

SCRep. 1101 Finance on S.B. No. 1844

The purpose of this bill is to clarify that the provisions relating to the allocation of income of persons not taxable upon their entire income shall be applicable to income not subject to Part II of Chapter 235, Hawaii Revised Statutes, including nonbusiness income and certain income under Section 235-22, Hawaii Revised Statutes.

According to testimony presented by the Department of Taxation, this bill will eliminate conflicts between Section 235-5 and Chapter 235, Part II relating to Uniform Division of Income for Tax Purposes.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1844, 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. 1102 Human Services on S.B. No. 1875

The purpose of this bill is to allow a physician, making a determination of mental impairment for benefit certification purposes, to offer treatment in exceptional situations where qualified professionals are in short supply, and where a disabled person might not have access to alternative out-patient treatment.

Currently, Section 346-71, Hawaii Revised Statutes, which relates to general assistance eligibility for persons unable to engage in any substantial gainful employment because of a determined and certified mental impairment, states that the physician making the determination of mental impairment in an individual is ineligible to provide treatment or care to that individual. This prohibition oftentimes creates an anomalous situation in certain rural areas of the State, especially on the Neighbor Islands, where qualified professionals are in short supply.

Your Committee received testimony in support of this measure from the Departments of Human Services and Health and from the Hawaii Psychological Association in support of this bill.

Your Committee on Human Services is in accord with the intent and purpose of S.B. No. 1875, 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. 1103 Transportation on H.R. No. 38

The purpose of this resolution is to request the Legislative Reference Bureau to undertake a study examining the jurisdictional dispute between the counties and the State regarding ownership and responsibility for the maintenance and improvement of non-state roadways.

The study authorized by this resolution will also include: a determination of the magnitude of this problem; recommendations for resolving this dispute; and an estimate of the funds necessary to enact recommendations made by the Legislative Reference Bureau.

Your Committee received testimony from the Department of Transportation.

Your Committee finds that under Section 264-1 of the Hawaii Revised Statutes public roadways were categorized into State highways and County highways. However, the Hawaii Appellate court has ruled that a roadway does not become a County highway unless designated so by the respective County Councils. Your Committee thus finds it necessary to authorize this study to resolve the current jurisdictional dispute relating to roadways which are presently not classified as State or County roadways.

Your Committee amended the eighth and final paragraphs to include: the State Department of Corrections; Department of Hawaiian Home Lands; Department of Human Services; the Hawaii Housing Authority; and the Corporation Counsel of the City and County of Honolulu. Your Committee has further amended this resolution by making minor, technical amendments.

Your Committee on Transportation concurs with the intent and purpose of H.R. No. 38, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as H.R. No. 38, H.D. 1.

Signed by all members of the Committee.

SCRep. 1104 Transportation on H.C.R. No. 31

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to undertake a study examining the jurisdictional dispute between the counties and the State regarding ownership and responsibility for the maintenance and improvement of non-state roadways.

The study authorized by this concurrent resolution will also include: a determination of the magnitude of this problem; recommendations for resolving this dispute; and an estimate of the funds necessary to enact recommendations made by the Legislative Reference Bureau.

Your Committee received testimony from the Department of Transportation.

Your Committee finds that under Section 264-1 of the Hawaii Revised Statutes public roadways were categorized into State highways and County highways. However, the Hawaii Appellate court has ruled that a roadway does not become a County highway unless designated so by the respective County Councils. Your Committee thus finds it necessary to authorize this study to resolve the current jurisdictional dispute relating to roadways which are presently not classified as State or County roadways.

Your Committee amended the eighth and final paragraphs to include: the State Department of Corrections; Department of Hawaiian Home Lands; Department of Human Services; the Hawaii Housing Authority; and the Corporation Counsel of the City and County of Honolulu. Your Committee has further amended this concurrent resolution by making minor, technical amendments.

Your Committee on Transportation concurs with the intent and purpose of H.C.R. No. 31, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as H.C.R. No. 31, H.D. 1.

Signed by all members of the Committee.

SCRep. 1105 Water and Land Use on H.C.R. No. 78

The purpose of this concurrent resolution is stated in the title.

The proper protection and management of Hawaii's endemic flora, insects, and birds is entrusted to the Department of Land and Natural Resource's Division of Forestry and Wildlife. Several new programs have been assigned and initiatives proposed to this division.

Your Committee finds that these changes offer a fresh opportunity for the Division of Forestry and Wildlife to step back and to assess where they are in relation to their mission, goals, and objectives. Furthermore, considering the significance of these natural resources, a management audit would help to ensure the efficient and effective operations of this division.

Your Committee finds that this audit by the Legislative Auditor can best be implemented in cooperation with the Wildlife Management Institute, an organization that has assisted over forty states.

