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 964 Labor and Public Employment on S.B. No. 1938**

The purpose of this bill is to make the State of Hawaii responsible for workers' compensation coverage whenever an exceptional child undertakes to perform work for a private employer as part of the child's instructional program.

Your Committee finds that this bill would encourage employers to participate in work programs that provide special training for exceptional children since the State would take responsibility for work injuries for the purpose of workers' compensation coverage.

Your Committee received testimony from the Department of Labor and Industrial Relations, the Department of Personnel Services, the Department of Education, the Department of Human Services, the State Planning Council of

Developmental Disabilities, the Commission on the Handicapped, and the Rehabilitation Association of Hawaii supporting the intent of this bill.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of S.B. No. 1938, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 965 Labor and Public Employment on S.B. No. 1842**

The purposes of the bill are 1) to expedite the formal administration review process for recruitment and examination purposes, particularly for job applicants who possess criminal convictions; and 2) to expand the factors which may be considered when evaluating the suitability of individuals with criminal convictions for public employment.

This proposal will require the central civil service personnel agencies to conduct an appropriate investigation and provide applicants with the opportunity to meet with the agency before a decision is made. Subsequent to the decision, the applicant may pursue an appeal with the Civil Service Commission.

The bill further provides for the expansion of factors to determine the suitability of applicants for public employment, including work record, involvement in community services, rehabilitation programs, employment training and other similar programs.

Favorable testimony in support of this bill was submitted by the Department of Personnel Services, Department of Health, and the Judiciary.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of S.B. No. 1842, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 966 Health on S.B. No. 1117**

The original purpose of this bill was to require that involuntary hospitalization be accompanied by a petition with a certificate of a licensed psychiatrist. Your Committee on Health, while sympathetic to the intent of the bill, has decided to defer all matters regarding involuntary commitment to await the work of an interim task force of interested parties.

Accordingly, this bill has been amended to remove all of the original content. In its place, the Committee has assembled a number of key items for mental health funding which are not now included in the House version of the Budget. The Department of Health and the consumer and advocacy organizations present at the hearing supported the proposed new content of the bill.

Your Committee finds that a comprehensive picture of our mental health funding needs was not available before key hearings on these matters clarified the direction, the reforms, and the needs of mental health consumers in the State of Hawaii. In addition, the budget proposals submitted by the Administration, while representing a significant commitment to mental health, did not include a number of essential elements, especially regarding services for children and adolescents.

Your Committee has taken the opportunity to examine the existing proposals included in the House Budget, various items not included, and items which have passed over from the Senate. Thorough discussions with the Department of Health, private organizations, and consumers have resulted in the following key elements of the mental health system which your Committee feels should be seriously considered for funding this year:

- a. Full funding for adult crisis teams and for the bilingual mental health team. (H.B. 56, H.D. 1. These funds were reduced by half in the House Budget.)
- b. Full funding for the executive request for mental health case managers. (These funds were deleted from the House Budget.)
- c. Funds for outreach services for the homeless mentally ill. (Funds were included in the Committee's POS recommendation, but are not in House budget.)
- d. Funds for the operation of the mental health housing initiative. (These funds were assumed by the Administration to be available from Medicaid, but this will not be possible.)
- e. CIP funds for two multi-use Drop-in centers: one in Kalihi-Palama and one in Waipahu. (Funds recommended by the Health Committee in H.B. 1654 were not included in the House Budget.)
- f. Funds to establish a secured short-term residential facility for adolescents. (H.B. 1623, to avoid inappropriate admission to Hawaii State Hospital; passed by Human Services Committee but not included in House Budget.)
- g. Funds for Neighbor Island Adolescent Day Treatment services. (H.B. 1416, sent to the Senate with \$1.)
- h. Flexible funds for Children's teams. (Needed to avoid unnecessary hospitalization of children. Included in Committee budget request, but not in House budget.)

- i. Funds to continue the Early Childhood Family Education Program. (H.B. 842 was included in Committee budget request, but is not in House budget).
- j. Funds to support ongoing efforts in conjunction with the Program on Alternative Dispute Resolution, to reach consumers on issues such as involuntary commitment and the reform of the mental health system in Hawaii.
- k. Various provisos representing a consensus of consumers, family members, advocates and the Department of Health in determining how the mental health funds should be expended, and requiring consumer input in the process.

The total amount of funding recommended in this bill is \$4,749,129 for Fiscal Year 1989-90, and \$3,869,116 for Fiscal Year 1990-91. Your Committee recognizes that this is a substantial sum of money, and emphasizes that this in no way should supplant existing priorities within the Administration Budget or the House Budget. Nevertheless, the mental health system and its future has become one of the salient issues in the current Legislative Session. Mental health can, in fact, be seen as the number one priority for Health, followed closely by the State health insurance proposal and the Department's reorganization and need for new deputies.

Your Committee believes that the funds recommended in this amended bill are essential to restore a sense of balance to the mental health system, as many consumers, advocates and analysts have repeatedly criticized the State of Hawaii for failure to create a truly comprehensive system. Of special note has been the continuous dialogue with the United States Office for Civil Rights, which has repeatedly cited our Department of Health for failures to comply with numerous federal laws, especially those requiring services for adolescents.

In assembling and evaluating programs for inclusion in this bill, your Committee has posed the following questions:

1. Is the program important to move the Department of Health towards a new and more effective approach to mental health?
2. Is the program important to create a balanced and comprehensive mental health system, and to avoid the continuing development of a fragmented and incoherent system?
3. Is the program important to alleviate the most critical needs of the severely disabled mentally ill?
4. Is the program required to ensure that other elements of the system are successful (such as operating funds for the housing program)?
5. Does the program provide appropriate alternatives to more costly hospitalization?
6. Does the program contribute to a growing consensus among consumers, advocates, professionals and providers?

Your Committee believes that all of the items in this amended bill fit one or more of the criteria listed above. It is the intent of your Committee to present this list for the purpose of clarifying the missing pieces of the mental health puzzle, and to strongly urge our colleagues to seriously consider full funding for the mental health system.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1117, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1117, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hayes, Peters and Liu.

**SCRep. 967                      Tourism on S.B. No. 1715**

The purpose of this bill is to allow the selected developer of the Waikiki Convention Center site and the merchants on the site to negotiate a settlement involving the payment of monies to merchants dislocated by the project in place of relocating the merchants.

The 1988 Legislature passed Act 96 creating the Waikiki Convention Center Authority. One of the provisions of this Act was that the developer selected to build the center would contribute \$5-million to a special fund to assist in the temporary or permanent relocation of the merchants occupying the site. This bill would amend that Act to allow each merchant the choice of being relocated or receiving a payment to settle the issue.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 1715, S.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 Representative Yoshimura.

**SCRep. 968                      Tourism on S.B. No. 678**

The purpose of the bill is to replace the annual registration fee of \$1 assessed on transient accommodations operators with a one-time \$20 fee.

Your Committee finds that a one-time registration fee would eliminate the need for the department of taxation to issue annual renewal notices and that a one-time fee would also facilitate the tracking of computerized registration information.

Your Committee has amended the bill for the purpose of providing a graduated one-time registration fee, ranging from \$1 for operators of transient accommodations of between 1 and 5 units; \$25 for operators of transient accommodations of between 6 and 25 units; and \$50 for operators of transient accommodations of over 25 units.

Your Committee finds that a graduated registration fee will recognize the size of the accommodation, based on the number of rooms or units, assessing a higher rate for larger operators and a lower fee for smaller operators to achieve fairness and equity.

Your Committee has also amended this bill for the purpose of providing that the acquisition of additional units by operators of transient accommodations would not result in additional fees for the registration of those units.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 678, S.D. 1 as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 678, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 969                      Tourism on S.B. No. 1297**

The purpose of this bill is to establish a Hawaii tourism commission in the office of the governor. The general duties of the commission include developing, promoting, coordinating, and monitoring the visitor industry and its activities; establishing a statewide tourism data base; promoting job training; addressing county concerns; and developing a tourism impact plan.

Your Committee finds that the visitor industry has long been regarded as the most important sector of Hawaii's economy, providing approximately one-fourth of all civilian jobs in the State and generating millions of dollars in revenue each year. Its activities have a direct or indirect effect upon every resident and business in the State. In this regard, it is extremely important that government coordinate and plan tourism growth and development in a manner consistent with the economic interests of the State.

While it fully supports any effort to promote and coordinate the visitor industry in Hawaii, your Committee feels that the development of a Hawaii tourism commission at the present time would unnecessarily transfer the responsibilities of the tourism branch of the department of business and economic development. Your Committee feels that rather than the establishment of a commission, a more prudent approach to addressing this issue would be to elevate the status of the tourism branch of the department to that of an office. Your Committee finds that this approach will provide focus and lend a higher profile to the department's responsibilities relating to tourism. An office of tourism will serve to concentrate and coordinate the State's activities in the area of tourism.

Your Committee has amended this bill in its entirety by establishing an office of tourism within the department of business and economic development. The office shall be headed by a deputy director of tourism and shall be responsible for the promotion, development, and coordination of tourism in the State. This bill provides for the transfer of all officers and employees of the tourism branch of the department of planning and economic development to the office of tourism.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 1297, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1297, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 970                      Tourism and Intergovernmental Relations and International Affairs on S.B. No. 390**

The purpose of the bill is to appropriate funds for participation by Hawaii at the Osaka Expo 1990.

Your committee finds that Hawaii's participation in the Osaka Expo '90 benefits the State's business community and strengthen our relation with countries in the Pacific, particularly Japan. The cross-cultural exchange between Hawaii and other participants will further enhance goodwill, attracting visitors to the islands.

Your Committees on Tourism and Intergovernmental Relations and International Affairs are in accord with the intent and purpose of S.B. No. 390, S.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Tom.

**SCRep. 971                      Higher Education and the Arts and Judiciary on S.B. No. 716**

The purpose of this bill is to amend Section 304-14.6, Hawaii Revised Statutes, to require the Board of Regents of the University of Hawaii to provide tuition waivers for spouses and dependents of Hawaii National Guard members or members of any other reserve component of the military who have been killed or permanently disabled while on active duty.

Your Committees heard testimony in favor of the bill from the University of Hawaii and the State of Hawaii Department of Defense.

Your Committees heard testimony in favor of the bill from the University of Hawaii and the State of Hawaii Department of Defense.

Your Committees on Higher Education and the Arts and Judiciary are in accord with the intent and purpose of S.B. No. 716, S.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Hashimoto and Hayes.

**SCRep. 972 Higher Education and the Arts and Education on S.B. No. 1868**

The purpose of this bill is to:

- (1) Extend the period of flexibility regarding budget allotment control and implementation for the University of Hawaii (UH) and the Department of Education (DOE) for another five years;
- (2) Authorize the Governor to suspend for no more than 12 months any allowance or exception granted to UH or the DOE when it impairs the Governor's ability to promote and ensure the economic and efficient management of the State's financial resources; and
- (3) Require the governor to notify the Legislature within 30 days of any suspension.

Act 320, Session Laws of Hawaii 1986, granted both UH and the DOE a degree of administrative flexibility in the budget execution process for a trial period of three years ending this fiscal year.

Your Committees find that the flexibility granted has enabled both UH and the DOE to administer their programs more effectively and efficiently resulting in better delivery of their services to the public. This bill will continue that flexibility while allowing the Governor to step in and gain control at times when he feels his ability to administer the State's budget is jeopardized.

Your Committees expressed concern with Section 6A of the bill, allowing the Governor to intervene. It is our hope and desire that the Governor will take over only at times of extreme emergency and that Section 6A will not impede the progression of school-based management within the DOE.

Your Committees on Higher Education and the Arts and Education are in accord with the intent and purpose of S.B. No. 1868, S.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Hashimoto.

**SCRep. 973 Higher Education and the Arts and Agriculture on S.B. No. 1784**

The purpose of this bill is to establish a revolving fund for the College of Tropical Agriculture and Human Resources (CTAHR) to deposit receipts from the sales of products resulting from crop research and extension experiments and demonstrations. These sales are expected to generate revenues of about \$50,000 annually for this revolving fund. Moneys from this revolving fund would then be available to purchase services, supplies, and equipments for subsequent experiments and demonstrations.

Your Committees received testimony in support of this bill from CTAHR.

Your Committees find that the establishment of an agricultural crops revolving fund would accelerate research programs and would provide quicker delivery of research results and better informational services to Hawaii's crop industries.

Your Committees on Higher Education and the Arts and Agriculture are in accord with the intent and purpose of S.B. No. 1784, S.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Hashimoto.

**SCRep. 974 Higher Education and the Arts on S.B. No. 785**

The purpose of this bill is to set forth the conditions for matching and reversion of funds for the State of Hawaii Endowment Fund used for the operation of the Honolulu Symphony.

Your Committee heard testimony from the Honolulu Symphony in support of this bill. Your Committee finds that the enactment of this bill will alleviate the problems the Honolulu Symphony trust administrators are encountering in carrying out the intent of the endowment fund legislation.

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

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of S.B. No. 785, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 785, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

**SCRep. 975 Higher Education and the Arts on S.B. No. 1140**

The purpose of this bill is to amend Section 103-8, Hawaii Revised Statutes, to allocate for the acquisition of works of art one percent of all appropriations for major renovations of existing buildings of \$100,000 or more.

Your Committee heard testimony from the Department of Accounting and General Services in support of the intent of the bill. The department recommended amending the bill to include one percent of all capital improvement appropriations and to create a revolving fund for the deposit of the one percent appropriations.

Your Committee has amended this bill by adopting the recommendations of the department.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of S.B. No. 1140, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1140, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

**SCRep. 976 Higher Education and the Arts on S.B. No. 1405**

The purpose of this bill is to allow the University of Hawaii Board of Regents (BOR) to initiate pricing reviews of positions within the BOR personnel system and to allow the university to request the necessary salary adjustment funds through the budgetary process.

Your Committee heard testimony in favor of the bill from the University of Hawaii director of personnel. The Manoa faculty salaries are approximately 40 percent lower than peer institutions. The director feels that this bill will help to correct the inequity.

The University of Hawaii Professional Assembly (UHPA) testified against the bill. They stated that if this bill is passed, the BOR would be authorized to make adjustments within each of these ranks based on criteria yet to be determined. UHPA testified that they do not question the sincerity of the BOR but expressed that they should not be solely responsible for decision making on pricing reviews. It was stated that salary issues should be addressed through bilateral decision making.

UHPA, as well as other organizations, testified in favor of reinstating the optional retirement plan which was in the original version of the bill.

In view of the testimony submitted, your Committee has amended the bill to include UHPA in decision making on pricing reviews before coming to the Legislature for funding requests.

Your Committee has also amended the bill to reinstate the optional retirement plan for university employees. The plan would provide for portability of pension benefits thereby enhancing efforts to recruit qualified faculty.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of S.B. No. 1405, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1405, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Bunda and Hashimoto.

**SCRep. 977 Higher Education and the Arts on S.B. No. 1985**

The purpose of this bill is to establish the Hawaii Bishop Research Institute in a collaborative effort between the Bishop Museum and the University of Hawaii. The establishment of such an institute would create an environment within which the researchers of Bishop Museum and the university can join together to pursue common interests.

Testimony in favor of the bill was received from the University of Hawaii and the Bishop Museum. Your Committee finds that the institute would provide the structure for the intergration of collections-based research programs of the museum with traditional, non-collections-based research orientation of the university in the areas of anthropology, botany, entomology, zoology, biological diversity, conservation biology, museum studies and artifact conservation, Pacific cultures and art history.

Your Committee has made a technical and nonsubstantive amendment to the bill.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of S.B. No. 1985, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1985, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

**SCRep. 978 Higher Education and the Arts on S.B. No. 2022**

The purpose of this bill is to delete the requirement of self-sufficiency for child care centers established by the University of Hawaii and to enable the Legislature to provide supplementary funding through the appropriation of State general revenues.

Your Committee received testimony in support of the bill from many organizations including the University of Hawaii, the University of Hawaii Professional Assembly, the Office of Children and Youth, the Hawaii State Commission on the Status of Women, and a number of students whose children are enrolled at the University of Hawaii-Manoa child care center. Many of the students testifying emphasized that the center has enabled them to take advantage of postsecondary educational opportunities which would otherwise be precluded or made much more difficult to pursue.

Since its inception 18 months ago, the center has been required to operate only on revenues received through fees. Typically, however, many students who might use the services of the center for their children find it difficult to pay for child care and must incur debt to meet their total expenses.

Supplemental funding of child care programs would assist a particular sector of the population. Your Committee would like to clarify that this bill is not intended to establish the public policy that the State subsidize child care in general. Rather, this bill focuses on a particular group and is intended to facilitate their access to postsecondary opportunities.

Testimony submitted by the legislative chairperson for the Advisory Board of the child care center suggested an amendment to specify that child care services may be supported with federal, county and private funds as well.

The Office on Children and Youth also recommended, in previous testimony submitted on the House companion bill, that the term "child care centers" be changed to read "child care programs" to enable the university to be flexible in its offerings of child care services such as family child care satellite homes for infant and toddler care.

In consideration of the foregoing recommendations, your Committee has amended the bill to:

- (1) Change "child care centers" to "child care programs;" and
- (2) Authorize that county, state, federal and private funding can be received to help support child care services.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of S.B. No. 2022, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2022, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

**SCRep. 979            Agriculture on S.B. No. 1779**

The purpose of this bill is to add a new chapter establishing the Hawaii Agricultural Development Corporation.

Your Committee finds that the "Alternative Crops Industry Analysis," submitted to the Governor's Agriculture Coordinating Committee in March, 1988, recommended the establishment of a quasi-public corporation which would facilitate joint public/private ventures relating to the development, commercialization, and marketing of new crops.

Following this recommendation, this bill proposes to establish the Hawaii Agricultural Development Corporation to stimulate, formulate, and finance new agricultural development enterprises in cooperation with existing farm credit programs and the Hawaii agricultural products program within the Department of Agriculture. This bill provides the mechanism to establish a corporation and a revolving fund and provides the funds (unspecified) to support its functions. The corporation would be an instrumentality of the State placed within the Department of Agriculture for administrative purposes.

Your Committee received supporting testimony from the Department of Agriculture which recommended that \$500,000 be appropriated into the Hawaii Agricultural Development Revolving Fund and that \$200,000 be appropriated to staff and operate the Hawaii Agricultural Development Corporation for fiscal year 1989-1990.

Testimony received also recommended an amendment to Section 171-2, Hawaii Revised Statutes, to except from the definition of public lands those lands which the corporation in its corporate capacity holds title.

Your Committee concurs with these recommendations by: (1) inserting the sums of \$500,000 for the revolving fund and \$200,000 for the corporation's staffing and operational needs for fiscal year 1989-1990; (2) adding a new Section 2 to the bill that amends Section 171-2, Hawaii Revised Statutes; and (3) making technical, nonsubstantive amendments to the bill for the purposes of style and clarity.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1779, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1779, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

**SCRep. 980            Agriculture on S.B. No. 538**

The purpose of this bill is to amend Sections 155-8 and 155-9, Hawaii Revised Statutes: (1) to set the interest rate for the new farmer program (class "F") loan at eight per cent a year, and (2) to delete that portion which limits the initial loans for the new farmers to the terms specified in the farm ownership and improvement (class "A") and farm operating (class "C") loans.



Your Committee received testimony on this bill from the Department of Agriculture (DOA) indicating that the highest interest rate charged to the new farmer borrowers since November, 1986 has been seven and nine-tenths per cent, and since March, 1988, the interest rates have been as low as six and five-tenths per cent.

Your Committee finds that the thrust of this bill is to encourage more people to consider farming as a career. Moreover, as indicated in the DOA's testimony, the proposed interest rate at eight per cent would put the new farmer borrowers at a distinct disadvantage and would defeat the purpose of the new farmers program.

Upon further consideration, your Committee has amended this bill to reduce the interest rate from eight per cent to six per cent. Your Committee has also amended this bill by: (1) deleting Section 2 which amended Section 155-9, Hawaii Revised Statutes, on advice of legal counsel that the proposed amendments do not follow the prescribed format for statutory language; and (2) renumbering SECTIONS 3 AND 4 to reflect the deletion of SECTION 2.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 538, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 538, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

**SCRep. 981            Planning, Energy and Environmental Protection on S.B. No. 667**

The purpose of this bill is to provide for a public hearing when a Natural Area Reserve is established or modified and to make nonsubstantive changes to Chapter 195, HRS. As amended this bill would also: (1) eliminate the need for a reserve to be designated according to criteria established by the Natural Area Reserves System Commission; (2) repeal the requirement whereby a reserve being established is subject to approval of the Governor by an Executive Order that sets aside the land for its intended purpose; (3) create new procedures for establishing reserves; and (4) require the Natural Area Reserve Commission to submit an annual report.

Your Committee finds that giving the public an opportunity to express its concerns, criticisms, or opinions when State owned land is being proposed for Natural Area Reserve status or when a boundary change or revocation is being considered for an established reserve will provide a formal mechanism by which the Department of Land and Natural Resources will be better able to serve the public. Your Committee agrees wholeheartedly with this amendment to Section 195-4, HRS.

However, your Committee finds no basis to support the additional amendments proposed by the Senate in this bill. The proposed amendments do not appear to be necessary in view of the present, proven procedures in establishing new reserves. Therefore, your Committee has amended this bill by deleting Sections 1, 3, 4, 5, and 6. Additionally, your Committee has amended Section 2 of this bill by inserting the amendments to Section 195-4, HRS, found in H.B. No. 724, H.D. 1.

Your Committee further finds that the crucial issue facing the Natural Area Reserve System (NARS) today is the lack of a permanent commitment to fund the system. The preservation of Hawaii's unique native flora and fauna requires active, continuing management. This, in turn, requires continuous stable funding. Such funding would not only permit the state to adequately manage its NARS, but would provide incentives for greater participation in forest watershed protection and restoration by the private and federal sectors.

Therefore, your Committee has further amended this bill by inserting a new Section 2 which amends Section 195-9, HRS, by requiring that \$4 million shall be annually appropriated from the general fund for NARS. This amendment would obligate future legislatures into seriously considering the inclusion of such appropriation into future budgets.

Your Committee has further amended Section 195-9, HRS, to include an analysis of management objectives which have or have not been met in the department's annual report to the Legislature. Given the proposed level of funding, it seems appropriate to require a more detailed report to the Legislature.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of S.B. No. 667, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 667, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

**SCRep. 982            Planning, Energy and Environmental Protection on S.B. No. 449**

The purpose of this bill is to increase from \$15,000,000 to \$20,000,000 the amount of special purpose revenue bonds authorized to be issued to assist the Mauna Kea Power Company, a Hawaii corporation, in the construction and operation of a hydroelectric power plant on the Honolii stream in Hawaii county.

Act 263, Session Laws of Hawaii 1987, authorized the issuance of \$15,000,000 in special purpose revenue bonds. This bill increases the amount to \$20,000,000 and clarifies that the proceeds from the sale of the bonds may be used to pay off any interim financing obtained to initiate project construction in accordance with applicable federal tax laws.

Your Committee finds that the Honolii Hydroelectric Project is currently seeking the approval of other governmental agencies in determining the environment impacts of the project. Although this bill authorizes the issuance of special revenue bonds, this should in no way be construed as a legislative endorsement of the merits of this project. Your

Committee does not intend this bill to interfere with the current processing of the Environmental Impact Statement and the Conservation District Use Application for this project.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of S.B. No. 449, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Bunda and Hashimoto.

**SCRep. 983            Planning, Energy and Environmental Protection on S.B. No. 1810**

The purpose of this bill is to create an agency, the Hawaii Island Natural Resource and Energy Authority (Authority) to consolidate management of the Natural Energy Laboratory of Hawaii (NELH) and the Hawaii Ocean Science and Technology (HOST) Park.

As received, this bill would:

- (1) Place the Authority in the Department of Business and Economic Development for administrative purposes;
- (2) Create a nine-member board appointed by the Governor;
- (3) Establish powers and duties of the Authority;
- (4) Allow for the appointment of a Research Advisory Committee by the Authority;
- (5) Create a special fund for all monies and fees received by the Authority;
- (6) Allow an exemption for the Authority from all state taxes and the state competitive bidding law;
- (7) Protect accrued benefits of former NELH employees hired as state employees;
- (8) Transfer NELH and HOST records, equipment, etc., to the Authority; and
- (9) Make an appropriation of \$1 for each year of the 1989-1991 fiscal biennium.

Your Committee has amended this bill by changing the name of the Authority to the Hawaii Island Natural Resource and Technology Authority. This name change emphasizes the purpose of the Authority, which will focus on the technological use of natural resources.

Your Committee finds that the current language is ambiguous and appears to designate ten members rather than nine. Accordingly, the bill has been amended to clarify the composition of the nine members of the board.

In addition, the bill has been amended to appropriate \$965,000 for fiscal year 1989-1990 and \$970,000 for fiscal year 1990-1991 for research, operation and maintenance, miscellaneous services to tenants, and salaries and office expenses of the Authority's staff.

Your Committee has also amended this bill to delete Section 3 of the bill, which repeals Chapter 227, Hawaii Revised Statutes.

Technical, nonsubstantive amendments have also been made for the purposes of style and clarity.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of S.B. No. 1810, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1810, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Bunda and Hashimoto.

**SCRep. 984            Health on S.B. No. 655**

The purpose of this bill is to provide additional civil-service exempt deputies to the Department of Health.

Your Committee finds that additional positions are necessary, and that an increase in the number of exempt deputies will permit better management within the Department and provide for future planning and health status monitoring. Furthermore, a recent federal report on the future of public health recommends that there be one "umbrella" department of health at the state level, encompassing such areas as mental health and environmental health instead of multiple departments. The Committee finds that if the Department, with its more than 5000 employees, is to function optimally it must have more personnel at the deputy level.

Your Committee heard testimony in support of this bill from the Department of Health. The Department testified that four additional deputies are needed as originally requested. There was lengthy discussion of the role the various deputies would have and whether or not their sphere of activities and title should be explicitly stated in the bill. Discussion focused on the importance of the mental health division as the Department strives to improve and expand services in this area. There was discussion also of the Department's plan to subsume mental health, along with substance abuse, under the title of "Behavioral Health". The Department explained that this terminology was proposed by a taskforce assisting the Department with its reorganization plan and that it was in wide usage. Your Committee does not wish to specify the

duties and subject areas of each deputy in this measure. We wish to emphasize, however, that we consider improvement in mental health services to be one of the top priorities this legislative session and trust that this area will receive its due attention in the reorganization.

Your Committee has amended the bill by changing the number of exempt deputies positions from three to four.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 655, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 655, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hayes.

**SCRep. 985            Health on S.B. No. 509**

The purpose of this bill is to waive the baccalaureate degree requirement for an applicant for licensure as a nursing home administrator. This bill would allow applicants with demonstrated experience as a nursing home administrator and with peer support to be eligible to take the examination for licensure.

Your Committee heard extensive testimony in support of this measure from the Department of Health, the Department of Human Services, the Hawaii Long Term Care Association, the Board of Examiners of Nursing Home Administrators, the Founders Group of the Kokua Council and several nursing home administrators. All were in support of the measure, but the Department of Health felt that the substituted standards were overly stringent in light of the projected need for more administrators. They recommended that eight years of required experience replace the ten years in the Senate draft and that the required letters of recommendation be reduced from five to three. They also suggested that experience may replace the currently required correspondence course for applicants. The other organizations and individuals testifying, including the Department of Human Services, concurred with the first two recommendations comparing Hawaii's requirements with those of other states.

Your Committee has amended the bill in Section 1 (b)(3)(A) to require eight years of service in a nursing home rather than ten. In Section 1 (b)(3)(B) three letters of recommendation are now required rather than five. And finally in Section 2 on limited and temporary licenses your Committee has stipulated that such licenses shall not be subject to renewal.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 509, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 509, S.D. 1, H.D. 1, and be referred to the Committee on Consumer Protection and Commerce.

Signed by all members of the Committee except Representative Hayes.

**SCRep. 986            Health on S.B. No. 1139**

The purpose of this bill is to amend Section 328K-2, Hawaii Revised Statutes, to prohibit smoking at Aloha Stadium, except on plaza and concourse areas designated by the Stadium Authority to minimize the discomfort and health risks to nonsmoking spectators.

Your Committee received testimony supporting this measure from the Director of Health, the Hawaii Medical Association, the Tri-Agency Coalition (representing the American Lung Association of Hawaii; the American Heart Association, Hawaii Affiliate; and the American Cancer Society, Hawaii-Pacific Division), and the Hawaiian Islands Nonsmokers Organization.

Your Committee finds that smoke in Aloha Stadium poses a threat to the health of both smokers and nonsmokers. However the the bill, as received, puts the Legislature in the position of making management decisions regarding the Aloha Stadium that more properly fall under the jurisdiction and responsibility of the Stadium Authority.

Your Committee's primary concern is that Aloha Stadium patrons be able to enjoy the events they have paid to see, without the discomfort and health risks associated with breathing smoke. It is the belief of the Committee that the Stadium Authority is most knowledgeable concerning which areas are best suited to be designated smoking areas.

This bill has therefore been amended by assigning the responsibility of determining and designating those areas that should be smoking areas to the Stadium Authority. Your Committee has also added a new section requiring the Stadium Authority to report its decision on the placement of smoking areas to the Legislature prior to the convening of the Regular Session of 1990.

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

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1139, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1139, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 987 Health on S.B. No. 1880**

This bill is a housekeeping measure to amend Chapter 328, Hawaii Revised Statutes, to reflect the recent change in federal law regarding rules for tolerances (legal limits) for pesticide residues in processed food. The bill recodifies our law to match the new federal law, and allows the Department of Health to establish rules as necessary for enforcement. Although farmers and food processors may continue to use federally-approved pesticides, the use of pesticides which are banned by the federal government would be prohibited.

Your Committee on Health heard testimony from the Department of Health in strong support of this measure, as it would enable the department to continue to enforce tolerances for pesticide residue in food.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1880 and recommends that it pass Second Reading and be referred to the Committee on Planning, Energy, and Environmental Protection.

Signed by all members of the Committee.

**SCRep. 988 Health on S.B. No. 1250**

The purpose of this bill is to appropriate \$50,000 for Fiscal Year 1989-90 to the Department of Health, Office of Hawaiian Health, to fund the community-based, Hawaiian Health Coalition defined by the Native Hawaiian Health Act of 1988. The funds will be used to commence the needed planning for the coalition's operations.

Your Committee heard testimony in support of this bill from the Director of Health and the Director of the Office of Hawaiian Health. E Ola Mau, one of the five organizations of the Hawaiian Health Coalition, also expressed their support.

Your Committee finds that these planning funds are essential to ensure the Coalition's ability to take advantage of the federal matching funds that will be available next year through the federal legislation. Concern was raised by the Committee about the delay in transferring the \$60,000 designated to E Ola Mau during the 1988 Regular Session of the Hawaii State Legislature. The Committee urges the Department to release the allocated funds to the Native Hawaiian health organizations in a timely manner to ensure that initiatives aimed at improving the health of our native population may succeed.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1250, S.D. 1 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hayes.

**SCRep. 989 Human Services on S.B. No. 1401**

The purpose of this bill is to revise the eligibility requirements for medical assistance to families receiving public assistance.

Section 346-29, Hawaii Revised Statutes, prescribes the manner, form, and condition of applications for public assistance. Currently, the statutes provide a number of considerations to be applied by the Department of Human Services in determining the needs of an applicant for, or recipient of, public assistance. This bill establishes: (1) the resource allowance for a community spouse at no less than \$60,000, or such higher amount as determined by the Secretary of Health and Human Services by indexing, court order, or fair hearing decision; and (2) the monthly maintenance needs allowance at a maximum of \$1,500 or such higher amount as determined by the Secretary of Health and Human Services by indexing, court order, or fair hearing in determining the income needs of the spouse of a person applying for, or receiving, medical assistance only.

Your Committee received testimony in favor of this bill from the Department of Human Services, the Executive Office on Aging, and a number of community organizations representing families in need.

This measure has been amended by changing the effective date to October 1, 1989, to make it consistent with the provisions of the Medicare Catastrophic Coverage Act, as amended.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1401, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1401, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hayes.

**SCRep. 990 Human Services on S.B. No. 470**

The purpose of this bill is to establish within the Department of Human Services an adult protective services program for mentally or physically impaired dependent adults who are victimized either physically or financially.

Your Committee received testimony from the Judiciary expressing reservations about several aspects of this bill, particularly its scope, which the Judiciary felt would make adversarial Family Court proceedings the arena to correct a wide range of abuses occurring to anyone more than eighteen years of age.

However, the Executive Office on Aging, the State Planning Council on Developmental Disabilities, the Commission on the Handicapped, the Hawaii Centers for Independent Living, and others testified in support of this measure. In particular, the Department of Human Services testified that the number of adult abuse cases is expected to rise by approximately one hundred cases per year and only a small number of these will require judicial intervention. It is anticipated that the bulk of the increased workload will occur at a preliminary, that is, investigative, stage, instead of the judicial level. The Department of Human Services also indicated that:

- (1) The Department has requested sufficient funds for the staff positions needed to implement this program in the executive budget; and
- (2) It will work with the Department of Health in conducting investigations of abuse, neglect, or exploitation of dependent adults.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 470, S.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 Representative Hayes.

**SCRep. 991            Human Services on S.B. No. 950**

The purpose of this bill is to expand the number of hours a part-time member of the paroling authority can work. The increase is to eighty percent of a full time position, at a salary of no more than eighty percent of the hourly wage paid the chairperson. The bill specifies that such part-time members will not be entitled to vacation, sick leave, or other benefits except as provided in Section 353-63, Hawaii Revised Statutes.

Your Committee heard testimony from the Chairman of the Hawaii Paroling Authority regarding the increase workload the Authority must handle. Your Committee feels the adult parole counseling and supervision program must be expanded to meet increasing workload demands. Your Committee therefore amended the bill to add appropriations of \$170,126 in fiscal year 1989-1990 and \$182,844 in fiscal year 1990-1991, to be expended by the Department of Corrections for additional positions as specified in the bill.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 950, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 950, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hayes.

**SCRep. 992            Human Services on S.B. No. 968**

The purpose of this bill is to allow payments for protective child care as a special needs item in the financial assistance standard for families receiving public assistance.

Your Committee heard the Director of the Department of Human Services explain that currently in cases of child abuse and neglect or in cases of high risk of child abuse or neglect, the Department provides protective child care payments that are completely State funded. By making such child care payments a special need item, federal funding could be secured for 54.5% of the program.

Your Committee adopted the suggestion of the Director and changed references for protective "day" care to "child" care.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 968, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 968, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hayes.

**SCRep. 993            Economic Development and Hawaiian Affairs on S.B. No. 2004**

The purpose of this bill is to provide supplemental grants of \$25,000 to awardees of Phase I grants under the federal Small Business Innovation Research (SBIR) program.

Your Committee finds that supplemental State grants would provide Hawaii based companies an incentive to pursue SBIR awards which would expand the amount of innovation and research in the State.

Your Committee has taken into consideration suggestions made by the high technology development corporation and the Business Development Council of the Chamber of Commerce of Hawaii by amending the grant to be made by the State from the fixed \$25,000 currently in the bill to 50% of the federal grant up to a maximum of \$25,000. Your Committee has also made technical, non-substantive amendments.

Your Committee finds that in some instances, \$25,000 may exceed the amount of the federal grant, and the State prefers not to be the primary funding source for the SBIR grants.

Your Committee concurs with the intent and purpose of this bill. However, your Committee strongly supports H.B. 9, H.D. 2, relating to the Hawaii Strategic Fund which includes provisions for financial assistance in the areas of small business innovation research and the SBIR programs. It thus covers a broader area than S.B. 2004, S.D. 1, but still incorporates the important provisions.

Your Committee on Economic Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 2004, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2004, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

**SCRep. 994                      Economic Development and Hawaiian Affairs on S.B. No. 814**

The purpose of this bill is to establish a non-profit Hawaii industrial development corporation and a Hawaii venture capital revolving fund which would help finance new business enterprises and expansions in Hawaii.

Your Committee finds that the lack of available venture capital has prevented many new and promising businesses from starting or expanding their operations in Hawaii. Many of these companies have therefore found it necessary to move to other states where venture capital is available to start their operations.

Your Committee has incorporated suggestions made by the department of business and economic development in amending the bill to:

- 1) Delete the definition of "co-venture";
- 2) Delete the reference to optional co-investing in the definition of "direct investment"; and
- 3) Stating more explicitly the language intended to prohibit self-dealing.

Your Committee concurs with the intent and purpose of this bill. However, your Committee strongly supports H.B. 9, H.D. 2, relating to the Hawaii strategic fund which encompasses the scope of S.B. 814 by providing a broad range of financial assistance and involving private sector investment and knowledge.

Your Committee on Economic Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 814, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 814, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

**SCRep. 995                      Economic Development and Hawaiian Affairs on S.B. No. 750**

The purpose of this bill as received by your Committee is to provide the members of the board of trustees of the office of Hawaiian affairs with an annual salary and a benefit program commensurate with other public officers.

This bill seeks to amend Section 10-9, Hawaii Revised Statutes which currently provides compensation for any travel and personal expenses incurred while on official business plus \$50 a day for each day's actual attendance at a meeting. The bill also seeks to set an annual salary for trustees and would entitle the trustees to any benefits awarded to officers and employees of the State, including the pension and retirement system.

Your Committee finds that the current compensation rate of \$50 per day for board meetings, established in 1979, needs to be adjusted. The move toward an annual salary, however, as proposed in this bill, is a significant departure from the citizen's board envisioned by the framers of the State Constitution, and requires more study and deliberation.

Your Committee has amended the bill by:

- 1) Deleting provisions for an annual salary, employee benefits and participation in the employee's retirement system;
- 2) Increasing the compensation of trustees from \$50 per day to \$100 per day and providing that trustees shall not receive more than \$5200 per year; and
- 3) Deleting amendments to sections relating to transportation fares and personal expenses to return them to the original statutory language.

Your Committee also notes that similar bills concerning compensation for the members of the Board of Education is also progressing through the process. Your Committee urges that the Committee on Finance review these proposals and treats both organizations equally.

Your Committee on Economic Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 750, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 750, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

**SCRep. 996 Water and Land Use on S.B. No. 940**

The purpose of this bill is to accelerate the development of projects in Kahana Valley State Park that are of unique cultural and historical significance by appropriating \$350,000 to the Department of Land and Natural Resources.

Your Committee finds that Kahana Valley State Park possesses unique cultural and historical resources that are an important part of the State's heritage and deserve to be restored and/or developed.

Your Committee further finds that the Kahana Valley Advisory Board and the Kahana O'hana Unity Council have worked closely with the Department of Land and Natural Resources to document these valuable resources and to develop a plan for the continued preservation and utilization of these resources. The Kahana Valley Development Plan identifies projects to be funded by this bill which include: the renovation of Huilua Fishpond as well as taro lo'i; the renovation/rebuilding of the Kahana Valley Chapel and cemetery; the construction of canoe and hula halau; trail clearance; and the development of educational areas and camp sites.

The Department of Land and Natural Resources and residents of Kahana Valley State Park, including Danielle Ululani Kawaauhau Beirne, Benjamin D. Shafer, Elizabeth Kahala, and Beatrice Soga, all supported this bill.

Your Committee has amended this bill to correct a typographic error on line 10 of the first page.

Your Committee on Water and Land Use is in accord with the intent and purpose of S.B. No. 940, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 940, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

**SCRep. 997 Consumer Protection and Commerce on S.B. No. 907**

The purpose of this bill is to provide certain tax credits for insurers who contribute to employment and economic development in this State, and to provide one rate of gross premiums taxation for both domestic and foreign insurers.

The bill makes the following changes to the law:

- (1) Equalizes the tax rate for domestic and foreign insurers;
- (2) Provides income tax credits for insurers and affiliates who maintain in the State documents pertinent to their financial condition, and officers and personnel knowledgeable of and responsible for their operations, and conduct in the State substantially all underwriting, policy issuing, and servicing operations relating to Hawaii policies;
- (3) Provides that the credits shall consist of contributions made by the insurer or its affiliate to the unemployment compensation fund, workers' compensation insurance, and temporary disability insurance; certain group life insurance plans, profit-sharing plans, and prepaid dental/health insurance for employees; and taxes paid under the Federal Insurance Contributions Act of 1954 for their employees;
- (4) Provides that the total amount of the credits shall not exceed 1.2 per cent of the gross premiums; and
- (5) Establishes an application and review mechanism for the tax credits.