Your Committee on Water and Land Use concurs with the intent and purpose of H.C.R. No. 78 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 1106 Health on S.B. No. 83

The original purpose of this bill was to ensure that appropriate and uniform substance abuse test procedures are employed throughout the State. Your Committee has decided not to act on this measure at this time. However, because of the broad title, your Committee has decided to accept the advice of the department of health and several testimonies to amend this bill to establish the Aloha Health Corps.

Your Committee heard testimony on H.B. 57, "Relating to the Establishment of the Aloha Health Corps," earlier in this legislative session and approved the establishment of the Aloha Health Corps. While the bill was heard and received unanimous support in the Committee on Finance and start up funds were included in the House Budget, the bill was inadvertently held in committee. House Bill 57 contained important statutory language for the implementation of the Aloha Health Corps. As a result, your Committee on Health has replaced the contents of SB 83, S.D. 1, with the contents of H.B. 57, H.D. 1, without any funding.

The purpose of this amended bill is to create an Aloha Health Corps whose mission is to coordinate grassroots health volunteers and programs already working the Pacific; to recruit and train health professionals for special assignments in the Pacific that complement existing programs and that provide an extended grassroots partnership between Hawaii and our Pacific neighborhoods; to create idealistic opportunities for Hawaii's people to share; and to learn, contribute and benefit from international service.

Your Committee on Health previously heard testimony in support of this bill from former Peace Corps Volunteers, the Department of Health, and the University of Hawaii. Testimony emphasized the desirability of establishing such a program in light of the Administration's existing Pacific Health Promotion and Development Center and the efforts currently under way in the Pacific. It was noted that such a program would be the first in the nation begun by an individual state, and that Hawaii would build on its reputation for establishing and maintaining sensitive ties to its Pacific neighbors. Furthermore, the University of Hawaii noted that opportunities exist to provide special incentives for Aloha Health Corps volunteers who might desire to continue their education at the University.

As noted above, your Committee amended this bill by replacing the entire contents with H.B. 57, H.D. 1, except that the appropriations have been deleted, because the funds were included in the House Budget.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 83, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached thereto as S.B. No. 83, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hayes.

SCRep. 1107 Higher Education and the Arts on S.B. No. 1815

The purpose of this bill is to authorize the Hawaii Public Broadcasting Authority to forgo the bidding process when necessary to make purchases essential for transmission or production services.

The present law requires the Hawaii Public Broadcasting Authority to obtain all purchases through the State's mandated bidding process. Replacement of transmission or production equipment or structural parts valued in excess of \$4,000 or above must comply with the bidding process.

Your Committee heard testimony in support of this bill from the Department of Commerce and Consumer Affairs. The testimony indicated that the present requirements of the bidding process are an impediment to the expeditious replacement of failed parts or structural components which are essential to the uninterrupted transmission or production services of the authority.

Your Committee finds that the authority's ability to respond in a timely fashion to maintain transmission or production services is in the public interest. Your Committee also finds that exemptions made to the bidding process require careful monitoring and, therefore, your Committee requests the Department of Commerce and Consumer Affairs to submit an account of all expenditures made exempt from the bidding process by passage of this bill to the Legislature.

Your Committee on Higher Education and the Arts is in accord with the intent and purpose of S.B. No. 1815 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 Hashimoto.

SCRep. 1108 Agriculture on S.B. No. 1568

The purpose of this bill is to establish uniform and reasonable regulation of pigeon and aviary game bird raising by designating the Department of Agriculture (DOA) as the lead regulatory agency.

Your Committee received testimony in support of this bill from the DOA, Department of Health (DOH), and Hawaii Center of the American Racing Pigeon Union, Inc. which represents twenty-two clubs and organizations in Hawaii.

Your Committee finds that Act 86, Session Laws of Hawaii 1988, repealed the law relating to the regulation of pigeons and aviary game birds. Act 86 eliminated all of the DOH's involvement based on findings that no reason existed from the public health standpoint to continue the regulation of pigeon and aviary game bird raising. Members of the racing pigeon organizations were unaware of this legislation at that time.

Without the DOH'S oversight in pigeon and aviary game bird raising, the county zoning regulations took precedence. In the City and County of Honolulu, owners are allowed to raise a maximum of two birds each in areas zoned residential. Because pigeon racers and hobbyists each raise as many as twenty-five pairs of pigeons for racing or exhibition, the present regulatory situation has seriously jeopardized the viability of this sport.

Your Committee finds that uniform and reasonable regulation of pigeon and aviary game bird raising is necessary throughout the State to prevent the outbreak and spread of diseases affecting these birds and to restore the sport and hobby of pigeon racing in Hawaii.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1568, 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 Hashimoto.

SCRep. 1109 Agriculture on S.B. No. 1573

The purpose of this bill is to amend Section 157-41, Hawaii Revised Statutes, to impose stiffer penalties for violations of the Milk Control Act (Chapter 157, Hawaii Revised Statutes).

Your Committee received supporting testimony from the Department of Agriculture, 50th State Dairy Farmers' Cooperative, and Meadow Gold Dairies.

Your Committee finds that stiffer penalties for violation of Chapter 157 are justified when milk processors fail to comply with auditing requirements, and that administrative penalties enforced by the Board of Agriculture would enhance lawful compliance with this Chapter. Pursuant to this bill, any person who violates this Chapter shall be guilty of a misdemeanor, subject to a fine of not less than \$250 or more than \$1,000, or imprisonment for not more than one year, or both. The Board, after notice and opportunity for hearing, may administratively fine any person who violates this Chapter, or any rule adopted under this Chapter, not less than \$250 or more than \$1,000 for each separate offense.

Your Committee has amended this bill to clarify that actions taken to impose or collect the penalty provided for in the administrative penalty subsection only are to be considered civil actions.

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

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 1573, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1573, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 1110 Agriculture on S.B. No. 627

The purpose of this bill is to amend Section 159-15, Hawaii Revised Statutes, to provide for the acceptance of other forms of surety in addition to bonds from persons seeking licensure to slaughter animals for the purpose of using the meat or meat products thereof in intrastate commerce.

Currently Section 159-15 requires bonding as the only permissible form of surety.

Your Committee received testimony in support of this bill from the Department of Agriculture (DOA). This testimony indicated that it has become prohibitively expensive for many slaughterers to obtain the required \$5,000 performance bonds because the sale of these bonds is not cost effective. Many slaughterers have offered alternative forms of surety such as:

- (1) Certificates of Deposits for \$5,000 with the Department of Agriculture (DOA) as joint owners;
- (2) Special saving accounts of \$5,000 with the DOA as joint owners; and
- (3) Money Market Savings with special instructions that no withdrawals be allowed without the DOA's loan officer's approval. (\$5,000 is held in lieu of a bond in favor of the DOA.)

Your Committee finds that this bill would allow for alternate forms of surety without compromising the public interest for the protection and safety of food products.

Your Committee has amended this bill by replacing the phrase "the chief of the meat inspection branch" with the phrase "the board or an appropriate agent, officer, or employee designated by the board." This amendment would provide the DOA with greater flexibility in carrying out the granting of licenses and would conform the bill to the language contained in the H.B. No. 399, a companion to this bill.

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

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 627, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 627, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1111 Transportation on H.R. No. 40

The purpose of this resolution is to request the Department of Transportation to implement steps necessary to enhance the enforcement of High Occupancy Vehicle Lane restrictions (HOV).

Your Committee received favorable testimony from the Office of the Lieutenant Governor, the Department of Transportation, and the Oahu Metropolitan Planning Organization.

Your Committee finds that due to the extraordinary high number of violators using the State's HOV lanes, the effectiveness of these lanes has been reduced. Your Committee finds that increased enforcement is necessary to reduce HOV lane congestion caused by violators.

Your Committee further finds that the creation of transit-ways, which are physically separated access controlled lanes, is one possible means of enhancing enforcement of HOV lane restrictions. Some mainland cities with transit-ways have reduced the percentage of HOV lane violators to as low as 1%.

Your Committee on Transportation concurs with the intent and purpose of H.R. No. 40 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1112 Transportation on H.C.R. No. 33

The purpose of this concurrent resolution is to request the Department of Transportation to implement steps necessary to enhance the enforcement of High Occupancy Vehicle Lane restrictions (HOV).

Your Committee received favorable testimony from the Office of the Lieutenant Governor, the Department of Transportation, and the Oahu Metropolitan Planning Organization.

Your Committee finds that due to the extraordinarily high number of violators using the State's HOV lanes, the effectiveness of these lanes has been reduced. Your Committee finds that increased enforcement is necessary to reduce HOV lane congestion caused by violators.

Your Committee further finds that the creation of transit-ways, which are physically separated access controlled lanes, is one possible means of enhancing enforcement of HOV lane restrictions. Some mainland cities with transit-ways have reduced the percentage of HOV lane violators to as low as one percent.

Your Committee on Transportation concurs with the intent and purpose of H.C.R. No. 33 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1113 Labor and Public Employment on H.R. No. 121

The purpose of this resolution is to request the Legislative Auditor to conduct a study of the effectiveness of Hawaii's Occupational Safety and Health Program and to submit a report of the findings and recommendations to the Legislature at least twenty days prior to the convening of the 1990 Regular Session.