The issue of insurance premium taxes has been the subject of negotiations for several years between the Hawaii Domestic Insurers Tax Committee and certain foreign insurers. Representatives of both groups advised your Committee that a settlement of the issue was close and they urged that both this bill and S.B. 855, S.D. 1, which provides an alternative approach to the premium tax issue, pass out of your Committee on Consumer Protection and Commerce and be referred to the Committee on Finance in order to permit the parties to mutually resolve this issue during this legislative session.

Your Committee also heard testimony from the Insurance Division cautioning that any resolution of this issue must preserve the State's tax revenue collected from insurance premium taxes and must also put an end to the tax protest fund.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 907, S.D. 2, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hayes, Peters and Yoshimura.

**SCRep. 998 Consumer Protection and Commerce on S.B. No. 1187**

The purpose of this bill is to amend the liquor tax by making certain changes to Section 244-4.5, Hawaii Revised Statutes, which provides for an automatic adjustment of the liquor tax rate. The proposed amendments to Section 244-4.5 would:

- (1) Delete subsection (a) which contains language applicable to the period from July 1, 1987, to December 31, 1988;

- (2) Change the automatic adjustment period for the tax rate for a given liquor category, from six months to twelve months;
- (3) Require the Department of Taxation to make its determination on the necessity of an adjustment based on estimated sales volume, circulate the tax rate to all permittees, and publish a notice of the change no later than one hundred-eighty days following the close of the reporting period. Presently, the law allows the Department of Taxation one hundred-eighty days to collect information and adjust the tax rates if necessary.

The bill would also delete the "sunset" provision of Section 20, Act 344, SLH 1986, in order to retain the current method of taxing liquor on a gallonage basis.

Your Committee heard testimony on various liquor tax proposals from representatives of liquor wholesalers and distributors, the beer, wine and food industries, and others. Some testifiers urged that the escalator clause be repealed, informing your Committee the Hawaii has the highest, or one of the highest, state liquor tax rates in the nation.

The Department of Taxation advised your Committee that when Act 344, SLH 1986 was passed, the Legislature, the Department and the liquor dealers agreed that the tax rates employed would have been raised by the old law. The Department testified that equal revenues are not being raised, and submitted that an adjustment of liquor tax rates is required to prevent a further loss of liquor tax revenues. It advised your Committee that the escalator clause is a central provision to the gallonage tax and should be retained.

Your Committee finds that S.B. No. 1187, S.D. 1, is the best vehicle to meet the needs of the State. Your Committee finds that the State has been losing revenues and that an escalator provision in the liquor tax law is necessary to keep the current statutory tax rate schedule revenue neutral. The effective date of this bill would be July 1, 1989.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1187, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hayes, Peters and Yoshimura.

**SCRep. 999            Consumer Protection and Commerce on S.B. No. 855**

The purpose of this bill is to review the insurance premium tax assessed domestic and foreign insurers on risks located in Hawaii.

The original concept for this bill provided that the rates charged domestic insurers would be gradually increased over the next three years while rates imposed on foreign or alien insurers would be gradually reduced. By the fourth year all insurers would be paying the same premium taxes. Life insurance premium taxes would also be adjusted in favor of foreign insurers, but not precisely equalized. In addition, quarterly premium tax payments would be required when the insurer's tax liability for the preceding year exceeded \$1,000, as opposed to the current requirement of monthly payments for insurers whose tax liability for the preceding year exceeded \$5,000. As received by your Committee, this bill had been amended such that the specific tax rates for such previous taxes had been deleted and were left blank, and a provision had been made for a tax credit against such taxes.

The issue of insurance premium taxes has been the subject of negotiations for several years between the Hawaii Domestic Insurers Tax Committee and certain foreign insurers. Representatives of both groups advised your Committee that a settlement of the issue was close and they urged that both this bill and S.B. 907, S.D. 2, which provides an alternative approach to the premium tax issue, pass out of your Committee on Consumer Protection and Commerce and be referred to the Committee on Finance on order to permit the parties to mutually resolve this issue during this legislative session.

Your Committee also heard testimony from the Insurance Division cautioning that any resolution of this issue must preserve the State's tax revenue collected from insurance premium taxes and must also put an end to the tax protest fund.

Your Committee on Consumer Protection and Commerce is therefore in accord with the intent and purpose of S.B. No. 855, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hayes and Yoshimura.

**SCRep. 1000           Higher Education and the Arts and Education on S.B. No. 1856**

The purpose of this bill is to continue the flexibility legislation granted to the University of Hawaii and the Department of Education by Act 321, SLH 1986, and to maintain the governor's responsibility to ensure the economic and efficient management of the State's financial resources.

Your Committees heard testimony in support of the bill from the president of the University of Hawaii, the superintendent of the Department of Education and the director of the Department of Accounting and General Services (DAGS).

Your Committees have amended this bill to address the concerns of DAGS. The amendment would provide the governor flexibility in administering the State's budget.



Your Committees on Higher Education and the Arts and Education are in accord with the intent and purpose of S.B. No. 1856, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1856, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Hashimoto.

**SCRep. 1001 Ocean and Marine Resources on S.B. No. 1430**

The purpose of this bill is to amend Chapter 188, Hawaii Revised Statutes, by adding a new section which prohibits any person from possessing or using drift gill nets on any fishing vessel within the State's exclusive economic zone (EEZ).

"Drift nets" are large, monofilament, gill nets suspended from floats and set to drift on the ocean's surface. In the dark, inadequately marked drift gill nets are hazards to boats and entangle birds, sea turtles, marine mammals, and fish indiscriminately.

Presently, Hawaii fishers do not use ocean drift gill nets. The principle users in the Pacific are fishers from Asia. However, the landing of fish and fish products by foreign vessels is already banned by the Jones Act. In addition, provisions of the Magnuson Fishery Conservation and Management Act (MFCMA) prohibit the use of ocean drift gill nets in the Federal EEZ.

Your Committee received testimony from the Hawaiian Humane Society in support of this bill. Additionally, the testimony from the Department of Land and Natural Resources concurred with the intent of this bill.

Your Committee finds that although there is no ban to fishing with ocean drift gill nets in State waters at this time, the potential use of these nets could have a disastrous effect on the marine life in Hawaiian waters.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of S.B. No. 1430, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Hagino, Hashimoto and Hemmings.

**SCRep. 1002 Ocean and Marine Resources on S.B. No. 340**

The purpose of this bill is to appropriate the final matching funds of \$4,000,000 for the design and construction of the Center for Applied Aquaculture (CAA).

During the 1988 Legislature, \$1,000,000 was appropriated out of the general revenues to the Department of Land and Natural Resources for the planning, design, and construction of a CAA.

Your Committee received testimony in support of this bill from the Department of Land and Natural Resources, the University of Hawaii, and the Oceanic Institute.

Your Committee finds that the monies appropriated during the 1988 Legislature along with the \$4,000,000 proposed by this bill provide the matching funds needed to secure the Federal funds appropriated by Congress.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of S.B. No. 340, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hagino, Hashimoto and Hemmings.

**SCRep. 1003 Planning, Energy and Environmental Protection and Intergovernmental Relations and International Affairs on S.B. No. 1882**

The purpose of this bill is to appropriate the sum of \$1 to the water pollution control revolving fund and to authorize the director of health to issue grants, loans, or a combination of both to the counties for the construction of treatment works and other wastewater reclamation of waste management projects.

Your Committees find that the federal Water Pollution Control Act Amendments of 1972 designated the federal Environmental Protection Agency (EPA) as the lead agency responsible for the issuance of direct grants for the construction of publicly owned wastewater treatment projects. The 1972 amendments provided a federal grant share of seventy-five per cent to state and local governments in an effort to expedite the pace of project construction and to eliminate the backlog of needed wastewater treatment facilities. However, Congress has long held the expectation that the states and municipalities would eventually assume full responsibility for financing new and replacement wastewater facilities.

In 1987, Congress amended the law by establishing a schedule to transfer EPA's responsibilities to the various state and local governments by 1990. EPA's direct grant program ends in 1990, while its authority to make grants to the states to capitalize state water pollution control revolving funds begins in 1989. Congress has authorized funds for water pollution control revolving funds capitalization grants from fiscal year 1989 through fiscal year 1994. Based on this projection, the State anticipates that it will receive approximately \$63 million from fiscal year 1989 through fiscal year 1994. To receive federal capitalization grants, the 1988 legislature established a water pollution control revolving fund in accordance with the requirements of the federal law.

Your Committees find that a recent survey indicates that approximately \$1.4 billion in expenditures on wastewater treatment works will be necessary over the next twenty years to protect our coastal and underground waters. In this regard, the federal capitalization grant of \$63 million which the State expects to receive up to the year 1994 is not adequate to finance the wastewater treatment facilities in the State. This bill provides the mechanism whereby the State will be able to provide the necessary funds, grants, and loans to construct necessary wastewater treatment facilities.

Because of the shortage of funds to meet the anticipated \$1.4 billion requirement, your Committees find that priorities should be established to ensure the prudent expenditure of funds. Your Committees have amended this bill by providing that priority shall be placed on the construction of new facilities, including primary facilities, if applicable, and for the expansion of existing sewage plant facilities. Your Committees have further provided that the use of funds for upgrading facilities to the level of secondary treatment should be permitted only in situations where the need for this level of treatment has been demonstrated.

Your Committees have also amended this bill by adding a new subsection (d) to section 342-34 to ensure that under no circumstances shall the law be construed to restrict the director's authority to grant loans or grants, or both, to treatment works projects granted secondary treatment waivers under section 301(h) of the federal Water Pollution Control Act.

Your Committees have further amended this bill by providing that, in the allocation of funds to individual treatment projects, the director of health shall ensure that the grants or loans shall be provided on the basis of existing and future growth patterns in the State. This amendment ensures that funds will be directed to areas exhibiting the greatest need.

Your Committees have also made technical nonsubstantive amendments to this bill.

Your Committees on Planning, Energy and Environmental Protection and Intergovernmental Relations and International Affairs are in accord with the intent and purpose of S.B. No. 1882, S.D. 1, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1882, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Bunda and Hashimoto.

**SCRep. 1004            Planning, Energy and Environmental Protection on S.B. No. 1572**

The purpose of this bill is to authorize the state Department of Health to establish a new recycling and solid waste management program to encourage waste reduction and recycling. Specifically, this bill would amend chapter 340A, Hawaii Revised Statutes, to provide the statutory authority necessary to establish and implement this program.

Hawaii, like the rest of the nation, is faced with the scarcity of available and suitable land for new landfills, diminishing capacities of the existing landfills, and ever increasing amounts of solid waste being generated. Recycling is one phase of an integrated solid waste management program to recover resources and to reduce the amount of waste going to the landfill.

Your committee finds that the people of this State must embark on a statewide effort to increase recycling efforts in Hawaii. Your Committee further finds that while much information currently exists regarding the merits and economics of recycling, there is no consensus on how a large scale recycling effort could be implemented in Hawaii. Your Committee feels that a commission with members representing agencies and industries which will have to implement the recycling program will come up with a workable and efficient plan of action.

Your Committee has amended this bill by deleting the substance and inserting the provisions of H.B. No. 23, H.D. 1, which creates a recycling commission to formulate a statewide plan for recycling.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of S.B. No. 1572, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1572, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Bunda and Hashimoto.

**SCRep. 1005            Transportation and Health on S.B. No. 1917**

The purpose of this bill is to repeal Part X of Chapter 286, Hawaii Revised Statutes, and replace it with a new part relating to hazardous materials, hazardous waste, and etiologic agents by motor carriers in commerce.

Your Committees heard testimony in favor of this bill from the Department of Transportation, the Department of Health, and the Hawaii Transportation Association.

This bill would make state law consistent with federal hazardous materials transportation regulations and would establish penalties for noncompliance with these rules which are designed to protect employees and the public from improper, inadequate, and unsafe hazardous materials shipments.

Your Committees have amended this bill by adding a provision requiring that the fire department be given a 72 hour minimum advanced written notification of an intrastate shipment of explosives.

Your Committees on Transportation and Health are in accord with the intent and purpose of S.B. No. 1917, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1917, S.D. 1, H.D. 1, and be referred to the Committees on Judiciary and Planning, Energy and Environmental Protection.

Signed by all members of the Committees except Representative Hayes.

**SCRep. 1006            Transportation on S.B. No. 24**

The purpose of this bill is to facilitate the disposal of obviously abandoned vehicles by the Counties. This bill also provides for the towing of any vehicle left unattended for more than forty-eight hours without the proper authorization of the owner or occupant of the property.

Your Committee received testimony on this bill from the Department of Finance, City and County of Honolulu.

Your Committee finds that the entire process from the marking of the vehicle to the expiration of the claim period consumes approximately fifty to sixty days, during which time the owner has the right to claim the vehicle. Your Committee also finds that the majority of abandoned vehicles are claimed by their owners within five days after being towed and those that are not claimed are eventually sold at public auction, usually at prices too low to cover the costs incurred for their storage.

Your Committee has amended this bill by:

- 1) eliminating the need for an appraisal by an independent appraiser;
- 2) adding language stating that a notice informing the legal or registered owner of the vehicle the whereabouts of the vehicle once it has been towed, shall be deemed received by the legal or registered owner five days after the mailing; and
- 3) making minor, nonsubstantive amendments in the interest of clarity.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 24, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 24, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 1007            Transportation on S.B. No. 1918**

The purpose of this bill is to increase the fines imposed for vehicles that are overloaded or overweight. The bill also provides for further increases in the fine for repeated offenses.

Your Committee finds that vehicles traversing our state highways and roads, while exceeding the applicable maximum weight, damage our highway systems to the extent that it is necessary for the State or County to effectuate more frequent road repairs and resurfacing. The increase in the schedule of fines proposed by this bill will serve to deter offenders of overloading and promote highway safety as well.

Your Committee received favorable testimony from the Department of Transportation and the Hawaii Transportation Association.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1918 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 1008            Transportation on S.B. No. 1995**

The purpose of this bill is to clarify the law on motor vehicle sun screening by specifying the exact placement of front window tint, using the AS-1 markings, or not lower than four inches below the top center of the windshield, only if no AS-1 markings can be found. This bill also changes the tolerance requirement for sunscreening light transmittancy to 35 per cent, plus or minus 5 per cent.

Your Committee finds that the present statute on window tinting is ambiguous. "AS-1" is the manufacturers' marking to indicate the demarcation where the factory tint has stopped and from that point on, the window is clean. Most AS-1 markings have a line and arrow pointing down to indicate the clear portion. Automobiles which have not been factory tinted will have the AS-1 markings at the very bottom of the windshield but no line or arrow.

Your Committee received favorable testimony on this bill from the Department of Transportation, the Honolulu Police Department, and the Hawaii Business League.

Your Committee has amended this measure to provide clarity and uniformity by requiring that the tinting cannot encroach lower than four inches below the top of the windshield, when measured from the middle point of the bottom edge of the top windshield moulding if no AS-1 markings can be found in the left or right upper margin of the windshield.

Your Committee, upon further consideration, has also amended this bill by increasing the tolerance variance of the percentage of light transmittance from plus or minus 5 per cent, to plus or minus 6 per cent. Your Committee finds that increasing the variance to 6 per cent will permit the use of new, high technology light meters that are capable of distinguishing between 35 per cent transmittance tints and any shades darker.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1995, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1995, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 1009            Health on S.B. No. 1476**

The purpose of this bill is to enable the State of Hawaii to elect to opt out of Part A of the Federal Health Care Quality Improvement Act of 1986, and to enact in its stead the Hawaii Health Care Quality Act of 1989 which protects peer review committees from discovery.

Your Committee finds that the Federal law in question will go into effect in October 1989 and that some states have opted for early coverage. If Hawaii opts out of such coverage it will be the first state to do so, but others will almost certainly follow suit. The proposed Hawaii legislation serves mainly to protect medical peer review committees from the discovery process whereby their proceedings become public information.

Your Committee received testimony from the Department of Health; the Department of Commerce and Consumer Affairs; the Medical Coalition for Tort Reform, representing the Hawaii Medical Service Association, the Hawaii Federation of Physicians and Dentists and the Hawaii Medical Specialty Societies; and the Legislative Center. This last organization suggested amending the bill to include doctors of podiatric medicine in the definition section of the bill under "physician".

Several additional changes were recommended by other testifiers, particularly by the Medical Coalition. These suggested amendments include specifying which committees would be covered by the bill's provisions, changing the language describing effects on clinical privileges, and deleting a provision calling for consultation with the Director of Health. Because these suggested amendments contain far-reaching legal implications, however, your Committee recommends that the Committee on Judiciary review them carefully and also evaluate how the current bill relates to House Bill 1382 which deals with some of the same issues.

Accordingly, your Committee is amending this bill by adding reference to Chapter 463E-1, which licenses doctors of podiatric medicine, under the definition of "physician" in Part I Section -4 of this bill.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1476, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1476, S.D. 2, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Hayes.

**SCRep. 1010            Health on S.B. No. 695**

The purpose of this bill is to establish new smoking areas at state airports for passengers on international flights in customs areas or in-transit lounges.

Section 328K-3, Hawaii Revised Statutes, currently provides certain exceptions to the prohibition of smoking in public places. This bill would add a new exception: areas designated as holding rooms for international visitors and travellers, provided that these rooms are located and constructed to eliminate the toxic effects of smoke in adjacent nonsmoking areas.

Your Committee received testimony in support of this measure from the Director of Health, the Tri-Agency Coalition, although the support was given on the condition that nonsmokers not be affected by the smoke from these areas. The Hawaii Medical Association and the Hawaiian Island Nonsmokers Organization testified in opposition to this bill.

Your Committee finds that the establishment of smoking areas is incompatible with the goal of making Hawaii "The Health State," and is reluctant to make exceptions to the current law. However, if the bill is not passed, a situation will continue in which large numbers of foreign travellers will continue to smoke illegally, prolonging a difficult enforcement problem and generating ill will among a significant number of visitors to the State. Therefore, for economic and public relations purposes your Committee supports this measure with amendments to include additional restrictions.

This bill has been amended to restrict the exception to Honolulu International Airport and to require that the design of the rooms preclude the toxic effect of smoke extending to adjacent areas. In addition, your Committee has added a provision that these rooms may be used until the completion of the new terminal or until August 1, 1992, whichever occurs first.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 695, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 695, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Hayes.

**SCRep. 1011 Health on S.B. No. 828**

The purpose of this bill is to establish a Birth Defects Monitoring Program within the Department of Health to help prevent and ameliorate birth defects and other adverse reproductive outcomes.

Your Committee finds that there is a demonstrated need and widespread support for the purposes of this program and that monitoring is a critical component of the State's effort to reduce the impact of birth defects. Testimony in support of the measure was received from the State Planning Council on Developmental Disabilities, Hawaii Healthy Mothers, Healthy Babies, Hawaii Public Health Association, the Advisory Committee of the Hawaii Birth Defects Monitoring Program, the Regional Genetics Network, Commission on the Handicapped, Hawaii Heptachlor Research and Education Foundation, the March of Dimes Birth Defects Foundation, the Hawaii Medical Association, Kapiolani Medical Center and the Department of Health.

Your Committee has amended the bill by incorporating some revised language from H.B. 50, H.D. 1 which is a majority package bill. Specifically, the following changes were made:

1) In Section 1 we have added a new paragraph (4) expressing concern about the relationship of birth defects to various unspecified environmental risks. The subsequent paragraphs have been re-numbered.

2) In the last paragraph of Section 1, the mandate that the registry work closely with the existing tumor registry has been reworded to direct that it be administered in conjunction with the tumor registry and other registries.

3) In the first sentence of Section 2 the modifier "statewide" has been added to the description of the program.

4) In paragraph (1) of this section we have specified that information be provided "on a timely basis to the public and to decision makers".

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

The \$250,000 appropriation for 1989-1990 and the \$250,000 for 1990-1991 have been retained and your Committee wishes to direct that a portion of these funds be used for the hiring, training, and upgrading of individuals to do the tasks prescribed herein.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 828, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 828, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hayes.

**SCRep. 1012 Transportation on S.B. No. 379**

The purpose of this bill is to authorize the counties to enact ordinances or adopt rules restricting, in whole or in part, the transportation of persons in truckbeds.

Your Committee received testimony on this bill from the Department of Transportation, the Department of Health, and the Hawaii Roofing Contractors Association.

Your Committee finds that shifting the responsibility of truck bed legislation to the counties will not necessarily assume that the safety problem will be adequately addressed. Your Committee further finds that restrictions upon the operation of pickup trucks are necessary in light of the number of fatal and near fatal accidents in which persons riding in the back of trucks are ejected during an accident or simply fall out of the truck while it is in operation.

Your Committee has amended this bill substantially by deleting the section which would give the counties the authority to enact legislation regulating the transportation of persons in truckbeds. Your Committee has further amended this bill by adding a new section to Chapter 291, Hawaii Revised Statutes (HRS), which would prohibit operators of pickup trucks from operating them, and owners of pickup trucks from permitting them to be operated, with a passenger seated in the bed or load-carrying areas unless:

- 1) There is no seating available in the cab;
- 2) The side racks are securely attached and the tailboard or tailgate is securely closed;
- 3) Those passengers seated in the bed or load-carrying area are seated on the floor; and
- 4) There is no unlashd cargo in the bed or load-carrying area.

Your Committee has further amended this bill by adding another section to Chapter 291, HRS, which provides penalties for violations of the provisions of this bill.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 379, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 379, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 1013            Health on S.B. No. 1246**

The purpose of this bill is to make it mandatory, with certain exceptions, that all instances of blood letting in the State of Hawaii for the purpose of testing for HIV infection be accompanied by the opportunity for pre-test and post-test counseling.

Your Committee finds that pre-test and post-test counseling, including educational, psychological and behavioral change information, are necessary adjuncts to HIV antibody testing. There remain many misconceptions surrounding HIV testing, for example, that if a person tests positive, he has AIDS or that a negative test means that there is no possibility that the person is infected. There are instances of suicides and other dramatic consequences when people are informed of a positive test result without receiving adequate counseling. Although the present law requires informed consent for HIV antibody testing, this does not always include in depth counseling.

Your Committee received testimony from the Department of Health, the Life Foundation, the Hawaii Medical Association, the Governor's Committee on AIDS, the ACLU, and the Blood Bank of Hawaii. All of these organizations were in support of the intent of the bill. A representative from the insurance industry expressed concern about the implications of the bill for insurers. Your Committee wishes to note that the Insurance Commissioner has not yet promulgated rules governing HIV testing and that it has been almost two years since the Legislature mandated them to do so.

The Blood Bank requested that blood banks be specifically exempted from the provisions of the bill except when collected specimens test HIV positive. The Governor's Committee and the Hawaii Medical Association both specifically addressed this issue in their testimony. Both recommended that specific exemptions be included for not only blood banks, but also for plasma centers and sperm banks. The Governor's Committee suggested statutory language to this effect and the organizations testifying were all in agreement on the wording. The ACLU later expressed its opinion that the suggested language was unnecessary and redundant.

Your Committee believes, however, that the additional language will clarify the statute and has thus amended the bill by inserting a new sentence at the end of subsection (a) specifying that the above types of organizations are exempt from the counseling requirements except in cases where test results are positive.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1246, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1246, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Hayes.

**SCRep. 1014            Health on S.B. No. 1628**

The purpose of this bill is to establish a statewide program for the prevention of child abuse for at-risk infants and children through age five, using the Healthy Start early identification and intervention model.

Your Committee received testimony in strong support of this bill from the Department of Health; several of the seven agencies statewide which provide the Healthy Start case management services in their respective locations; the Hawaii Child Abuse and Neglect Coalition; Healthy Mothers, Healthy Babies; and the American Association of University Women.

Your Committee finds that child abuse and neglect reports in Hawaii have been increasing at the rate of over twenty percent annually, with nearly 5,000 reports in 1987. At least eighty percent of all serious cases and nearly one hundred percent of all deaths from child abuse occur among children under age five, and half of the deaths occur among children under age two. Most abusing parents were themselves abused or neglected children; and the cycle of abuse is likely to grow wider with each passing generation.

Your Committee is cognizant that early childhood is the most critical period of human development wherein the foundations for emotional health, social relationships, and cognitive development are established. Accordingly, to effectively prevent child abuse and neglect, there must be a comprehensive effort to provide assistance to young children and their families in high-risk environments.

Your Committee discussed how this coordinated effort to prevent child abuse and neglect from birth through age five dovetails with H.B. 845, Relating to Infants and Toddlers, which would fund the federally mandated statewide coordination system, including case management, for all special needs children from birth through age three. Your Committee finds that this "Zero to Three" program is the comprehensive umbrella, under which the Healthy Start program operates. The "Zero to Three" program coordinates the care of all children with special needs, including developmental delays, biological risk, and environmental risk (including child abuse and neglect), through Healthy Start and other family support case managers. Both programs are coordinated within the Family Health Services Division of the Department of Health. The "Zero to Three" program is coordinated with the Healthy Start program to ensure that children picked up by Healthy Start get referred to the "Zero to Three" program when necessary, for instance if the child shows delayed development. Similarly, children monitored by the "Zero to Three" program could be referred to Healthy Start if, at any time, they become at risk for child abuse.

According to the testimony of Healthy Mothers, Healthy Babies, the Healthy Start program has experienced a 98% success rate in preventing child abuse and neglect where the program is in place in Hawaii. However, Healthy Start services are presently only available to 20% of at-risk families. The cost of expanding the system statewide, while significant, is minimal in comparison to the enormous savings in annual state expenditures on social programs, remedial education and corrections services.

Your Committee notes that while funding was made available for the Healthy Start program in the House Budget, that amount falls short of the total requested in this bill.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1628, S.D. 2 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hayes.

**SCRep. 1015            Health on S.B. No. 661**

The purpose of this bill is to amend Chapter 348E, Hawaii Revised Statutes, by changing the title of the Commission on the Handicapped to the Commission on Persons with Disabilities to be consistent with contemporary terminology and federal mandate. The bill also clarifies the scope of the Commission's planning activities and its ex officio representation.

Your Committee heard testimony in support of this bill from the Commission on the Handicapped, the Department of Health, Hawaii Centers for Independent Living, and the State Planning Council on Developmental Disabilities. This last organization suggested an amendment to the Senate draft which would further clarify the powers, functions, and duties of the Commission. The other agencies testified that they were in concurrence with this new wording.

Accordingly, your Committee has amended the bill in Section 4 (3) to reflect this new language regarding data collection and planning functions and has added the sentence "These functions would not duplicate or supplant activities provided by other Federal, State or County agencies" to further clarify the parameters of the agency's functions.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 661, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 661, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Hayes.

**SCRep. 1016            Water and Land Use on S.B. No. 1759**

The purpose of this bill is to establish a Hawaii historic preservation revolving fund to provide financial assistance to public and private agencies involved in historic preservation activities, by amending Chapter 6E, Hawaii Revised Statutes, to add a new section.

The Department of Land and Natural Resources submitted testimony recommending the establishment of a special fund as proposed in H.B. No. 30, H.D. 2, rather than the establishment of a revolving fund. Testimony of the Department of Land and Natural Resources indicated that the special fund has the advantage of greater flexibility, as moneys could be used both for grant and loan purposes, depending upon the situation, whereas the revolving fund would only be able to provide loans.

The Historic Hawai'i Foundation submitted testimony recommending that the amount in the measure be increased to at least \$15,000,000 to better meet the preservation fund needs throughout the State and that the legislated funds be invested as an endowment and the moneys generated from the endowment be used for grants.

Your Committee has amended this bill as follows:

- (1) Adding a finding and purpose section;
- (2) Changing the revolving fund to a special fund into which shall be deposited: (a) appropriations by the legislature to the special fund; and (b) gifts, donations, and grants from public agencies and private persons;
- (3) Providing that all interest earned or accrued on moneys deposited in the special fund shall become part of the special fund;
- (4) Requiring that the special fund be administered by the Department of Land and Natural Resources; provided that the Department of Land and Natural Resources may contract with a public or private agency to provide the day-to-day management of the special fund; and
- (5) Allowing the Department of Land and Natural Resources to expend moneys from the special fund to provide financial assistance to public and private agencies involved in historic preservation activities other than those covered by Section 6E-9, Hawaii Revised Statutes.

Your Committee has further amended this bill by changing the appropriation from a blank amount to the sum of \$7,500,000, or so much thereof as may be necessary for the fiscal biennium 1989-1991, to be deposited into the Hawaii historic preservation special fund and by providing that for fiscal year 1989-1990, the appropriated sum shall be \$3,750,000, and for fiscal year 1990-1991, the appropriated sum shall be \$3,750,000.

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

Your Committee on Water and Land Use is in accord with the intent and purpose of S.B. No. 1759, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1759, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Bunda and Hashimoto.

**SCRep. 1017 Water and Land Use on S.B. No. 1787**

The purpose of this bill is to (1) establish an advisory commission on burial sites within the Department of Land and Natural Resources for administrative purposes; (2) require the Department to supervise the evaluation and management of burial sites; (3) require that all burial sites of major significance be left undisturbed; (4) allow the Department to authorize disinterment without obtaining a permit from the Department of Health; (5) prohibit any person who violates the prohibitions against the removal or destruction of historic property from participating in the construction of state projects for a period of ten years; and (6) appropriate the sum of \$1 for the acquisition of the Honokahua burial site at Kapalua, Maui and the sum of \$100,000 to carry out the purposes of the Act.

Your Committee received testimony in favor of this bill from the American Friends Service Committee, Hawaii's Thousand Friends, the Society for Hawaiian Archaeology, and numerous other organizations.

Your Committee also received testimony from the Department of Land and Natural Resources, Protect Kaho'olawe 'Ohana, Malama I Na Kupuna O Hawai'i Nei, and the Office of Hawaiian Affairs. While generally in support of this bill, the Department suggested amendments (1) to require the Department to gather pertinent cultural information when evaluating the significance of remains; (2) to provide an exemption from disclosure of the location and description of burial sites where it is determined that exemption is required for security reasons; and (3) to limit the scope of the provision that prohibits any person violating Section 6E-11, Hawaii Revised Statutes, from participating in the construction of any State project for ten years solely to violations pertaining to burial sites. The Department, Protect Kaho'olawe 'Ohana, Malama I Na Kupuna O Hawai'i Nei and the Office of Hawaiian Affairs also suggested that the bill be amended to limit the responsibilities of the Commission to native Hawaiian burials.

Accordingly, your Committee has amended this bill as follows:

- (1) The Commission's responsibilities have been amended to cover only native Hawaiian burials and the Commission's name has been changed from "Advisory Commission" to the "Commission on Native Hawaiian Burials";
- (2) Section 5 has been amended to require that the Department gather pertinent cultural information when evaluating the significance of remains;
- (3) Section 6 has been amended to exempt the Department from having to disclose pursuant to Section 92-51, Hawaii Revised Statutes, records relating to the location and description of historic sites where the Commission on Native Hawaiian Burials or the Hawaii Historic Places Review Board has deemed the disclosure of such records to be sensitive; and
- (4) Section 7 has been amended to limit the scope of the provision that prohibits any violator of Section 6E-11, Hawaii Revised Statutes, from participating in the construction of any State project for ten years solely to violations pertaining to burial sites.

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

- (1) By deleting the appropriation of one dollar for the acquisition of the Honokahua site at Kapalua, Maui;
- (2) By creating a revolving fund to be known as the "archaeological site fund" to be used for the purpose of paying for the costs of scientific services required by Section 6E-43(d)(3), Hawaii Revised Statutes;
- (3) By providing an appropriation out of the general revenues of the State of Hawaii in the sum of \$50,000, or so much thereof as may be necessary for fiscal year 1989-1990, for the archaeological site fund; and
- (4) By defining "fund" to mean the archaeological site fund.

The bill has also been amended to correct certain typographic, technical, and stylistic errors.

Your Committee on Water and Land Use is in accord with the intent and purpose of S.B. No. 1787, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1787, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews, Bunda, Hashimoto, Hiraki, Say, Hemmings and O'Kieffe.

**SCRep. 1018 Water and Land Use on S.B. No. 1910**

The purpose of this bill is to strengthen the State's efforts to preserve resource value lands. This bill: (1) amends Chapter 173A, Hawaii Revised Statutes, by broadening the provisions for acquisition and management of these lands and (2) provides for the continued administration of land banking through the Department of Land and Natural Resources (hereafter referred to as "DLNR").

Your Committee has provided for the development of interpretive programs that would enhance the appreciation of the resource value lands acquired throughout the State by amending the bill as follows:



- (1) A new Section 1 has been inserted to require DLNR to prepare and update a plan for the enhancement of recreational opportunities on these lands;
- (2) A new Section 2 has been inserted that adds a new part to Chapter 184, Hawaii Revised Statutes, that requires DLNR to establish and manage a state parks interpretive program to be known as the 'Aina Hoomalu State Parks Program that would be funded through the Fund for the Environment established under Section 173A-5, Hawaii Revised Statutes;
- (3) The title of Chapter 173A has been broadened to reflect not only the acquisition of resource value lands, but also the development of these lands in terms of interpretive programs; and
- (4) Similarly, additional language has been inserted into two other sections of the amended bill: on page three, lines 16-19 of Section 173A-1 (the purpose clause), and on page 6, lines 12-13 of Section 173A-8 (development of land acquired by the board) to include provisions for the developmental programs.

Your Committee has further amended the bill as follows:

- (1) By replacing the appropriated sum of \$1 with the sum of \$20,000,000 for each fiscal year of the 1989-1991 biennium to provide for the acquisition and development of resource value lands;
- (2) By directing DLNR to accord priority consideration for the purchase of certain parcels, thereby emphasizing the need for the State to consider the acquisition of specific sites of importance to the State;
- (3) By requiring DLNR to prepare a resource land acquisition plan;
- (4) By repealing Section 173A-6 which required DLNR to prepare an annual program for the purchase or acquisition by eminent domain of land having value as a resource to the State;
- (5) By appropriating a sum equal to any unexpended or unencumbered funds remaining as of June 30, 1990, of the appropriations made in H.B. No. 1818 or S.B. No. 1921, Regular Session of 1989, to carry out the purposes of this bill; and
- (6) By deleting the requirement for DLNR to prepare an annual report to the legislature regarding the planned acquisitions as well as fund balance.

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

Your Committee on Water and Land Use is in accord with the intent and purpose of S.B. No. 1910, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1910, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Bunda and Hashimoto.

**SCRep. 1019            Education on S.B. No. 1839**

The purpose of this bill is to establish a libraries special fund into which would be deposited all fines, fees and charges collected pursuant to section 312-3.5, Hawaii Revised Statutes.

The State Librarian testified in favor of this measure.

Your Committee has amended this bill to incorporate the language of House Bill No. 672, H.D. 1.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1839, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1839, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

**SCRep. 1020            Education on S.B. No. 653**

The purpose of this bill is to adjust the rate of compensation provided to members of the Board of Education in executing their responsibilities, to add definitions of "actual attendance", "authorized Board of Education committee meeting", and "official Board of Education meeting" to section 296-5, Hawaii Revised Statutes, and to appropriate an unspecified amount for fiscal year 1989-1990 to implement these changes.

The Board of Education testified in favor of this bill and indicated that the rate of compensation for members of the board has not been adjusted in almost twenty-two years.

Under current practice, members of the Board of Education are compensated for attendance at official board meetings, authorized board committee meetings, executive sessions, and collective bargaining meetings.

Your Committee finds that members of the Board of Education should continue to be compensated for these meetings. Because of inflation of the cost of living we believe that the rate of compensation should be increased from \$50 to \$100. This bill has been amended accordingly.

This bill has also been amended to delete references to "actual attendance", "authorized Board of Education committee meeting", and "official Board of Education meeting".

Your Committee on Education is in accord with the intent and purpose of S.B. No. 653, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 653, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Bunda, Hashimoto and Hemmings.

**SCRep. 1021                    Education on S.B. No. 527**

The purpose of this bill is to provide that the salaries of substitute teachers shall be compatible with the salaries of regular teachers, as calculated on a per diem basis.

The Department of Education (Department) testified in support of this bill. The Department suggested that the bill retain the maximum substitute teacher classification Class III and recommended the inclusion of part-time temporary teachers whose pay rates are indexed to the pay rates for substitute teachers. The Department also requested an appropriation of \$3.4 million for each fiscal year of the 1989-1991 biennium.

The Hawaii State Teachers Association testified in support of this bill and requested that the substitute teacher starting salary be the same as the beginning step of regular teachers and that any appropriation in this bill not be considered a part of the total negotiation package for all teachers.

Your Committee has amended this bill to incorporate the recommendations of the Department and the Hawaii State Teachers Association.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 527, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 527, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

**SCRep. 1022                    Education on S.B. No. 908**

The purpose of this bill is to establish as State policy local management of the public school system. The bill also creates exemptions from allotment requirements to enable and facilitate school/community-based management. With these exemptions, schools would, for example be able to carry over allotted funds from the first year of the biennium to the second year and to transfer operating funds between classifications of expenditures. Finally, the bill allows schools to hire personnel.

The Department of Education (Department) and the Hawaii State Teachers Association (HSTA) submitted testimony in support of the bill. Your Committee agrees that flexibility in the expenditure of funds and in hiring personnel are necessary if local control of the schools is to be effective.

While in support of the bill, the HSTA expressed concern for the potential of abusing the flexibility which is proposed to be given to schools to hire personnel. For example, the HSTA suggested that when a teacher goes on leave a school may decide to eliminate the teacher's class by distributing the children in the teacher's class to other classes, and to hire clerical personnel instead of a substitute teacher. Your Committee re-emphasizes its support for the basic principles which underlie community/school-based management, and trusts that fair and equitable decisions giving paramount consideration to the well-being of students will be made at the local level.

On another matter, the Department suggested an amendment authorizing schools to transfer operating funds between appropriations, rather than between classification of expenditures, prescribed in the executive budget bill. According to the Department, schools already have the authority to transfer funds between objects of expenditures such as office supplies and postage. The authority to move funds between appropriations will give schools the flexibility needed to allow them to meet their unique needs.

Your Committee is in agreement with the Department, and has amended the bill on page 2, line 18 by deleting the phrase "classifications of expenditures," and substituting the word "appropriations".

Your Committee on Education is in accord with the intent and purpose of S.B. No. 908, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 908, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hashimoto.

**SCRep. 1023                    Intergovernmental Relations and International Affairs on S.B. No. 20**

The purpose of this bill is to consolidate Parts I, II, and III of Chapter 52, Hawaii Revised Statutes, into a single part which is equally applicable to the police departments of every county. The bill further eliminates obsolete, conflicting, and otherwise unnecessary provisions from the present law.

Your Committee finds that this bill is the result of the efforts of an ad hoc committee formed in 1988. Members of this committee included: Chief of Police, Joseph C. Cravalho, County of Maui; Chief of Police Guy A. Paul, County of Hawaii; Chief of Police Calvin C. Fujita, County of Kauai; Deputy Police Chief Warren Ferreira, City and County of Honolulu; Major Leslie Moon, Honolulu Police Department; and Georgianna Alvaro, Esq., legal advisor to the State of Hawaii Organization for Police Officers (SHOPO). The membership of this committee represents a broad base of interests and expertise, and your Committee is therefore confident of the quality of this bill.

Your Committee further finds that this bill updates the Hawaii Revised Statutes by streamlining and making uniform the law relating to the police departments of the counties.

Your Committee received testimony in support of this bill from representatives of the Honolulu Police Department, the Department of Education, the State of Hawaii Organization of Police Officers, the Hawaii State Association of Counties, and well as the Mayor and Council of the County of Maui.

Your Committee on Intergovernmental Relations and International Affairs is in accord with the intent and purpose of S.B. No. 20 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Cachola, Souki, Anderson and Marumoto.

**SCRep. 1024 Intergovernmental Relations and International Affairs on S.B. No. 107**

The purpose of this bill is to replace obsolete military titles in Section 134-34, Hawaii Revised Statutes, relating to national emergencies.