Your Committee has made the following amendments to this resolution:

1. Specifically requested the Legislative Auditor to work closely with the Department of Labor and Industrial Relations, the Occupational Safety and Health Task Force of the Governor's Conference on Health Promotion and Disease Prevention, the Division of Occupational Safety and Health Advisory Committee, the Hawaii Occupational Health Nurses Association, and interested business and labor organizations in preparing and conducting the study;
2. Specified that the study consider an "Occupational Safety and Health Program Assessment Act" amending Chapter 396, Hawaii Revised Statutes, to require the Director of Labor and Industrial Relations to annually report on the results of an evaluation of the effectiveness of the Department's Occupational Safety and Health Program to a joint hearing of the House and Senate Labor committees;
3. Provided that the study consider an "Occupational Safety and Health Education and Training Act" amending Chapter 396, Hawaii Revised Statutes, to establish an aggressive comprehensive statewide education and training program, for both employers and employees, addressing all aspects of occupational safety and health;
4. Provided that the study consider legislation that provides minimal standards of notification, protection, and education for employees about hazardous substances they may be in contact with in the course of employment;
5. Provided that the study consider the availability of additional federal funds to finance educational and training priorities; and
6. Made technical, nonsubstantive amendments for purposes of style and clarity.

Your Committee on Labor and Public Employment concurs with the intent and purpose of H.R. No. 121, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as H.R. No. 121, H.D. 1.

Signed by all members of the Committee.

SCRep. 1114 Labor and Public Employment on H.C.R. No. 99

The purpose of this concurrent resolution is to request the Legislative Auditor to conduct a study of the effectiveness of Hawaii's Occupational Safety and Health Program and to submit a report of the findings and recommendations to the Legislature at least twenty days prior to the convening of the 1990 Regular Session.

Your Committee has made the following amendments to this concurrent resolution:

1. Specifically requested the Legislative Auditor to work closely with the Department of Labor and Industrial Relations, the Occupational Safety and Health Task Force of the Governor's Conference on Health Promotion and Disease Prevention, the Division of Occupational Safety and Health Advisory Committee, the Hawaii Occupational Health Nurses Association, and interested business and labor organizations in preparing and conducting the study;
2. Specified that the study consider an "Occupational Safety and Health Program Assessment Act" amending Chapter 396, Hawaii Revised Statutes, to require the Director of Labor and Industrial Relations to annually report on the results of an evaluation of the effectiveness of the Department's Occupational Safety and Health Program to a joint hearing of the House and Senate Labor committees;
3. Provided that the study consider an "Occupational Safety and Health Education and Training Act" amending Chapter 396, Hawaii Revised Statutes, to establish an aggressive comprehensive statewide education and training program, for both employers and employees, addressing all aspects of occupational safety and health;
4. Provided that the study consider legislation that provides minimal standards of notification, protection, and education for employees about hazardous substances they may be in contact with in the course of employment;

5. Provided that the study consider the availability of additional federal funds to finance educational and training priorities; and
6. Made technical, nonsubstantive amendments for purposes of style and clarity.

Your Committee on Labor and Public Employment concurs with the intent and purpose of H.C.R. No. 99, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as H.C.R. No. 99, H.D. 1.

Signed by all members of the Committee.

SCRep. 1115 Human Services on S.B. No. 970

The purpose of this bill is to require applicants for general assistance to furnish the Department of Human Services with a social security account number for each member of the assistance unit.

Your Committee conducted a hearing and received testimony on a companion measure, H.B. 753.

Your Committee finds that this bill will standardize general procedures for public assistance programs. Currently, social security numbers must be furnished when applying for other public assistance programs, such as the Aid to Families with Dependent Children, Medicaid and Food Stamp programs.

Your Committee on Human Services is in accord with the intent and purpose S.B. No. 970 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1116 Human Services and Intergovernmental Relations and International Affairs on S.B. No. 1835

The purpose of this bill is to remove language from the Hawaii Revised Statutes requiring the Director of the Department of Human Services to appoint a county administrator in each of the four counties.

Your Committees heard from the Director that such a requirement had become obsolete as the Department is organized along division lines, with a branch office for each division in the counties.

Your Committees on Human Services and Intergovernmental Relations and International Affairs are in accord with the intent and purpose of S.B. 1835 and recommend that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 1117 Human Services and Education on S.B. No. 910

The purpose of this bill is to require the Department of Education to develop a statewide plan for voluntary early childhood education to be approved by the Board of Education, the Governor and the Legislature.

Your Committees received testimony in support of this bill from the Department of Health, the Hawaii Business Roundtable Education Committee, the Hawaii Association for the Education of Young Children, People Attentive to Children (PATCH), the Education Committee of the Chamber of Commerce of Hawaii, the Department of Education, and the Office of Children and Youth.