Your Committee received testimony in support of this bill from the State Adjutant General, the Schofield Rod and Gun Club, and the Rod and Gun Club of Wheeler Air Force Base.

Your Committee has amended this bill by deleting the word "headquartered" and adding the phrase "in the commander's absence" to clarify the bill's intent.

Your Committee on Intergovernmental Relations and International Affairs is in accord with the intent and purpose of S.B. No. 107, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 107, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 1025 Intergovernmental Relations and International Affairs on S.B. No. 610**

The purpose of this bill is to appropriate funds to assist the counties in upgrading their fire protection facilities. No funds will be available unless they are matched by the counties.

Your Committee received testimony in support of this bill from the Honolulu Board of Water Supply, the Maui Department of Water Supply, and the Kauai Department of Water.

Your Committee on Intergovernmental Relations and International Affairs is in accord with the intent and purpose of S.B. No. 610, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 1026 Intergovernmental Relations and International Affairs on S.B. No. 25**

The purpose of this bill is to repeal the State urban and regional design law. The counties are given general and specific powers to govern themselves, and the urban and regional design law is an unnecessary intrusion into the jurisdiction of the counties.

Your Committee received testimony supporting this bill from the Mayor of the County of Maui, the Kauai County Council, and the Land Use Research Foundation of Hawaii.

Your Committee on Intergovernmental Relations and International Affairs is in accord with the intent and purpose of S.B. No. 25 and recommends that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 1027 Intergovernmental Relations and International Affairs on S.B. No. 1001**

The purpose of this bill is to provide the counties with greater flexibility in the structuring of bond financing programs. This bill repeals Chapters 47 and 49, Hawaii Revised Statutes, relating to the issuance and sale of general obligation and revenue bonds, and establishes two new chapters relating to county bonds and revenue bonds. Some of the significant powers granted to the counties in the bill include:

- (1) The power to issue variable rate or floating bonds;

- (2) The power to shorten the time to fix the date of sale for county bonds sold at public sale; and
- (3) The power to negotiate the sale of bonds.

Your Committee finds that it is becoming increasingly difficult and expensive for the counties to raise capital for infrastructure needs. Contributing to the problem is the fact that Hawaii's laws relating to county bonds are out of date. The laws governing the issuance and sale of general obligation and revenue bonds by the counties were originally enacted prior to statehood and have been amended from time to time. Since these laws were enacted, there have been many innovations in financing techniques that provide opportunities for the counties to realize substantial savings in debt service costs. These innovations have been the direct result of the uncertainty and instability of the municipal bond market which has forced municipal borrowers to develop novel financing strategies designed to attract investors and to raise sufficient capital at reasonable interest rates. This bill will provide the counties with the necessary flexibility to structure their bond financing programs and to minimize the cost of municipal borrowing.

Your Committee on Intergovernmental Relations and International Affairs is in accord with the intent and purpose of S.B. No. 1001, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Souki, Takamine, Anderson and Marumoto.

**SCRep. 1028 Intergovernmental Relations and International Affairs on S.B. No. 161**

The purpose of this bill is to amend Section 46-1.5, Hawaii Revised Statutes, to allow the counties to construct county highways and to charge tolls for the use of county highways.

With the expansion of our local communities, the capacities of our highways are being increasingly taxed. Your Committee finds that traditional sources of revenue for constructing and maintaining such highways are no longer adequate, and that the State and counties are in dire need of additional highway funds. Your Committee therefore finds that enabling the counties to extract a toll for the use of county highways will help alleviate some of the financial burden currently experienced by the State and the counties.

Your Committee further finds that the County of Maui is currently conducting a study of the feasibility and impact of creating a toll road. In order to ensure that the decision of this Legislature be as informed as possible with respect to the powers granted by this bill, it is the intent of your Committee that the results of this study be evaluated by the Legislature before this bill take effects. Your Committee has therefore amended the bill by postponing its effective date to June 1, 1990.

Your Committee received testimony in favor of this measure from the Council Chair and the Mayor of the County of Maui. Your Committee believes that authorizing the counties to charge tolls on county highways would result in safer, more convenient travel routes for the people of the State.

Your Committee on Intergovernmental Relations and International Affairs is in accord with the intent and purpose of S.B. No. 161, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 161, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Souki, Anderson and Marumoto.

**SCRep. 1029 Intergovernmental Relations and International Affairs on S.B. No. 1204**

The purpose of this bill is to create a special fund and make appropriations from it to design and construct one or more floating structures as an alternative to the use of the land of Kahoolawe as a target in war games and gunnery and bombing practice. It appropriates an unspecified sum to the fund.

Your Committee is concerned with securing the return of the island of Kahoolawe to the sovereignty of the State of Hawaii. The fund established by this bill will, in addition to the construction of floating structures, enhance efforts to reforest and preserve the island so that it can be returned to the State in good condition.

Your Committee finds that the proposed fund would aid in resolving this issue by providing the military an alternative target, thus removing any military need for Kahoolawe.

Your Committee has amended the bill by inserting the figure of \$1 as the appropriation amount.

Your Committee on Intergovernmental Relations and International Affairs is in accord with the intent and purpose of S.B. No. 1204, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1204, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Cachola, Horita, Souki and Marumoto.

**SCRep. 1030 Intergovernmental Relations and International Affairs on S.B. No. 277**

The purpose of this bill is to statutorily specify that counties may provide lifeguard services for state beach parks, by agreement with the Department of Land and Natural Resources. The bill also appropriates \$481,980 to reimburse the counties for providing lifeguard services at State parks.

Our beaches and ocean have great appeal for both residents and visitors. Water safety for residents and visitors is a critical concern in an island environment like Hawaii. The State has no lifeguard services, but the counties provide lifeguard services at certain state beach parks. This bill would formalize that arrangement and reimburse the counties for those services.

Your Committee received testimony in support of this bill from the Department of Land and Natural Resources, the Department of Parks and Recreation of the City and County of Honolulu, and the Hawaii County Council.

Your Committee on Intergovernmental Relations and International Affairs is in accord with the intent and purpose of S.B. No. 277, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 1031 Human Services on S.B. No. 1980 (Majority)**

The purpose of this bill is to establish a children's foundation to provide individuals, groups, businesses and any other interested organizations to channel and formalize their support of children.

After hearing testimony in support of the bill, your Committee realized that the legislation lacked clarity as to the focus of the foundation's work and its internal governing structure. Therefore your Committee amended the bill to add a specific focus for the foundation's efforts, the provision of private and public support for innovative demonstration and research projects, that promote the health, well-being and self-reliance of children and their families through community based primary prevention programs.

As amended the bill empowers the trustees of the foundation to accept private and governmental grants, bequests and other private contributions. The foundation can also raise funds for its projects. The Director of the Office of Children and Youth shall award grants to programs recommended and approved by the board of trustee and administer the grants.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1980, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1980, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hayes.  
(Representatives M. Ige and Liu did not concur.)

**SCRep. 1032 Human Services on S.B. No. 647**

The purpose of this bill is to allow the Department of Corrections to conduct criminal history record checks for any staff members who are involved with the treatment and care of persons committed to a facility. It allows the Department to deny employment to new staff members who are convicted of a crime other than a minor traffic violation, and, whose record poses a risk to inmates or other staff.

Your Committee heard supportive testimony from the Department of Corrections and the Hawaii Criminal Justice Data Center. Your Committee was concerned that the language in the bill was ambiguous in defining "new" staff members. Your Committee amended the bill to replace the term "new" with the work "prospective" as it describes staff members. Your Committee also amended the bill so that prospective staff members would be given the criminal history record check before they began employment, and amended the bill to outline conditions under which present employees could be terminated.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 647, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 647, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representatives Hayes, Metcalf and Cavasso.

**SCRep. 1033 Health on S.B. No. 99**

The original purpose of this bill was to repeal a law enacted in 1869 which authorizes the use of prisoners to remove nuisances. Since a House companion bill exists and due to the broad title, your Committee has decided to accept the advice of the Department of Health and several other testimonies to amend this bill to establish a Hawaii Health Registry.

Your Committee previously heard testimony in support of H.B. 51, H.D. 1, "Relating to A Hawaii Health Registry," from the Department of Health, the Cane Smoke Working Group, the Groundwater Technical Advisory committee and others. Dr. Mark Goodman, Director of the Hawaii Tumor Registry, also expressed support for the new registry.

The Hawaii Institute for Biosocial Research expressed some reservations because of an inadequate data collection infrastructure, and the Hawaii Conservation Council expressed concern that funds are needed for implementation.

While the bill was heard and supported in the Committee on Finance, it was inadvertently held in committee. House Bill 51 contained important statutory language needed to implement a Hawaii Health Registry. As a result, your Committee on Health has replaced the contents of Senate Bill 99 with the contents of House Bill 51, H.D. 1.

The purpose of this amended bill is to establish a Hawaii Health Registry and to fund key studies of importance to the health of the people of Hawaii.

Your Committee on Health further amended this bill by adding that the Hawaii Health Registry shall be administered in conjunction with the Hawaii Tumor Registry, the Birth Defects Registry and other health registries. Also, the Hawaii Health Registry shall be a repository for future epidemiological studies.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 99, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 99, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee except Representative Hayes.

**SCRep. 1034            Health and Intergovernmental Relations and International Affairs on S.B. No. 1052**

The purpose of this bill is to establish a public, nonprofit organization to be known as the California-Hawaii Cooperative Commission which shall provide for cooperative efforts between Hawaii and California in the fields of health promotion and development, environmental protection, information systems, telecommunications, and other technologies.

Your Committees find that H.B. 947, "Relating to the California-Hawaii Public Health Care Delivery System Compact," as previously heard, had an entirely different focus. In short, H.B. 947 had a focus on health care delivery systems for improved health conditions, services and quality of life in the Pacific, whereas S.B. 1052, S.D. 2, has a primary focus on economic development of health care industries in California and possible future enterprises in Hawaii.

Your Committees further find that there is some confusion over the specific language that has been passed or is being considered by the California Assembly that would set the policy for either a compact or cooperative commission.

Your Committees received testimony from the Department of Health and one other individual in support of this bill. The Department of Health emphasized the economic potential for pharmaceutical markets/research and development activities as the result of recent advancements in biotechnology. The Department further testified that the commission would focus not on issues of "self-sufficiency" for Pacific Islands, but on the fostering of California's and Hawaii's large and diverse health care industries. This focus would be separate from the undertaking known as the Pacific Health Promotion and Development Initiative.

Because of the discrepancies noted above, your Committees amended the bill by refocusing the language to be consistent with H.B. 947, H.D. 1. In addition, new language requires the commission to prepare a health care delivery system plan and an annual report. Also, the governors of California and Hawaii will now appoint four commissioners instead of two.

Your Committees on Health and Intergovernmental Relations and International Affairs are in accord with the intent and purpose of S.B. No. 1052, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1052, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representative Hayes.

**SCRep. 1035            Planning, Energy and Environmental Protection and Health on S.B. No. 1914**

The purpose of this bill is to repeal Chapter 342, HRS, and replace it with seven new chapters: Air Pollution; Water Pollution; Noise Pollution; Solid Waste Pollution; Hazardous Waste Management; Underground Storage Tanks; and Used Oil Transport/Recycling/Disposal.

Your Committees find that the new format will make it easier for staff, and the public, to find necessary state statutes.

Your Committees on Planning, Energy and Environmental Protection and Health is in accord with the intent and purpose of S.B. No. 1914, S.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Judiciary.

Signed by all members of the Committees except Representatives Chang, Hashimoto, Hayes and Hemmings.

**SCRep. 1036            Consumer Protection and Commerce on S.B. No. 1486**

The purpose of this bill, as received by your Committee, is to provide emergency economic relief for those engaged in manufacturing, processing, or the provision of services. The bill amended Chapter 209, Hawaii Revised Statutes, to include emergency economic conditions as a status appropriate for relief. The bill appropriated \$3 million from the State Disaster and Emergency Relief Revolving Loan Fund.

Your Committee finds that the provisions of Chapter 209, Hawaii Revised Statutes, are not appropriate for the purposes of this bill. Accordingly, provisions of Chapter 208, Hawaii Revised Statutes, have been amended. Chapter 208 no longer serves the purpose for which it was intended because certain federal programs for which the chapter was established are no longer applicable and the need for economic relief in the form of economic redevelopment programs in depressed areas has increased.

The bill has been amended by deleting restrictions previously placed on the Director of Business and Economic Development as to the amounts that may be expended in any single depressed area.

Your Committee has further amended this bill by repealing Section 208-4, Hawaii Revised Statutes, which establishes an advisory council, since the need for such a council no longer exists.

The bill has also been amended to allow the Director of Business and Economic Development to make up to a \$1,000,000 loan to Hawaiian Holiday Macadamia Nut Co., Inc. (hereafter referred to as "Hawaiian Holiday") if the Director finds there is a substantial concentration of workers due to the discontinuance or decline of one of more major industries in the Hamakua district or if the Director finds that by terminating or permanently curtailing operations, Hawaiian Holiday may cause an abnormal concentration of jobless workers in the Hamakua district. The loan shall be allowed, provided that Hawaiian Holiday provide sufficient collateral to secure the loan and comply with other terms and conditions as may be required by the Department of Business and Economic Development.

Your Committee finds this bill is necessary to preserve the economic well-being of the faltering agricultural industry in the Hamakua area because financial and economic difficulties in this area may have a ripple effect on other areas of the State.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1486, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1486, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews and Hayes.

**SCRep. 1037            Consumer Protection and Commerce and Judiciary on S.B. No. 370**

The purpose of this bill is to establish a condominium management recovery fund, and a condominium management education fund. This bill would also increase the maximum fine for violation of certain sections of Chapter 514A, Hawaii Revised Statutes.

The recovery fund contemplated by this bill would, in certain circumstances, allow an association of apartment owners to recover project funds that are not recoverable under the fidelity bond of its managing agent or its own fidelity bond. The funds sought to be recovered must have been lost by the fraudulent or dishonest acts of persons handling the associations funds. The bill sets forth a procedure by which an aggrieved association may apply to the court for an order directing the Real Estate Commission to make payment from the recovery fund. A managing agent's real estate broker license and registration would automatically be revoked upon issuance of a court order authorizing payment from the recovery fund. Maximum liability of the recovery fund would be \$25,000 per transaction, and \$50,000 for any one association. Rights of a judgment creditor in a judgment would be assigned to the Commission, upon the Commission's payment from the recovery fund to the judgment creditor.

The condominium management education fund would be used to promote education and research in the areas of condominium management, condominium registration, real estate for the benefit of the public and licensed agents; improved administration of associations; and procedures for resolving condominium association disputes.

Both funds would be administered by the Real Estate Commission. To establish the funds, for calendar year 1989 each association with six or more apartments would pay \$2 per apartment, and each managing agent would pay \$2 per apartment managed. Thereafter, the annual fee would be \$1, subject to adjustment by the Commission. The collected fees would be divided equally between the two funds. Also, the bill would amend Section 514A-40, Hawaii Revised Statutes, to bar issuance of a final public report for a project until the developer has paid a fee of \$5 per apartment into the education fund.

This bill would also increase from the maximum fine \$1,000 to \$2,000, for noncompliance of specified sections of Chapter 514A, Hawaii Revised Statutes, including certain of the fund requirements of this bill, and for violation of certain rules and orders of the Real Estate Commission under Chapter 514A.

Your Committees heard testimony in support of this bill from the Real Estate Commission, which noted that in many instances, condominium owners need legal and practical information in order to successfully govern an association, and to effectively handle disputes. Supporting testimony was also received from the Hawaii Independent Condo and Co-op Owners, and the Hawaii Council of Associations of Apartment Owners.

Your Committees have adopted a number of amendments suggested by the Real Estate Commission, as follows:

- (1) The \$2 start-up fee for the funds for calendar year 1989 has been postponed until 1990. Thereafter the annual will be prescribed by rules adopted by the Director of the Department of Commerce and Consumer Affairs ("DCCA"). The Commission advised your Committee that it would be difficult administratively to collect fees for 1989.
- (2) The requirement that managing agents pay into the funds has been deleted.
- (3) The requirement of splitting between the two funds, the interest collected by the Commission on a judgment assigned to it by a judgment creditor paid from the fund, has been replaced with a provision that all such interest shall be deposited into the recovery fund.
- (4) The maximum liability of the recovery fund has been clarified.

- (5) The provision barring issuance of a final public report for a project until the developer has paid a fee of \$5 per apartment into the education fund, has been enlarged so as to also apply to supplementary public reports. A provision has been added stating that such fees will be subject to adjustment according to DCCA rules.
- (6) Further amendment has been made to the penalty provision, Section 514A-49, Hawaii Revised Statutes. A violation of the Commission's orders under the certain enumerated sections of Chapter 514A would be punishable by a fine of up to \$2,000, but would no longer be a misdemeanor, and would no longer be punishable by imprisonment.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of S.B. No. 370, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 370, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Andrews and Hayes.

**SCRep. 1038            Transportation on S.B. No. 761**

The purpose of this bill is to alleviate the State's court backlog caused by defendants in driving under the influence cases by reducing the current maximum prison terms for third time offenders of Section 291-4, Hawaii Revised Statutes (HRS).

Your Committee received favorable testimony on this bill from the State Attorney General's Office, and a representative of Mothers Against Drunk Driving.

Your Committee finds that because Section 291-4, HRS, does not specifically establish maximum prison terms for first and second time offenders convicted of driving under the influence (DUI) of intoxicating liquor, a broad interpretation of the section may, in effect, set the maximum prison terms for first and second time offenders at one hundred and eighty days. Your Committee further finds that the possibility of receiving lengthy prison sentences causes most defendants in DUI cases to request trials by jury, resulting in a backlog of cases in the State's Circuit Courts. Your Committee further finds that most judges rarely, if ever, impose prison sentences other than the minimum incarceration limits set by Section 291-4 upon persons convicted of DUI. Your Committee also finds that individuals who have been convicted for a third offense of the provisions of Section 291-4 should serve a minimum consecutive prison sentence of forty-eight hours.

Your Committee has amended this bill to establish maximum prison terms of thirty days for first and second time offenders. Your Committee has further amended this bill by requiring individuals convicted of driving under the influence to serve a minimum prison sentence of ten days, forty-eight hours of which must be served consecutively. Your Committee has also made amendments to correct errors in drafting.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 761, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 761, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 1039            Transportation on S.B. No. 1896 (Majority)**

The purpose of this bill is to give the Department of Transportation flexibility in the disposition of moneys in its special funds which are determined to be in excess of requirements of such funds for any ensuing twelve-month period. To that effect, this bill creates a Transportation Special Use Fund in the treasury of the State.

Your Committee received testimony on this bill from the Department of Transportation, the Department of Budget and Finance, the Honolulu Airlines Committee, Air New Zealand, Wardair Canada, Singapore Airlines Limited, and the Tax Foundation of Hawaii.

Your Committee has amended this bill substantially by creating a separate account within the Airport Revenue Fund for moneys received by the Department of Transportation from the sale and delivery of in-bond merchandise displayed or sold on other than Airport properties. Your Committee has also amended this bill to conform to the aforementioned amendment. Your Committee has further amended this bill by making technical amendments in the interest of clarity.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1896, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1896, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

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

**SCRep. 1040            Transportation on S.B. No. 1005**

The purpose of this bill is to amend Section 286-50, Hawaii Revised Statutes, to allow bona fide residents of the State of Hawaii to register out-of-state vehicles in Hawaii. This bill also updates statutory references to identification numbers of vehicles by substituting the term "vehicle identification" numbers for the term "serial or engine and factory" numbers throughout Section 286-50.



Your Committee received testimony from the Department of Transportation and the Department of Finance of the City and County of Honolulu.

Your Committee has amended this bill substantially to address a pressing jurisdictional problem in the area of motor vehicle inspection stations as contained in Section 286-27, Hawaii Revised Statutes. Under Section 286-27 of the Hawaii Revised Statutes, the Department of Transportation may contract with the counties for the necessary administration and enforcement of motor vehicle inspections. Your Committee amended this bill by giving the counties responsibility for administrative and enforcement services, while further requiring that the counties be reimbursed for the costs incurred.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1005, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1005, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committee.

**SCRep. 1041            Transportation on S.B. No. 690**

The purpose of this bill is to authorize the Department of Transportation to make emergency repairs to utility lines without calling for informal bids.

Your Committee received favorable testimony on this bill from the Department of Transportation.

The department testified that during emergencies, it needs to react expeditiously to correct the problem and provide for the safety, health, and welfare of the public.

Your Committee finds that the department is called upon to perform emergency roadway work as well as other types of emergency repairs.

This bill has been amended by your Committee to allow the department to perform emergency roadway work where the expenditure is more than \$4,000 but less than \$10,000 without public advertisement for sealed tenders or a call for informal bids. Your Committee has further amended this bill by defining emergency roadway work. Your Committee has also amended this bill by extending the automatic repeal of Act 229, Session Laws of Hawaii 1987, to July 1, 1994.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 690, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 690, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 1042            Transportation on S.B. No. 544**

The purpose of this bill is to provide the Governor the authority, through issuance of an executive order, to suspend in whole, or in part, the assessment of the State highway fund for central service expenses, such as accounting, budgeting, personnel, and legal costs.

Your Committee received favorable testimony on this bill from the Department of Transportation and the Department of Budget and Finance.

Your Committee finds that amending Section 36-31, Hawaii Revised Statutes (HRS), rather than Section 36-28, HRS, is preferable since Section 36-31, HRS, relates to transfers from special funds, limited or suspended.

Your Committee has amended this bill by deleting the amendment to Section 36-28, HRS. Your Committee has further amended this bill by amending Section 36-31, HRS, by incorporating language which would allow for the suspension of transfers from certain special funds if the transfer would cause the fund to expend more moneys than it has available.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 544, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 544, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 1043            Human Services and Judiciary on S.B. No. 895**

The purpose of this bill is to provide for the treatment of incarcerated sex offenders in community correctional centers.

Your Committees have amended the bill to make specific appropriations for community correctional centers who will receive program funding and funding for a state-wide director and a state-wide program assessment. Your Committees have also amended the bill to begin implementation of a plan of action for developmentally disabled and handicapped prisoners.

Your Committees on Human Services and Judiciary are in accord with the intent and purpose of S.B. No. 895, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 895, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Andrews, Hayes and Hiraki.

**SCRep. 1044 Human Services and Transportation on S.B. No. 210**

The purpose of this bill is to require that recipients of public assistance insured under the joint underwriting plan be subject to additional hours of community service to reimburse the plan if they are: (1) convicted of driving under the influence of intoxicating liquors or drugs; or (2) have committed violations of the traffic code for which points are assessed.

Your Committees received testimony in support of this measure from the Department of Human Services and the Police Department of the City and County of Honolulu.

Testimony was also received from the Office of the Public Defender of the State of Hawaii supporting the intent of the measure but objecting to manner in which the language of the bill proposes to achieve the bill's objectives. Specifically, the Public Defender's Office took exception to amendments to the penalty provisions of Sections 291-4, 291-7, and 291C-161, Hawaii Revised Statutes, which would require that any public assistance driver violating these sections be mandated to do additional community service work, in comparison to all others convicted of the same offenses, thereby sentencing the poor to enhanced sentences and violating the due process and equal protection clauses of the Hawaii and U.S. constitutions.

Your Committees concur with the opinion of the Office of Public Defender and have amended the bill by deleting all sections dealing with criminal penalties. In addition, amendments have been made that replace the court with the Department of Human Services as the enforcement mechanism for the purposes of this bill.

Technical, nonsubstantive changes have also been made for purposes of style and clarity.

Your Committees on Human Services and Transportation are in accord with the intent and purpose of S.B. No. 210, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 210, S.D. 1, H.D. 1, and be referred to the Committee on Judiciary.

Signed by all members of the Committees except Representatives Chang, Hayes, Horita, Kotani and Marumoto.

**SCRep. 1045 Housing and Consumer Protection and Commerce on S.B. No. 149**

The purpose of this bill is to provide an income tax incentive for fee remainder owners of leasehold condominiums to sell their fee interest to lessees. For income tax purposes, this measure would exclude from gross income any gain on a sale or exchange of land under the following conditions:

- (1) The land was subject to a ground lease on the effective date of this bill at all times thereafter before the date of that sale or exchange;
- (2) The sale or exchange is to the lessee under that ground lease;
- (3) The only buildings on the land are residential (or appurtenant structures); and
- (4) The sale or exchange occurs before January 1, 1992.

Your Committees received testimony in support of this measure from representatives of both condominium lessee and lessor organizations. However, the Department of Taxation expressed opposition to this bill. In the Department's testimony the following objections were brought forth:

- (1) There is no corresponding provision in the federal Internal Revenue Code, thus landowners who sell their fee interest would still have to pay the federal tax on the capital gains realized from the sale;
- (2) The Department opposes any tax incentive designed to benefit a special interest group; and
- (3) The Department believes that the bill as drafted may be subject to abuse by allowing large landowners to build apartment complexes, sell the units and later sell the fee interest, thereby avoiding any state income taxes, including capital gains taxes on the fee interest in the land.

It is your Committees' opinion, however, that problems related to Hawaii's leasehold condominium situation are anomalous in the United States, and therefore, special measures are called for to resolve them. Your Committees are also aware that legislation to make parallel changes in the federal tax code has been introduced in Congress. In addition, it is not unusual for tax incentives to be used to encourage a desired behavior by a particular segment of taxpayers, especially if the result remedies a situation that is disruptive or damaging to the best interests of society.

However, to reduce the opportunity for abuses by large landowners of the type described by the Department of Taxation, your Committees have amended this bill by shortening the period during which this incentive will be available, mandating that all sales or exchanges conferring the tax benefits of this measure take place before January 1, 1992, instead of January 1, 1996.

This bill has also been amended by:

- (1) Identifying more explicitly the type of property whose sale would be eligible for the benefits this bill provides;
- (2) Establishing that, in addition to the lessee, the sale or exchange may be to the lessee's designated representative;
- (3) Using the term "residential dwelling unit," rather than "residential building" and defining more precisely the types of residences to which this measure applies;
- (4) Defining the term "housing cooperation"; and
- (5) Designating the Executive Director of the Housing Finance and Development Corporation as the representative of lessor in a horizontal property regime and a person elected by the shareholders of a housing cooperative as the cooperative's representative.

Your Committees on Housing and Consumer Protection and Commerce are in accord with the intent and purpose of S.B. No. 149, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 149, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Andrews, Cachola, Chang, Hayes, Hiraki, Yoshimura, Anderson and Liu.

**SCRep. 1046            Housing and Consumer Protection and Commerce on S.B. No. 1221**

The purpose of this bill is to appropriate funds to the Housing Finance and Development Corporation (HFDC) to continue the forum which is presently considering various proposals and related issues with respect to leasehold condominiums.

Your Committee received testimony from major lessor and lessee parties indicating support for continued discussion of leasehold issues. The lessees, however, were adamant in their refusal to take part in the same form of mediation that took place in 1988.

Your Committee has amended the bill by specifying the issues on which HFDC is to gather, analyze, and present data to be used as a basis for discussion by forum participants. This information will be presented by HFDC in a nonpublic forum for discussion at which HFDC will serve as moderator and facilitator. HFDC shall also submit a report on its findings on forum discussions and activities and make recommendations, concerning resolution of leasehold condominium issues discussed at the forum, to the Legislature twenty days prior to the Regular Session of 1989.

Your Committees on Housing and Consumer Protection and Commerce are in accord with the intent and purpose of S.B. No. 1221, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1221, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Andrews, Cachola, Chang, Hayes, Hiraki, Kawakami, Yoshimura, Anderson and Liu.

**SCRep. 1047            Housing on S.B. No. 1241**

The purpose of this bill is to give the Housing Finance and Development Corporation (HFDC) the right to certify a general excise tax exemption for moderately or substantially rehabilitated housing projects developed under a government assistance program, or under the sponsorship of a private nonprofit corporation for qualified families seeking affordable housing. The bill would also extend this right to private nonprofit corporations developing new homes for qualified families.

Your Committee received testimony in support of this bill from the Department of Taxation, HFDC, and Hawaii Habitat for Humanity, Inc. It was noted that at the present time, the exemption is limited to newly constructed or rehabilitated projects developed under Chapters 201E or 356, Hawaii Revised Statutes. By broadening the tax exemption, more low- and moderate-income housing should become available insofar as funds presently going to the general excise tax, would in fact, be going directly into the building of additional housing units.

Your Committee has amended the bill by inserting a provision that specifies that HFDC would approve, as well as certify, these exemptions.

Your Committee on Housing is in accord with the intent and purpose of S.B. No. 1241, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1241, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Hayes, Kawakami and Liu.

**SCRep. 1048            Housing on S.B. No. 1465**

The purpose of this bill is to clarify that the Housing Finance and Development Corporation (HFDC) has the power to provide financial assistance or any other appropriate assistance to a homeowner to enable them to file legal action on claims resulting from substantial construction defects in units developed, constructed, financed, purchased, or sold pursuant to Act 105, Session Laws of Hawaii 1970, as amended.

Your Committee received testimony from HFDC that this bill would further clarify the role that HFDC can play in providing assistance to these homeowners in need. The measure also gives HFDC greater flexibility in dealing with problems related to substantial construction defects. Furthermore, the ability to file, or cause to be filed, a class action on behalf of, or by at least two, owners or lessees with substantial construction defects, is made clearly available as another avenue of redress.

Your Committee on Housing is in accord with the intent and purpose of S.B. No. 1465, S.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 Representative Hayes.

**SCRep. 1049            Housing on S.B. No. 1805**

The purpose of this bill is to appropriate funds to the Rental Assistance Revolving Fund (Fund).

The rent subsidies provided through the Fund serve as an incentive to the development of affordable rental projects by providing subsidies to rental project owners. These subsidies, in turn, serve to lower the out-of-pocket rents paid by qualified lower income tenants.

Your Committee received testimony in unanimous support of this bill from: the Executive Office on Aging, the Hawaii Community Development Authority, the Housing Finance and Development Corporation (HFDC), the Founders Group of the Kookaa Council for Senior Citizens of Hawaii, the Hawaii Center for Independent Living and the Affordable Housing Alliance. It was noted that these funds could help provide housing for the disabled, elderly, and low-income families. And testimony indicated that 6,000 low-income elderly alone are on wait lists for private, non-profit, or public housing.

The general lack of available affordable housing in Hawaii is well documented, and your Committee feels that appropriation of this money to the Fund will greatly enhance the opportunities for affordable rental housing in the state. At present HFDC is planning eight projects containing over 1,400 rental units scheduled for development. Because rental assistance funds must be on hand before project approval, the appropriation would allow critically needed rental projects to proceed.

Your Committee has amended the bill by providing \$22.5 million per fiscal year for the 1989-1991 biennium. Your Committee finds that with such funding, more housing will be made available to low-income families, the elderly, and the disabled.

Your Committee on Housing is in accord with the intent and purpose of S.B. No. 1805, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1805, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Chang and Hayes.

**SCRep. 1050            Housing on S.B. No. 1806**

The purpose of this bill is to provide the Housing Finance and Development Corporation (HFDC) with the authorization to carry out federal programs which are designated for implementation by state housing development or housing finance agencies. This bill requires HFDC to adopt any rules which may be necessary to carry out such federal programs. The bill also allows HFDC to charge necessary administrative fees for services rendered, and to deposit those fees into an appropriate special fund administered by HFDC.

HFDC testified that this bill would facilitate the implementation of federal programs such as the federal low-income tax credit and mortgage certificate programs. In the past, the State has missed opportunities to take advantage of new federal programs because of delays in getting legislative authorization. This bill would enable the State to take advantage of any new federal housing program in a timely manner.

Your Committee on Housing is in accord with the intent and purpose of S.B. No. 1806, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Hayes.

**SCRep. 1051            Legislative Management on S.B. No. 31**

The purpose of this bill is to establish a Legislative Advisory Committee to provide technical advice to the legislature. Members of the committee would be appointed jointly by the President of the Senate and the Speaker of the House of Representatives.

Currently two separate advisory committees have been statutorily established to advise the legislature, namely, the Legislative Scientific Advisory Committee and the Legislative Economic Advisory Council. This bill eliminates these two committees, and instead establishes a single Legislative Advisory Committee.

The bill proposes that the Legislative Advisory Committee be required to:

- (1) Respond to requests for scientific, technical, financial, economic, and social information from the Legislature;

- (2) Convene ad hoc panels of experts to make findings and recommendations; and
- (3) Present clarified policy questions for legislative resolution.

In response to concerns which were raised, your Committee amended the bill as follows:

- (1) Clarified that the party leaderships of each house shall be consulted by the Senate President and the Speaker of the House of Representatives in appointing the members of the Legislative Advisory Committee;
- (2) Added that the Legislative Advisory Committee shall operate within guidelines for requests for information established by the standing committee in the Senate and the standing committee in the House of Representatives responsible for legislative management;
- (3) Added an appropriation of \$100,000 to provide technical advice to the Legislature, to be expended by the Office of the Legislative Auditor.

Your Committee on Legislative Management is in accord with the intent and purpose of S.B. No. 31, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 31, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Alcon, Kihano and Hemmings.

**SCRep. 1052 Labor and Public Employment on S.B. No. 1553**

The purpose of this bill is to reimburse attorneys' fees and costs for members of the Employees' Retirement System, who successfully appeal a claim for disability benefits. Current state law allows the appeal, but does not entitle the member to attorneys' fees and costs. The bill further deletes the provision permitting the Board of Trustees to refer an appeal to the medical review board.

Your Committee finds that reimbursement of these fees and costs when a claimant makes a successful appeal is appropriate. Without such a provision, employees with meritorious claims may be unable to proceed with their appeals. Your Committee finds that abuse of this reimbursement process will be checked as the fees are subject to the approval of the Board of Trustees.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of S.B. No. 1553 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 1053 Labor and Public Employment on S.B. No. 1990**

The purpose of this bill is to increase the Board of Trustees of the Employees' Retirement System (Board) from seven to eight members. In addition, the bill changes the method for selecting the four "employee trustees" on the Board from election by the employees to appointment by the various bargaining units.

Your Committee has amended this bill by deleting the substance and inserting the provisions of H.B. No. 586, H.D. 1, which increases the number of members to fourteen. Six of the fourteen members shall be appointed by each exclusive representative of one or more collective bargaining units under Chapter 89, Hawaii Revised Statutes. Seven of the fourteen shall be appointed by each employer as defined under Section 89-2, Hawaii Revised Statutes. One member shall be a retiree to be appointed by the Governor from a list of not more than six nominees, selected by the exclusive bargaining representatives.

As amended, the bill provides for staggered terms for the members. Eight concurring votes are necessary for a decision by the Board.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of S.B. No. 1990, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1990, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 1054 Labor and Public Employment on S.B. No. 1408**

The purpose of this bill is to amend provisions relating to retirement system credits for unused sick leave. It provides that employees of twelve months who are not covered by an approved sick leave accumulation system shall be entitled to eleven days of sick leave credits per year. Employees of nine months not covered by an approved sick leave accumulation system shall be entitled to nine days of sick leave credits per year of employment for computing additional service credits in the retirement system.

Presently, the instructional faculty ("I" faculty) at the University of Hawaii at Manoa, Hilo and West Oahu College do not earn and accumulate sick leave and accordingly do not receive any retirement credits for unused sick leave as do other government employees.

Your Committee received testimony from the Employees' Retirement System, the Office of Collective Bargaining, the University of Hawaii, and the University of Hawaii Professional Assembly.

Your Committee through further consideration amended this bill which will minimize additional costs to the system.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of S.B. No. 1408, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1408, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 1055      Labor and Public Employment on S.B. No. 14 (Majority)**

The purpose of this bill is to establish a commission to initiate and coordinate state-sponsored events commemorating the memory and principles of Martin Luther King, Jr.

Your Committee has amended this bill by deleting the substance and inserting the provisions of H.B. No. 77, H.D. 1, which establishes a Martin Luther King, Jr., Celebration Commission which is to be placed within the Department of Accounting and General Services. This Commission is patterned after the King Kamehameha Celebration Commission.

The Martin Luther King, Jr., Celebration Commission will consist of seventeen members to be appointed by the Governor and will be responsible for the arrangements for statewide events throughout the year in memory of the slain civil rights leader.

In addition, the amended bill provides for blank appropriations for fiscal years 1989-1990 and 1990-1991, to be determined at a later date.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of S.B. No. 14, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 14, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Souki.  
(Representative Anderson did not concur.)

**SCRep. 1056      Labor and Public Employment on S.B. No. 1555**

The purpose of this bill is to establish a voluntary job-sharing pilot project for all permanent, full-time employees belonging to units 2, 3, 4, 8, and 13 of the Executive Branch, the Judicial Branch, the Department of Education, the University of Hawaii, the Legislative Reference Bureau, the Legislative Auditor, and the Office of the Ombudsman. Employees already eligible for job-sharing under other state laws are not covered by this bill.

Your Committee finds that job-sharing provides a flexible employment option to retain valuable personnel who otherwise would not be able to continue their employment with the State. Job-sharing can help keep employees who need time to pursue educational opportunities, undergo additional training, or spend more time with their families. Your Committee notes that a state job-sharing project for teachers and librarians has been successful.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of S.B. No. 1555, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Souki.

**SCRep. 1057      Labor and Public Employment on S.B. No. 1966**

The purpose of this bill provides that the third member of the classification/compensation appeals board shall be appointed by the governor and shall serve as the chairperson. This bill also distinguishes between classification appeals and compensation appeals, providing further that the former may be considered on a quarterly basis and the latter may be considered on a biennial basis.

Your Committee received favorable testimony from the Department of Education and the Hawaii Government Employees Association.

Your Committee has amended this bill to include the amendments proposed by the Department of Education which amends the effective date for appeals of twelve-month officers to the pay period immediately following the receipt of the current position description by the Department of Personnel Services.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of S.B. No. 1966, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Souki.

**SCRep. 1058 Labor and Public Employment on S.B. No. 1554**

The purpose of this bill is to permit certain employees who retired under disability retirements after June 30, 1984 to receive "free" Health Fund medical insurance coverage. These employees will not be required to pay any medical insurance contributions to the Health Fund.

Your Committee finds that under the existing law, only the following are entitled to "free" medical insurance coverage:

1. The surviving spouse and the dependent children of employees who were killed in the performance of their duty;
2. Retirees and their family members who retired before July 1, 1984;
3. Retirees and their family members who retired after June 30, 1984 with ten or more years of credited service, excluding sick leave; and
4. Surviving spouses and dependent children of deceased retirees described in items 2 and 3.

This bill, which would have prospective application only, would establish a new class of persons who will be eligible for "free" Health Fund insurance coverage if they retire under the following conditions:

1. Service-connected total disability retirement (Section 88-77, Hawaii Revised Statutes);
2. Service-connected occupational disability retirement (Section 88-79, Hawaii Revised Statutes); and
3. Service-connected disability (Section 88-285, Hawaii Revised Statutes).

Your Committee on Labor and Public Employment is in accord with the intent and purpose of S.B. No. 1554 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representative Souki.

**SCRep. 1059 Labor and Public Employment on S.B. No. 2016 (Majority)**

The purposes of this bill are to: 1) increase the State's minimum hourly wage from \$3.85 to \$4.15 beginning January 1, 1990; 2) establish an entry training wage rate not less than \$3.85 which shall not extend beyond four months, at which time the applicable minimum wage shall take effect, and; 3) increase the tip credit for tipped employees from twenty cents to forty cents.

Your Committee has amended this bill by deleting the substance and inserting the provision of H.B. No. 1356, H.D. 2, which increases the State's minimum hourly wage from \$3.85 to \$4.20 beginning January 1, 1990 and to \$4.55 beginning July 1, 1991.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of S.B. No. 2016, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2016, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.  
(Representatives Bybee and Anderson did not concur.)

**SCRep. 1060 Labor and Public Employment on S.B. No. 1556**

The purpose of this bill is to provide lump sum payments to those former charter members of the Excluded Managerial Compensation Plan (EMCP) who retired, left state or county employment for other jobs, or transferred to positions covered by different pay plans, and did not receive back pay under Act 400, Session Laws of Hawaii 1988.

Your Committee finds that this bill would address this inequity by authorizing the state and counties to provide back pay for former charter members of the EMCP and making appropriations for the back pay.