This bill begins the planning process for providing greatly needed early education services to families with young children throughout the State. Your Committees realize the significance of this planning process and have amended the bill to include a findings section which outlines the need for services and adds language specifying the details needed in the early childhood education plan. Your Committees have further amended the bill as follows:

- (1) To require that the plan include budget estimates for the first phase of the program;
- (2) To provide that the plan's full implementation deadline be no later than the 1994-1995 school year;
- (3) To define "early education" to mean a developmentally appropriate early childhood development and education program for children between the ages of three and eight years;
- (4) To specify that the standards for early childhood education programs be developed by the Department of Education and that the Department include therein standards for curriculum, activities, facilities, and teacher training;
- (5) To require that early education programs include methods and materials to involve and educate parents and guardians, including parents and guardians who opt for home care;
- (6) To provide that early childhood education be delivered by private providers to the maximum extent possible; and

- (7) To specify that the plan be submitted to the Legislature twenty days before the convening of the Regular Session of 1991.

Your Committees have also amended the bill to correct certain technical and stylistic errors.

Your Committees on Human Services and Education are in accord with the intent and purpose of S.B. No. 910, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 910, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Bunda and Hashimoto.

SCRep. 1118 Economic Development and Hawaiian Affairs on S.B. No. 1898

The purpose of this bill is to clearly delineate the State's priorities for investment in Hawaii by amending the Hawaii State Plan, chapter 226 of the Hawaii Revised Statutes.

Your Committee finds that the bill will encourage desirable investments and business activities thus promoting economic development. The bill will also help the State maintain a balanced perspective on economic planning and provide an objective approach to evaluating priorities.

Your Committee received testimony from the Department of Business and Economic Development, the Office of State Planning, the Housing Finance and Development Corporation, and the Honolulu Japanese Chamber of Commerce in support of this bill.

Your Committee on Economic Development and Hawaiian Affairs is in accord with the intent and purpose of S.B. No. 1898, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 1119 Ocean and Marine Resources and Transportation on S.B. No. 1165

The purpose of this bill is to impose a two-year moratorium retroactive to January 1, 1989 on the issuance of any new certificate of number for any thrill craft for commercial use or vessel used for parasailing. This bill also prohibits the transfer of any commercial use and operator permits issued by the Department of Transportation for commercial thrill craft and parasailing activities from one commercial enterprise to another.

Your Committees received testimony on this bill from the Department of Transportation, the West Maui Taxpayers Association, commercial parasail operators, and concerned private citizens.

Your Committees find that the present regulations regarding commercial thrill craft operation in State waters are inadequate despite recent statutory amendments and Department rules. Your Committees further find that certain endangered marine species such as the humpback whale and the green sea turtle are threatened by current thrill craft operations. In addition, it has been suggested that the operation of thrill craft may be harmful to other marine life and the ocean ecosystem.

In the absence of specific statutory prohibitions, the Department has addressed some of these concerns by proposing certain rule changes which would effectively ban the operation of all commercial ocean recreation activities during specific times and in specific areas. It has been proposed, for example, that all commercial ocean recreation activities be banned on weekends and holidays in areas such as Kaneohe and Maunaloa Bays that are heavily utilized by the public.

Your Committees further find that the recommendations of the National Marine Fisheries Service and the potential adverse biological impact on the ocean environment in Kaneohe Bay and other areas of unique ecological significance have also been seriously taken into consideration by the Department of Transportation for potential rule amendments.

Your Committees have amended this bill substantially by deleting references to Section 267-16, Hawaii Revised Statutes. Your Committees have further amended this bill by amending Section 267-4, Hawaii Revised Statutes, to require the Department to adopt rules providing for the suspension of parasailing and thrill craft operations during periods when endangered or threatened species of marine life may be adversely affected by thrill craft and parasailing activities. Your Committees have also amended this Section 267-4 by making technical and non-substantive amendments in recognition of the Department's inherent authority, not only to adopt rules to implement applicable laws, but also to amend and repeal its own rules as it decides.

Your Committees on Ocean and Marine Resources and Transportation are in accord with the intent and purpose of S.B. No. 1165, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1165, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Hashimoto.

SCRep. 1120 Ocean and Marine Resources and Water and Land Use on S.B. No. 90

The purpose of this bill is to repeal Chapter 173, Hawaii Revised Statutes (HRS), which pertains to the reclamation of lands.

The Department of Land and Natural Resources testified that having Chapter 173, HRS, repealed would not be harmful to its program.

Your Committees find that the Department of Land and Natural Resources has not utilized Chapter 173, HRS, for at least twenty years. In lieu of this Chapter, the Department has applied Section 171-60, HRS, which provides for the development of submerged lands through private developers.

Your Committees on Ocean and Marine Resources and Water and Land Use are in accord with the intent and purpose of S.B. No. 90 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 Hashimoto.