Your Committee received testimony from the Department of Personnel Services, the Employees Association of the City and County of Honolulu, and the Public Employees Management Association of Hawaii.

Your Committee has amended this bill by deleting the substance and inserting the provisions of H.B. No. 924, H.D. 2, which provides for the lump sum payments to those who did not receive back pay under Act 400, Session Laws of Hawaii 1988.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of S.B. No. 1556, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1556, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee.

**SCRep. 1061 Labor and Public Employment and Judiciary on S.B. No. 840**

The purpose of this bill is to include judges of the District Courts and judges of the District Family Courts to the definition of "judges" under the State employees retirement law.

The proposed amendments would allow District Court judges and District Family Court judges the same retirement benefits as are presently enjoyed by Circuit and Appellate Court judges. Currently, Circuit and Appellate judges earn retirement credit equal to 3.5 per cent for each year of service, while District and District Family judges appointed after June 30, 1984, earn only 1.25 per cent.

Your committees find that in order to maintain a competent and professional judiciary, buttressed by the need to attract and retain experienced and competent attorneys to the bench, the retirement benefits ought to be an incentive, especially when judicial salaries will ineluctably never approximate private practice compensation levels.

Testimony in support of this measure was received from the Administrative Director of the courts and a member of the Hawaii State Bar Association.

Your Committees on Labor and Public Employment and Judiciary are in accord with the intent and purpose of S.B. No. 840, S.D. 1, and recommend that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Andrews, Hayes, Horita, Souki, Tajiri and Yoshimura.

**SCRep. 1062 Judiciary and Transportation on S.B. No. 1850**

The purpose of this bill is to delineate enforcement criteria for the offense of operating a recreational vessel in the waters of the State while under the influence of intoxicating liquor.

Your Committees received testimony in support of this measure from the Department of Transportation and notes that the measure tracks the current law for the offense of driving under the influence of intoxicating liquor, Section 291-4, Hawaii Revised Statutes. While the number of tragedies due to drunk drivers on our streets and highways constitutes a cause of great alarm and concern to your Committees, your Committees find that the same intensity of effort to dissuade drunk drivers must be applied to the boating sector. Though the vehicles or vessels might differ, the source of danger to the public has a common denominator: an operator under the influence behind the wheel.

Your Committees have amended the measure by deleting the appropriation to the Department of Transportation.

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

Your Committees on Judiciary and Transportation are in accord with the intent and purpose of S.B. No. 1850, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1850, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Andrews, Hayes, Horita, Kotani, Oshiro, Souki and Tajiri.

**SCRep. 1063 Judiciary and Human Services on S.B. No. 783**

The purpose of this bill as received by your Committees is to establish the Office of Youth Services within the Department of Human Services for administrative purposes, so as to house youth social services programs under one agency. The measure seeks to create a single, autonomous authority, to administer and provide a continuum of long-term treatment services to all troubled youths who may need assistance.

The bill, in its present form, seeks to establish an Office of Youth Services which, during its first two years of operations, is charged primarily with the responsibility to establish organizational and operational plans to blueprint the transfer of specific programs to the office, such as programs from the Department of Human Services, Department of Health, and the Family Court. The office is also tasked with the duty to collect data on target population and propose legislation, and as its only program function, to plan and develop ocean/wilderness and other alternative programs.

Your Committees note that the transfer of programs from the various departments and Family Courts is an enormous undertaking. The magnitude of the expected planning effort by this fledgling office would be overwhelming and monumental especially within the time frame specified in this bill.

Your Committees received testimony from the Department of Health and the senior judge of the Family Court, First Circuit. Testimony received ferret out the complexities and difficulties entailed in the proposed transfer of functions.

Accordingly, your Committees have amended the measure by establishing a Youth Service Board as the State agency responsible for the coordination of public and private services for youth in need of services, so that every youth shall be protected from neglect, cruelty, abuse, and exploitation. This board is to be placed within the Legislature for administrative purposes only. Your committees are mindful of the present lack of coordination of services and planning among the various departments of the State and Counties, the courts, and the various private agencies. As a result, there are gaps in the spectrum of needed services, duplication of services, and lack of focus on the needs of troubled youths, particularly youths at risk who are within the ages of ten to seventeen. The amended bill would only seek the transfer of duties of the Family Court Intake Agency to the Youth Service Board.



Your Committees on Judiciary and Human Services concur with the intent and purpose of S.B. No. 783, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 783, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Andrews, Chang, Duldulao, Hayes, Leong, Tam and Liu.

**SCRep. 1064                      Judiciary and Labor and Public Employment on S.B. No. 1413**

The purpose of this bill is to implement Chapter 368, Hawaii Revised Statutes, which created a civil rights commission to provide a uniform procedure for handling all types of discrimination complaints, to provide funding, and staffing authorization necessary for the civil rights commission to begin operations as intended by the 1988 Legislature, and to more effectively enforce the State's discrimination laws.

Your Committees heard testimony from the Department of Labor and Industrial Relations, the Department of Commerce and Consumer Affairs, interested employees of the State, numerous concerned groups and individuals, all of whom supported the intent and purpose of the bill. Your Committees have considered the many amendments, both substantive and technical which were suggested in testimony and believe that the amendments were properly included in H. B. No. 1315, H.D. 1. Accordingly, your Committees have replaced all of the provisions of the bill with all of the provisions contained in H. B. No. 1315, H. D. 1.

The foregoing replacement retains the commitment to civil rights contained in the bill with amendments to strengthen that commitment. The major amendments that resulted from the replacement are as follows:

1. A minimum qualification requirement for the selection of commission members was included in the bill to assure a civil rights commission committed to the task for which it was established. The amendment provides that the members of the commission must be selected on the basis of their knowledge and experience in civil rights and on the basis of a demonstrated commitment to the preservation of the civil rights of all individuals.
2. The members are to serve without compensation but shall be paid a per diem and travel expenses.
3. The commission's ability to enforce civil rights in the State cannot be accomplished without adequate funding and staffing. Accordingly the bill has been amended to provide for \$441,000 for fiscal year 1989-1990, and \$1,404,520 for fiscal year 1990-1991.
4. Finally, to assure a smooth transition between current enforcement jurisdiction by the Department of Labor and Industrial Relations and Department of Commerce and Consumer Affairs to the Civil Rights Commission, your Committees have provided guidance in the bill for the establishment of the commission and transition plans.

Your Committees on Judiciary and Labor and Public Employment is in accord with the intent and purpose of S.B. No. 1413, S.D. 2, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1413, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committees except Representatives Andrews, Hayes and Souki.

**SCRep. 1065                      Judiciary on S.B. No. 721**

The purpose of this bill was to consolidate, streamline, and update the current statutory provisions pertaining to elections.

Particularly, the measure grants the chief election officer the power to hold special elections to fill vacancies; increases penalties for voter registration fraud; allows for voter registration on election day; establishes a tie-breaking system; and, authorizes the use of sixteen and seventeen year olds as precinct workers. The measure also addresses other housekeeping provisions.

Your committee has amended this measure by deleting the provisions pertaining to registration of voters on the same day as an election.

Your committee received favorable testimony in support of this measure from the Association of Clerks and Election Officers, the American Association of University Women, and the Hawaii Rainbow Coalition.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 721, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 721, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews, Cachola, Hayes, Hiraki, Peters and Shon.

**SCRep. 1066                      Judiciary on S.B. No. 1975**

The purpose of this bill is to provide for the classification within the Employees' Retirement System of narcotics investigators in the Attorney General's office.

Your Committee finds that investigators and narcotics enforcement division employees perform many of the same tasks carried out by police officers, regardless of whether they are currently contributory or noncontributory members of the Employees' Retirement System. They are exposed to many of the same occupational hazards police officers confront.

Your Committee finds that these investigators should be treated like police officers for the purposes of pension and retirement benefits.

Your Committee has amended this bill by amending the definition of "narcotics enforcement investigators" to mean those officers and employees with police powers who actively enforce narcotics or related statutory provisions on a full-time basis. This new definition includes those officers and employees who perform duties similar to police officers with regard to drug enforcement, but are employed by other state and county agencies.

Your Committee has also amended this bill to retroactively classify all narcotics enforcement investigators as contributory members of the Employees' Retirement System. It is the understanding of your Committee that in 1984, two or three narcotics enforcement investigators who were contributory members elected to become noncontributory members. To comply with the restructuring of the retirement classification, this bill has been amended to provide these investigators the opportunity to purchase credit for those years in which they were noncontributory members. This exception shall not be considered as a precedent for allowing other contributory members who opted to become noncontributory members to become contributory members again.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1975, S.D. 1, H.D. 1, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as S.B. No. 1975, S.D. 1, H.D. 2.

Signed by all members of the Committee except Representatives Andrews and Hayes.

**SCRep. 1067            Judiciary on S.B. No. 1800**

The purpose of this bill is to add programs, projects, and activities on the subject of crime, including crime research, prevention, and education, to the functions of the Department of the Attorney General. The bill also provides general rule making authority to the Department of the Attorney General to assist in the overall management of the various boards and agencies being attached to the department.

The bill also repeals the Hawaii Criminal Justice Commission and reestablishes it in a modified form within the Department of the Attorney General while transferring the commission staff, functions, appropriations, and records to the Department of the Attorney General. The modified commission will be comprised of seven members appointed by the governor.

The modified commission will be required to:

- (1) Perform research on matters as directed by the Attorney General; and
- (2) Advise the Attorney General on matters referred to it for review and on matters of interest and concern to the residents of the members' respective communities.

Your Committee has received favorable testimony from the Department of the Attorney General.

Your Committee has amended this bill by making grammatical, nonsubstantive amendments to the bill for the purpose of style and clarity.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1800, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1800, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews, Hayes, Hirono, Oshiro and Yoshimura.

**SCRep. 1068            Judiciary on S.B. No. 1363**

The purpose of this bill is to improve the present compensation process pertaining to criminal injuries compensations. The bill would moreover provide for conformity with changes in the penal code dealing with violent crimes.

Your Committee received supporting testimony to the intent of this measure from the Department of Corrections, the Victim Witness Kokua Services of the Honolulu Prosecuting Attorney's Office, and Mothers Against Drunk Drivers.

Upon further consideration, your Committee has amended this bill to refine the present compensation process by:

- (1) Defining "victim" to include any resident of the state who is injured or killed by an act or omission of another person in a state not having a crime victim compensation program.
- (2) Retaining the current statutory provision that provides for a three member Crime Injuries Compensation Commission.

- (3) Deleting the nomination panel.
- (4) Increasing the compensation of commission members from \$50 to \$125 per day, and the chair from \$55 to \$150, and repealing the statutory maximum compensation amount, that the chair or members may earn.
- (5) Providing for the compensation of any Hawaii resident injured or killed in another state not having a compensation program, and
- (6) giving the commission the discretion to consider applications filed beyond the eighteen months statutory period.

Your Committee finds that this measure, as amended, will assure that the intended, benefits of this important statute would be made available to all victims of violent crimes of our state.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1363, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1363, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews, Hayes, Hiraki, Hirono and Yoshimura.

**SCRep. 1069            Judiciary on S.B. No. 717**

The purpose of this bill is to provide for the registration of voters by the use of a self-subscribing oath prescribed by the chief election officer; to specify that the county clerk shall enter "unable to sign" on the signature line of an application form where the registrant is unable to write due to illiteracy, blindness, or other physical disability; to permit mail-in applications upon self-subscribing oaths; and to make technical changes to the current statute.

Upon further considerations, your committee has amended the bill to delete section 2 therein, pertaining to registration by mail. Also, the figure of the sum appropriated to the Office of the Lieutenant Governor have been deleted, and the effective date of the measure changed to July 1, 1989.

Your committee heard testimony in support of this measure, as amended, from the chief election officer.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 717, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 717, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews, Bellinger, Hayes, Hiraki, Hirono, Peters, Shon and Yoshimura.

**SCRep. 1070            Judiciary on S.B. No. 1565**

The purpose of this bill is to enact alternative sentencing in criminal cases concerning defendants who are convicted of sexually assaulting children who are members of their family and to thereby create a more effective and efficient legal approach to an increasingly serious and complex threat to our children and our families.

As received by your Committee, this bill creates a new section to chapter 706, Hawaii Revised Statutes, to provide for alternative sentencing for intra-family sexual assault offenders. The bill also would attempt to minimize trauma to child victims while holding the offenders responsible, facilitate timely criminal intervention, and to reduce unnecessary removal of the child victim from the family home.

Your Committee is disheartened to note the pervasiveness of the problem of intra-family sex abuse in our State. In 1987, there were 595 reports of such abuse of which 302 were confirmed. It becomes readily apparent that we need to address this problem square on, and to do it better than what the dismal statistics have indicated. Foremost among the concerns of this Committee is the need for intensive counseling and treatment of sex offenders, as well as to militate subjection of the child victim to the trauma of being abused and then to be thrust painfully into the public as the primary witness against a family member in a criminal proceeding.

While your Committee is cognizant of the fact that currently, the Honolulu Prosecuting Attorney is moving toward an administrative arrangement whereby intra-family sex offenders would be referred to seek counseling or rehabilitative treatment, we find nevertheless that a concerted effort by the various state agencies and the Judiciary is crucial in our battle against this plague upon society.

Accordingly, your Committee has amended this measure. As amended, the bill would provide fundings to the Judiciary, the Office of the Attorney General, and Executive Departments, so that they would have the means to tackle this difficult task.

Your Committee finds that while we are advancing in our efforts to fight intra-family sex abuse, we are nowhere near the point where we can afford to relax our efforts. This measure, as amended, is intended to be the overture of viable solutions, though not as a panacea, to a very real threat to the fabric of our society.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1565, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1565, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews, Hayes, Hirono, Oshiro and Yoshimura.

**SCRep. 1071            Judiciary on S.B. No. 1148**

The purpose of this bill is to provide for the prompt revocation of the driver's license of a person who a police officer has probable cause to believe has been driving under the influence of intoxicating liquor and who has either taken a chemical test showing that his or her blood alcohol concentration exceeded the specified limit or refused to take such a test as required by law.

Your Committee held a hearing on this bill and gave it serious consideration. We are in accord with the purpose of the bill but find that the amendments made to the bill by the Senate committees on Transportation and Judiciary will defeat this purpose and impose an unnecessary financial burden on the taxpayers of our State. Therefore, we have amended the bill to correct the problems created by these amendments.

Specifically, we find as follows:

- (1) The amendment subjecting the revocation procedures to the requirements of Chapter 91 and permitting a first offender to petition for an administrative hearing within fifteen calendar days of service of a notice of revocation will not result in the prompt revocation which the bill contemplates. Because the amendments specifically provide for the presence of counsel and the inspection of testing equipment as is done with criminal driving under the influence trials, it simply will not be possible for anyone to prepare for such a hearing within eight days after the hearing request, as specified by the amendments, or even to complete the hearing within the time provided. As a result, the revocation will, according to the amendments, be stayed until a determination is made on completion of the hearing. Given such a stay, there will be an incentive for great numbers of drivers to request such a hearing and use their attorneys to delay resolution of the proceeding for as long as possible. In the end, the average time between service of the notice of revocation and a final determination will exceed forty-five days and the State will therefore be denied the Federal grants available to help fund the program.

Your Committee has therefore amended the bill to delete this provision while adding language to section 286-D to also require submission of sworn statements from the persons responsible for maintaining and calibrating the testing equipment and those conducting the test containing facts demonstrating that the equipment and procedures met all legal requirements. This will address the apparent concerns of the Senate Committees on Transportation and Judiciary by significantly reducing or eliminating the risk of an erroneous prehearing license revocation.

- (2) The amendment to the bill providing for appointment of counsel to indigent persons for purposes of the administrative hearing does not comport with statutory or constitutional requirements. Chapter 91 does not contain such a provision nor does our constitution require appointment of counsel because these proceedings are civil, not criminal, in nature. Moreover, this amendment establishes a precedent by which the State might be required to provide counsel to all indigent persons involved in administrative proceedings.

Your Committee finds that the economic implications of such a requirement make this amendment to the bill unacceptable and we have therefore amended the bill to delete this provision.

- (3) Your Committee does not concur with the Committees on Transportation and Judiciary that the amendment to section 291-4(b) will exempt first offenders from criminal prosecution for driving under the influence. Deletion of the language "For a first offense, or any" does not accomplish this goal because the new language "Any offense" still includes first offenders. More importantly, however, the premise underlying this bill is that license revocation proceedings are civil in nature and therefore distinct from criminal prosecutions for driving under the influence. The prompt revocation of a driver's license in the interest of public safety is not intended to replace the criminal sanctions which long established legislative policy attaches to this dangerous conduct. Prompt license revocation is the single greatest deterrent to driving under the influence but it can not be accomplished through procedures which are necessary to protect the rights of a person facing incarceration. The administrative license revocation procedure proposed by this bill in its original form is a simple reflection of that fact.

- (4) The amendment to the bill deleting a lower blood alcohol concentration limit for minors ignores a tragic fact: more people under the age of twenty-one die from alcohol-related accidents than any other cause. Whether members of this group drink more because they are immature in their judgment or are physiologically more susceptible to the effects of alcohol because of their youth is irrelevant. The plain truth is that a legislative policy determination to limit the access of minors to alcohol has already been made. Section 281-101.5 prohibits an adult from purchasing liquor for consumption by a minor, that is, anyone under age twenty-one. This section also prohibits minors from purchasing liquor and possessing liquor on a public highway or any other public place, including private property open to the public. Thus, minors can possess and consume only that alcohol which is given to them on truly private property. Common sense therefore dictates that the level of alcohol which we tolerate in minors operating motor vehicles on public highways can and should be limited, if not eliminated totally.

Your Committee has also made changes to:

- (1) clarify the circumstances under which a notice of revocation may be issued;

- (2) allow first offenders to obtain a temporary permit after thirty days if they install an ignition interlock system in vehicles which will allow them to drive to and from work and alcohol assessment and counseling if they have no alcohol in their systems;
- (3) make discretionary the referral of a person for alcohol assessment and/or treatment and to leave it to the counselor what type of treatment the person should receive and for how long;
- (4) establish a fifteen day limit for requesting an administrative review, provide for reissuance of a fifteen day permit if the review is not completed within the first fifteen days and require that the review be completed before the new permit expires;
- (5) provide that copies of the sworn reports of law enforcement officials be provided within seven working days after a request for a hearing so that the driver may adequately prepare;
- (6) provide for admission into evidence at the administrative hearing of the sworn report of law enforcement officials as prima facie grounds for the revocation so that a representative of the State need not be present and so that the official need not be there unless the driver wishes to cross-examine him or her; and
- (7) require that the license of a nonresident whose driving privilege has been revoked be returned to the issuing authority.

Your Committee has also made other non-substantive changes for consistency and clarification.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1148, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1148, S.D. 2, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews, Bellinger, Hayes, Hiraki, Hirono, Peters, Shon and Yoshimura.

**SCRep. 1072            Judiciary on S.B. No. 733**

The purpose of this bill was to add non-civil service private secretaries to assist the Administrative Director of the Courts, the Deputy Administrative Director of the Courts and additional law clerks to assist the Administrative judges of the First Circuit District Court and Circuit Court, and the motion judges of the First Circuit.

Your Committee received testimony from the Administrative Director of the Courts in support of the above measure and finds that the scope of duties and responsibilities of both the Administrative Director of the Courts and the Deputy Administrative Director are comparable to executive branch department heads. Accordingly, they should be provided with exempt private secretaries.

Your Committee has amended the measure by deleting the provisions for additional law clerks to the specified judges of the First Circuit Court. As amended, the measure will retain the amendments allowing for the exempt private secretaries, to be provided to assist the Administrative Director of the Courts and the Deputy Administrator.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 733, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 733, S.D. 1, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews and Hayes.

**SCRep. 1073            Judiciary on S.B. No. 1825**

The purpose of this bill is to:

- (1) Increase the amount the governor may expend for immediate relief of any single major disaster from \$750,000 to \$1 million;
- (2) Provide for an additional \$1 million to be used to match federal disaster relief funds following a presidential declaration of disaster; and
- (3) Appropriate \$1.5 million for fiscal year 1989-1990 and \$1.5 million for fiscal year 1990-1991.

Your Committee received testimony in favor of this measure from the State Department of Defense indicating that current funding limits hinder the availability of assistance programs to meet the needs of those faced with losses due to a major disaster. Increased funding provided by this bill will expedite these programs in their efforts to bring aid to those in emergency situations.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1825 and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews and Hayes.

**SCRep. 1074          Judiciary on S.B. No. 1907**

The purpose of this bill is to transfer the responsibility of transmitting the Criminal Injuries Compensation Commission's annual report and appropriations bill from the Director of Finance to the Director of Corrections. Currently, the report is transmitted to the Director of Finance who in turn transmits it to the Legislature along with a bill to appropriate funds to replenish the Criminal Injuries Compensation Fund. Since the Director of Finance has no input into the report, the report can be transmitted directly from the Department of Corrections to the legislature.

Your Committee received testimony from the State Department of Budget & Finance and the Administrator of the Criminal Injuries Compensation Commission in support of this measure.

The bill has been amended to specify that the annual report is based on a fiscal year and that the appropriations request for the following year should be based on a reasonable estimate. The bill has also been amended to specify the reporting and appropriations request requirements for the change-over year.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1907, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1907, H.D. 1, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews and Hayes.

**SCRep. 1075          Judiciary on S.B. No. 1851**

The purpose of this bill is to clarify section 286-106, Hawaii Revised Statutes, to ensure that an original driver's license remains valid for a full two-year or four-year period.

Your Committee received testimony from the Department of Transportation in favor of this measure.

Upon further consideration, your Committee has amended this bill by changing the maximum time limit to insure that those licenses received prior to the licensee's actual birthdate will remain valid for the two- or four-year period as the law intends.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1851, H.D.1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1851, H.D. 2, and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews and Hayes.

**SCRep. 1076          Judiciary on S.B. No. 70**

The purpose of this bill is to increase the compensation of members who serve on the Medical Claim Conciliation Panel from the current \$100 per claim to \$300.

Your committee finds that since the panels' creation in 1976, the remuneration for the attorneys and physicians serving on the panels has been \$100 per claim. The members who volunteer their services spend many hours away from their regular professional duties. Raising the compensation would serve to recognize their dedication to public service.

Your committee received testimony in support of this measure from the Department of Health, the Department of Commerce and Consumer Affairs, the Medical Coalition for tort reform, and an attorney member of a panel.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 70, S.D. 1, and recommends that it pass Second Reading and be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews, Bellinger, Hayes, Hiraki, Hirono, Peters, Takamine and Yoshimura.

**SCRep. 1077          Judiciary on S.B. No. 195**

The purpose of this bill is to provide enhanced accessibility to public buildings for the physically handicapped by requiring State projects involving design, construction and alteration of buildings, structures, or facilities to comply with either the Uniform Federal Accessibility Standards (UFAS).

The measure would also create an architectural access Committee, administratively placed within the Department of Health. This committee will have the authority to vary specific requirements to allow for variances from the UFAS.

Your committee received testimony in support of this measure from the Department of Accounting and General Services, the Department of Health, the Commission on the Handicapped, the State Planning Council on Developmental Disabilities, the Executive Director of the Hilo Association for Retarded Citizens, the Hawaii Centers for Independent Living, the Big Island Center for Independent Living, and several handicapped citizens.

Your committee received testimony in support of this measure from the Department of Accounting and General Services, the Department of Health, the Commission on the Handicapped, the State Planning Council on Developmental Disabilities, the Executive Director of the Hilo Association for Retarded Citizens, the Hawaii Centers for Independent Living, the Big Island Center for Independent Living, and several handicapped citizens.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 195, S.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews, Bellinger, Hayes, Hiraki, Hirono, Peters, Takamine and Yoshimura.

**SCRep. 1078            Judiciary on S.B. No. 162**

The purpose of this bill is to establish a motor vehicle transfer fee payable by owners of motor vehicles and assessed for each vehicle owned and transferred to another county. This fee is in addition to the annual registration fee.

Your Committee received testimony from the Department of Finance of the City and County of Honolulu, the Mayor of Maui, and the Maui Council Chairman in support of this measure.

This measure will provide financial assistance to those counties to which cars are transferred but for which the annual registration fee was paid elsewhere.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 162, S.D. 1, H.D. 1, and recommends that it be referred to the Committee on Finance.

Signed by all members of the Committee except Representatives Andrews and Hayes.

**SCRep. 1079            Intergovernmental Relations and International Affairs on H.R. No. 28**

The purpose of this resolution is to request the House Committee on Intergovernmental Relations and International Affairs to convene an interim committee to study the condition of the wastewater infrastructure of the counties in light of present and projected demands on the systems.

The population of Hawaii's counties, both resident and tourist, are steadily increasing. This poses an expensive burden on the counties as they face the need to upgrade the capacity of their wastewater infrastructure. The interim committee envisioned would work with the counties to attempt to identify what the financing needs for this work are, and if appropriate, make legislative recommendations prior to the 1990 session.

Your Committee has amended this resolution to request that the Speaker of the House of Representatives appoint an interim committee comprised of the members of the House Committee on Intergovernmental Relations and International Affairs. Technical, nonsubstantive changes have been made for purposes of consistency and style.

Your Committee on Intergovernmental Relations and International Affairs concurs with the intent and purpose of H.R. No. 28, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as H.R. No. 28, H.D. 1.

Signed by all members of the Committee.

**SCRep. 1080            Finance on S.B. No. 633**

The purpose of this bill is to provide fund authorizations and appropriations for collective bargaining unit 1 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1989-1991.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with Section 89-10, Hawaii Revised Statutes, to cover the expected cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1989. Since an agreement for the bargaining unit is not expected to be reached in time to include the cost items in the 1989-1991 biennium budget, this separate measure may be necessary.

For purposes of continued discussion, your Committee has amended this bill to insert the sum of \$1 for each of the appropriated amounts. A new section stating the reasons why and the amount and rate by which the appropriations contained in this bill exceed the state spending limit has also been added to comply with constitutional and statutory requirements. Your Committee has also inserted the appropriate fiscal years on page 2 of the bill. Other technical, nonsubstantive amendments have been made for purposes of style and clarity and to correct drafting errors.

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

Signed by all members of the Committee.

**SCRep. 1081            Finance on S.B. No. 634**

The purpose of this bill is to provide fund authorizations and appropriations for collective bargaining unit 2 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1989-1991.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with Section 89-10, Hawaii Revised Statutes, to cover the expected cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1989. Since an agreement for the bargaining unit is not expected to be reached in time to include the cost items in the 1989-1991 biennium budget, this separate measure may be necessary.

For purposes of continued discussion, your Committee has amended this bill to insert the sum of \$1 for each of the appropriated amounts. A new section stating the reasons why and the amount and rate by which the appropriations contained in this bill exceed the state spending limit has also been added to comply with constitutional and statutory requirements. Your Committee has also inserted the appropriate fiscal years on page 2 of the bill. Other technical, nonsubstantive amendments have been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 634, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 634, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 1082            Finance on S.B. No. 635**

The purpose of this bill is to provide fund authorizations and appropriations for collective bargaining unit 3 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1989-1991.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with Section 89-10, Hawaii Revised Statutes, to cover the expected cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1989. Since an agreement for the bargaining unit is not expected to be reached in time to include the cost items in the 1989-1991 biennium budget, this separate measure may be necessary.

For purposes of continued discussion, your Committee has amended this bill to insert the sum of \$1 for each of the appropriated amounts. A new section stating the reasons why and the amount and rate by which the appropriations contained in this bill exceed the state spending limit has also been added to comply with constitutional and statutory requirements. Other technical, nonsubstantive amendments have been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 635, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 635, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 1083            Finance on S.B. No. 636**

The purpose of this bill is to provide fund authorizations and appropriations for collective bargaining unit 4 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1989-1991.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with Section 89-10, Hawaii Revised Statutes, to cover the expected cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1989. Since an agreement for the bargaining unit is not expected to be reached in time to include the cost items in the 1989-1991 biennium budget, this separate measure may be necessary.

For purposes of continued discussion, your Committee has amended this bill to insert the sum of \$1 for each of the appropriated amounts. A new section stating the reasons why and the amount and rate by which the appropriations contained in this bill exceed the state spending limit has also been added to comply with constitutional and statutory requirements. Other technical, nonsubstantive amendments have been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 636, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 636, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 1084            Finance on S.B. No. 637**



The purpose of this bill is to provide fund authorizations and appropriations for collective bargaining unit 5 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1989-1991.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with Section 89-10, Hawaii Revised Statutes, to cover the expected cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1989. Since an agreement for the bargaining unit is not expected to be reached in time to include the cost items in the 1989-1991 biennium budget, this separate measure may be necessary.

For purposes of continued discussion, your Committee has amended this bill to insert the sum of \$1 for each of the appropriated amounts. A new section stating the reasons why and the amount and rate by which the appropriations contained in this bill exceed the state spending limit has also been added to comply with constitutional and statutory requirements. Other technical, nonsubstantive amendments have been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 637, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 637, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 1085            Finance on S.B. No. 638**

The purpose of this bill is to provide fund authorizations and appropriations for collective bargaining unit 6 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1989-1991.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with Section 89-10, Hawaii Revised Statutes, to cover the expected cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1989. Since an agreement for the bargaining unit is not expected to be reached in time to include the cost items in the 1989-1991 biennium budget, this separate measure may be necessary.

For purposes of continued discussion, your Committee has amended this bill to insert the sum of \$1 for each of the appropriated amounts. A new section stating the reasons why and the amount and rate by which the appropriations contained in this bill exceed the state spending limit has also been added to comply with constitutional and statutory requirements. Other technical, nonsubstantive amendments have been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 638, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 638, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 1086            Finance on S.B. No. 639**

The purpose of this bill is to provide fund authorizations and appropriations for collective bargaining unit 7 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1989-1991.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with Section 89-10, Hawaii Revised Statutes, to cover the expected cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1989. Since an agreement for the bargaining unit is not expected to be reached in time to include the cost items in the 1989-1991 biennium budget, this separate measure may be necessary.

For purposes of continued discussion, your Committee has amended this bill to insert the sum of \$1 for each of the appropriated amounts. A new section stating the reasons why and the amount and rate by which the appropriations contained in this bill exceed the state spending limit has also been added to comply with constitutional and statutory requirements. Other technical, nonsubstantive amendments have been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 639, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 639, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 1087            Finance on S.B. No. 640**

The purpose of this bill is to provide fund authorizations and appropriations for collective bargaining unit 8 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1989-1991.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with Section 89-10, Hawaii Revised Statutes, to cover the expected cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1989. Since an agreement for the bargaining unit is not expected to be reached in time to include the cost items in the 1989-1991 biennium budget, this separate measure may be necessary.

For purposes of continued discussion, your Committee has amended this bill to insert the sum of \$1 for each of the appropriated amounts. A new section stating the reasons why and the amount and rate by which the appropriations contained in this bill exceed the state spending limit has also been added to comply with constitutional and statutory requirements. Other technical, nonsubstantive amendments have been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 640, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 640, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 1088            Finance on S.B. No. 641**

The purpose of this bill is to provide fund authorizations and appropriations for collective bargaining unit 9 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1989-1991.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with Section 89-10, Hawaii Revised Statutes, to cover the expected cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1989. Since an agreement for the bargaining unit is not expected to be reached in time to include the cost items in the 1989-1991 biennium budget, this separate measure may be necessary.

For purposes of continued discussion, your Committee has amended this bill to insert the sum of \$1 for each of the appropriated amounts. A new section stating the reasons why and the amount and rate by which the appropriations contained in this bill exceed the state spending limit has also been added to comply with constitutional and statutory requirements. Other technical, nonsubstantive amendments have been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 641, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 641, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 1089            Finance on S.B. No. 642**

The purpose of this bill is to provide fund authorizations and appropriations for collective bargaining unit 10 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1989-1991.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with Section 89-10, Hawaii Revised Statutes, to cover the expected cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1989. Since an agreement for the bargaining unit is not expected to be reached in time to include the cost items in the 1989-1991 biennium budget, this separate measure may be necessary.

For purposes of continued discussion, your Committee has amended this bill to insert the sum of \$1 for each of the appropriated amounts. A new section stating the reasons why and the amount and rate by which the appropriations contained in this bill exceed the state spending limit has also been added to comply with constitutional and statutory requirements. Other technical, nonsubstantive amendments have been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 642, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 642, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 1090            Finance on S.B. No. 643**

The purpose of this bill is to provide fund authorizations and appropriations for collective bargaining unit 11 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1989-1991.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with Section 89-10, Hawaii Revised Statutes, to cover the expected cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1989. Since an agreement

for the bargaining unit is not expected to be reached in time to include the cost items in the 1989-1991 biennium budget, this separate measure may be necessary.

For purposes of continued discussion, your Committee has amended this bill to insert the sum of \$1 for each of the appropriated amounts. A new section stating the reasons why and the amount and rate by which the appropriations contained in this bill exceed the state spending limit has also been added to comply with constitutional and statutory requirements. Other technical, nonsubstantive amendments have been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 643, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 643, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 1091            Finance on S.B. No. 644**

The purpose of this bill is to provide fund authorizations and appropriations for collective bargaining unit 13 cost items, including the cost of salary adjustments negotiated between the State and the bargaining unit representative for the fiscal biennium 1989-1991.

Fund authorizations and appropriations by the Legislature are necessary, in accordance with Section 89-10, Hawaii Revised Statutes, to cover the expected cost of implementing collective bargaining agreements negotiated between the State and the respective bargaining unit representatives for the fiscal biennium commencing July 1, 1989. Since an agreement for the bargaining unit is not expected to be reached in time to include the cost items in the 1989-1991 biennium budget, this separate measure may be necessary.

For purposes of continued discussion, your Committee has amended this bill to insert the sum of \$1 for each of the appropriated amounts. A new section stating the reasons why and the amount and rate by which the appropriations contained in this bill exceed the state spending limit has also been added to comply with constitutional and statutory requirements. Other technical, nonsubstantive amendments have been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 644, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 644, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 1092            Finance on S.B. No. 645**

The purpose of this bill is to provide fund authorizations and appropriations for wage and other adjustments for fiscal biennium 1989-1991 for officers and employees excluded from collective bargaining.

Section 89C-2, Hawaii Revised Statutes, stipulates that the compensation, laws, terms, and conditions of employment, and other benefits for public officers and employees who are excluded from collective bargaining shall be adjusted. Further, section 89C-5, Hawaii Revised Statutes, stipulates that any adjustments that constitute cost items shall be subject to appropriation by the Legislature. Since these adjustments are not expected to be formulated in time to include the resulting cost items in the 1989-1991 biennium budget, this separate measure may be necessary.

For purposes of continued discussion, your Committee has amended this bill to insert the sum of \$1 for each of the appropriated amounts. A new section stating the reasons why and the amount and rate by which the appropriations contained in this bill exceed the state spending limit has also been added to comply with constitutional and statutory requirements. Your Committee has also included appropriations to be made from general funds for officers and employees of the Office of Hawaiian Affairs. Other technical, nonsubstantive amendments have been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 645, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 645, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 1093            Finance on S.B. No. 1792**

The purpose of this bill is to clarify Act 200, Session Laws of Hawaii 1987, which authorized the issuance of special purpose revenue bonds to assist Kapiolani Health Care System.

More specifically, this bill:

- (1) Changes the name of the not-for-profit corporation referred to in the Act from "Kapiolani Health Care System" to "Kapiolani Medical Center for Women and Children" to cite the correct name; and
- (2) Provides that a certificate of need is a prerequisite only to the extent that it is required by applicable law.

Your Committee finds that both of these amendments are in accord with the original intent of Act 200.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1792, 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. 1094            Finance on S.B. No. 1861**

The purpose of this bill is to update the provisions of Chapter 39, Hawaii Revised Statutes, to provide more effective and efficient management of the State bond programs.

The bill broadens the definition of the details relating to the issuance of general obligation bonds to more clearly encompass variable rate as well as fixed rate general obligation bonds. The issuance of variable rate general obligation bonds was authorized by Act 214, Session Laws of Hawaii 1988. The bill also amends Section 39-62 to more clearly state that the appropriation, application, and expenditure of special funds securing revenue bonds issued pursuant to Part III of Chapter 39 will be accounted for on a fiscal year basis.

Your Committee received testimony from the Department of Budget and Finance to amend the bill to incorporate the changes adopted in the House companion measure, H.B. No. 1804, H.D. 1. Your Committee has amended this bill to conform to H.B. No. 1804, H.D. 1, to alleviate the concerns of the Department regarding certain special funds. Other technical, nonsubstantive amendments have been made for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1861, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1861, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 1095            Finance on S.B. No. 677**

The purpose of this bill is to establish a one-time licensing fee of \$20 for a general excise tax license.

Currently, general excise tax licenses are renewed annually at a modest fee. Your Committee finds that the imposition of this larger one-time fee and removal of the provision requiring yearly renewal will save time in administration for both the State and the business community.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 677, 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. 1096            Finance on S.B. No. 1854**

The purpose of this bill is to provide a suitable alternative penalty for contractors who engage or utilize subcontractors other than those named in a bid submitted for a government contract.

This bill bars those contractors violating the law from bidding on public contracts for a period not to exceed one year. Currently, the only sanction available is to terminate the contract, which may not be in the best interest of the government because of the attendant delay.

Your Committee received supporting testimony from the Department of Accounting and General Services and representatives of subcontractor organizations.

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

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1854, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1854, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

**SCRep. 1097            Finance on S.B. No. 1899**

The purpose of this bill is to conform Hawaii's Income Tax Law to changes in the Federal Internal Revenue Code.

This bill includes provisions which:

- (1) Exclude applicability of provisions relating to United States savings bonds used to pay higher education tuition and fees;

- (2) Clarify the term "standard deduction" with respect to limitation of standard deduction for certain dependents and clarify the law with regard to certain built-in gains of subchapter S corporations;
- (3) Allow parents to include on their returns, the unearned income of their minor children, subject to certain conditions;
- (4) Provide for increases in the taxable income of parents if Internal Revenue Code provisions establishing special rules for gain on property transferred to trusts at less than fair market value are triggered;
- (5) Reduce the age of qualifying dependents for dependent care tax credit from fifteen to thirteen, provide that the amount of dependent care expenses must be reduced by the amount excluded from gross income received from a dependent care assistance program, and require taxpayers to report on their returns the identifying information of the service providers; and
- (6) Specify that the state low-income housing tax credit ceiling be zero for calendar years after the federal tax credit expires, with the exception of the credit ceiling amount, which are eligible to be carried forward.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1899, 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. 1098          Finance on S.B. No. 1900**

The purpose of this bill is to repeal chapter 246, Hawaii Revised Statutes, after the complete transfer of the real property tax functions to the various counties is effectuated in November, 1989.

On November 7, 1989, the counties will no longer have to maintain a uniform property tax ordinance. Total and complete control of the property tax will be turned over to the counties. As a result, chapter 246 will cease to exist. This bill replaces the statutory references to chapter 246 with suitable language in preparation for the complete transfer of the real property tax functions.

Testimony in favor of this bill was received from the Department of Taxation and the Tax Foundation of Hawaii.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1900, 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. 1099          Finance on S.B. No. 679**

The purpose of this bill is to make consistent the application of the capital goods excise tax credit.

Specifically, this bill will clarify the provisions of allocation and computation of the tax credit for partners of partnerships, shareholders of S corporations, and beneficiaries of estates and trusts. In addition, this bill clarifies the definitions relating to the purchase of eligible property and the applicable year property is considered placed in service for purposes of computing the tax credit which will coincide with the Internal Revenue Code.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 679, 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. 1100          Finance on S.B. No. 686**

The purpose of this bill is to amend Section 237-24, Hawaii Revised Statutes, to eliminate the possible constitutionally discriminatory references contained within certain tax exemption provisions of the General Excise Tax Law.

This bill adds to the list of tax exempt items all agricultural commodities produced out of the State and the milling, processing, or canning of sugar and pineapple in or out of the State.

Your Committee finds that the amendments will serve to eliminate any appearance of discrimination against agricultural commodities from outside of the State in favor of those found locally.

Testimony in favor of this bill was received from the Department of Taxation and the Tax Foundation of Hawaii.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 686 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.