SCRep. 1121 Ocean and Marine Resources on S.B. No. 1885

The purpose of this bill is to amend Section 188-29, Hawaii Revised Statutes, to clarify the law regarding the minimum mesh size allowed for nets and traps made with rigid or stiff material and to repeal Section 188-29 (a)(8) because the subject matter of that subsection, i.e., the length of bullpen traps, is covered by Section 188-28.5.

Presently, the fish net and trap law requires a two-inch minimum mesh size to allow smaller size fish to escape. Nets are made of cotton, nylon, linen, or other soft and flexible material which can be stretched to meet the minimum mesh requirement. However, plastic lobster traps and plastic coated wire fish traps are rigid and stiff and cannot be stretched without damaging the mesh.

Your Committee received testimony in support of this bill from the Department of Land and Natural Resources.

Your Committee finds that the proposed amendments would establish a minimum mesh size of two-inch long by one-inch wide for traps made with rigid material.

Upon further consideration, your Committee has amended this bill to add a phasing out period to lessen the economic impact on owners of traps made with plastic, wire, coated wire, or any other stiff material with a rigid mesh of less than two-inches long by one-inch wide.

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

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of S.B. No. 1885, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1885, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 1122 Ocean and Marine Resources on S.B. No. 1841

The purpose of this bill is to amend Section 188-35, Hawaii Revised Statutes, to delete statutory language which permits the taking of any fish at any time in certain designated waters of the State and to delete Section 188-35 (a)(8) which is already regulated by Chapter 52 of the Hawaii Administrative Rules (HAR) of the Department of Land and Natural Resources.

Your Committee received testimony in support of this bill from the Department of Land and Natural Resources (DLNR). The testimony indicated that under Section 188-35, Hawaii Revised Statutes, "any person may at any time fish or take any fish" in certain designated waters in the State. This conflicts with other existing conservation measures which provide for closed seasons and bag and size limits of fish.

The Department further testified that Section 188-35 (a)(8) is not needed because Chapter 52 of the HAR of DLNR already provides the boundaries and measures for regulating fishing in Kailua Bay, Hawaii.

Your Committee on Ocean and Marine Resources is in accord with the intent and purpose of S.B. No. 1841 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 Hashimoto.

SCRep. 1123 Finance 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 on Finance is in accord with the intent and purpose of S.B. No. 646 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1124 Finance on S.B. No. 449

The purpose of this bill is to increase 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 not 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 Finance is in accord with the intent and purpose of S.B. No. 449, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1125 Finance on S.B. No. 733

The purpose of this bill is to add to the statutory civil service exemption listing non-civil service private secretaries to assist the Administrative Director of the Courts and the Deputy Administrative Director of the Courts.

Your Committee 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, these judicial administrators similar to executive department heads should be provided with private secretaries who are exempt from civil service provisions.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 733, S.D. 1, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1126 Finance 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.

In addition, this bill specifies 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; and makes technical changes to the current statute.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 717, S.D. 2, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1127 Finance on S.B. No. 678

The purpose of this bill is to require each operator of a transient accommodation, as a condition precedent to the business of furnishing transient accommodations, to register with the Department of Taxation and pay a one-time \$20 registration fee for each transient accommodation registered.

The bill provides that any person registering or holding a certificate of registration under Chapter 237D, Hawaii Revised Statutes, before January 1, 1990 is to pay the one-time registration renewal fee of \$20 on or before January 31, 1990.

The registration will be effective until canceled in writing and application for the reissuance of a previously canceled registration identification number after December 31, 1989 will be considered a new registration application and will be subject to the payment of a one-time registration fee of \$20.

Currently, transient accommodations operators are required to register and obtain a certificate of registration, including the payment of a \$1.00 fee on an annual basis. Your Committee finds that this measure alleviates the administrative burden placed on both the Department and taxpayers by eliminating the need for the Department of Taxation to issue annual renewal notices and facilitating the tracking of computerized registration information.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 678, S.D. 1, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1128 Finance on S.B. No. 653

The purpose of this bill is to increase the rate of compensation provided to Board of Education members in executing their responsibilities.

Under current law, Board of Education members are compensated at a rate of \$50 per day for each day's actual attendance at official Board meetings, authorized Board committee meetings, executive sessions, and collective bargaining meetings. This bill would increase the rate of compensation to \$100 per day.

Your Committee finds that the rate of compensation has not been adjusted in twenty-two years. During this same period, the responsibilities of Board members have increased significantly. Moreover, inflation and the increased cost of living have eroded the existing rate of compensation.

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

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 653, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 653, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 1129 Finance on S.B. No. 655

The purpose of this bill is to provide four additional civil service-exempt deputies for the Department of Health.

Your Committee finds that these additional positions are badly needed by the Department. An increase in the number of exempt deputies will permit better management within the Department and provide for improved future planning and health status monitoring.

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. 655, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 655, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1130 Finance on S.B. No. 370

The purpose of this bill is to establish a Condominium Management Recovery Fund and a Condominium Management Education Fund.

The Condominium Management Recovery Fund is intended to cover losses of a condominium association's funds that cannot be recovered from:

- (1) The fidelity bond of its managing agent;
- (2) The association's own fidelity bond; or
- (3) The assets of the person or persons causing the loss.

Since the proposed recovery fund is not intended as a primary source of recovery, the maximum recovery is limited to \$25,000 per transaction, and to \$50,000 per association.

The Condominium Management Education Fund is designed to fulfill the educational needs of condominium apartment owners, boards of directors, and managing agents. Chapter 514A, Hawaii Revised Statutes, requires that condominium unit owners operate their own projects under a self-governance concept.

The Condominium Management Education Fund also recognizes that owners, boards, and managing agents must be educated and must be encouraged to communicate and amicably resolve their association problems.

Your Committee finds that this bill will allow the Real Estate Commission to use the Condominium Management Education Fund to encourage and support quick and inexpensive dispute resolution procedures, such as mediation.

Contributions are set at \$2 per apartment unit from each condominium association with six or more apartments and from each managing agent. The \$2 payments are allocated equally between the Recovery and Education Funds. In addition, the developers must make one-time contributions of \$5 to the Education Fund for each apartment unit in projects they develop.

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. 370, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 370, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 1131 Finance on S.B. No. 390

The purpose of this bill is to appropriate funds for Hawaii's participation at the Osaka Expo 1990 or the International Garden and Greenery Exposition, Osaka, Japan 1990, provided that this appropriation is matched by \$3,500,000 in contributions from the private sector.

Your Committee finds that Hawaii's participation in the Osaka Expo 1990 will greatly benefit the State's business community and strengthen relationships with countries in the Pacific, particularly Japan. The cross-cultural exchange between Hawaii and other participants will further enhance goodwill and attract even more visitors to the State.

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 been added to comply with constitutional and statutory requirements.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 390, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 390, S.D. 1, H.D. 1.

Signed by all members of the Committee.

SCRep. 1132 Finance on S.B. No. 538

The purpose of this bill is to change the interest rate on class "F" new farmer agricultural loans from two percent less than the rate charged by other programs for similar types of loans, to six percent a year.

The Chairperson of the Board of Agriculture testified in support of this measure, and indicated that the Department of Agriculture has made 39 new farmer loans totalling approximately \$2.45 million over the last five years. Your Committee believes that this bill may encourage more people to consider a farming career and, as a consequence, expand the economic base of the State.

Technical, non-substantive revisions have been for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 538, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 538, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 1133 Finance on S.B. No. 765 (Majority)

The purpose of this bill is to appropriate funds to the Department of Health to establish a Bone Marrow Donor Registry at St. Francis Medical Center.

This registry would enable St. Francis Medical Center 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 has amended this bill by adding a new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with constitutional and statutory requirements. Technical, nonsubstantive amendments have also been made for the purposes of clarity and style.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 765, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 765, H.D. 1.

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

SCRep. 1134 Finance 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.

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

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

Signed by all members of the Committee.

SCRep. 1135 Finance on S.B. No. 195

The purpose of this bill is to provide enhanced accessibility to public buildings for the physically handicapped by requiring that State and county buildings and facilities conform to the Uniform Federal Accessibility Standards (UFAS).

The bill also creates an Architectural Access Committee, to be placed within the Department of Health for administrative purposes, which will have the authority to vary specific requirements to allow for variances from the UFAS.

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 been added to comply with constitutional and statutory requirements. Technical, nonsubstantive amendments have also been made for the purposes of clarity and style.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 195, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 195, S.D. 1, H.D. 1.

Signed by all members of the Committee.

SCRep. 1136 Finance 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.

During the 1988 legislative session, \$1,000,000 was appropriated to the Department of Land and Natural Resources to plan, design, and construct the Center for Applied Aquaculture. These moneys along with the \$4,000,000 proposed by this bill would provide the matching funds needed to secure the federal funds appropriated by Congress.

Your Committee has amended the bill by providing reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with statutory and constitutional requirements. Technical, nonsubstantive amendments have also been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 340, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 340, S.D. 1, H.D. 1.

Signed by all members of the Committee.

SCRep. 1137 Finance 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.

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 and the Department of Parks and Recreation of the City and County of Honolulu.

The bill has been amended by inserting the sum of \$1 in the appropriation section for purposes of continued discussion. A new section stating the reasons why and the amount and rate by which the appropriation 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. 277, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 277, S.D. 1, H.D. 1.

Signed by all members of the Committee.

SCRep. 1138 Finance on S.B. No. 721 (Majority)

The purpose of this bill is to remove the requirement that a person may take a tax deduction for political contributions to a candidate only if the candidate has agreed to abide by the campaign expenditure limits established by law.

The Hawai'i Women's Political Caucus testified in favor of this bill. The Office of the Lieutenant Governor and the Association of Clerks and Election Officers of Hawaii, testified in favor of amending the bill to add the provisions contained in S.B. No. 721, S.D. 2, which consolidated, streamlined, and updated statutory provisions relating to elections.

Upon further consideration, your Committee has amended this bill by adding a number of the sections requested by the Lieutenant Governor and the Association of Clerks and Election Officers.

Among other changes these amendments will:

- (1) Grant the Chief Election Officer the power to hold special elections to fill vacancies which occur in circumstances not otherwise covered in the election law;
- (2) Increase the penalties for voter registration fraud;
- (3) Redefine and clarify the responsibilities, powers, and jurisdiction of the Chief Election Officer, county clerks, and other election officials;
- (4) Allow voters with questionable addresses to verify their voter registration;
- (5) Provide election officials more flexibility to effect the transfer of registered voters who move;
- (6) Prohibit members of the Board of Registration from running for office;
- (7) Exempt Board of Registration hearings from the contested case requirements of the Hawaii Administrative Procedure Act;
- (8) Clarify the rights of aggrieved persons to appeal decisions by the County Clerks and Boards of Registration;
- (9) Redefine the date on which sixteen- and seventeen-year-olds become eligible for employment as precinct workers;
- (10) Require that employers give notice to employees of their right to take time off to vote;
- (11) Allow nomination papers to be made available earlier;
- (12) Extend the period during which the Chief Election Office or County Clerk may object to the validity of candidates' nomination papers;
- (13) Reduce the number of votes a nonpartisan candidate must receive in the primary to be placed on the general election ballot;
- (14) Redefine the statutory definition of the Board of Education districts to conform with the latest redesignation of representative districts;
- (15) Adjust the procedural timetable for filling vacancies in the State Senate, Board of Education, and Office of Hawaiian Affairs; and
- (16) Repeal section 17-5, Hawaii Revised Statutes, relating to procedures in the event of a failure to elect.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 721, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 721, S.D. 2, H.D. 2.

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

SCRep. 1139 Finance 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 made available unless they are matched by the counties.

For purposes of continued discussion, your Committee has amended this bill to insert the sum of \$2 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. 610, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 610, S.D. 1, H.D. 1.

Signed by all members of the Committee.

SCRep. 1140 Finance on S.B. No. 814

The purpose of this bill is to establish a nonprofit 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 found it necessary to move to other states where venture capital is available to start their operations.

Upon further consideration, your Committee has amended the bill by deleting the provisions contained in this bill and inserting the provisions from H.B. No. 9, H.D. 2, establishing the Hawaii Strategic Fund, which provides a broader range of financial assistance to business and involves private sector investment and knowledge.

As amended, this bill establishes the Hawaii Strategic Fund, a quasi-public corporation to encourage development and diversification in Hawaii through innovative actions in partnership with private enterprise. The Fund is authorized to use public funds to reduce the risks of private investments, to coinvest public funds in endeavors supported by private entities, and to provide incentives to private investment activity.

Your Committee has amended the bill further by appropriating \$10,000,000 for the Fund. A new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceed the state spending limit has also been added to meet statutory and constitutional requirements.

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. 814, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 814, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1141 Finance on S.B. No. 750

The purpose of this bill is to increase the compensation of members of the Board of Trustees of the Office of Hawaiian Affairs for each day's attendance at meetings from \$50 to \$100. The bill also limits the total annual compensation received by Trustees for attendance at meetings to \$5,200.

Your Committee has amended this bill by deleting the \$5,200 limit on compensation for attending meetings. Technical, nonsubstantive amendments have also been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 750, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 750, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 1142 Finance on S.B. No. 42

The purpose of this bill is to amend provisions of the dependent care tax credit. More specifically, this bill:

- (1) Increases the maximum amount of the credit that may be claimed by a resident taxpayer from fifteen to thirty percent of employment related expenses, with the minimum credit to be phased out at twenty percent instead of ten percent;
- (2) Increases the amount by which the tax credit is reduced per percentage point from \$2,000 to \$4,000 and set the base income for the maximum credit at \$20,000 instead of \$10,000; and
- (3) Doubles the maximum amount of qualified expenses a taxpayer may claim to calculate the credit to \$4,800 for one qualifying person and \$9,600 for more than one qualifying person.

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.

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

- (1) increasing the amount by which the tax credit is reduced per percentage point;
- (2) raising the base income for the maximum credit; and
- (3) doubling the maximum amount of qualified expenses a taxpayer may claim to calculate the credit.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 42, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 42, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1143 Tourism on H.C.R. No. 40

The purpose of this concurrent resolution is to urge the Legislative Auditor to conduct a review of the formula and use restrictions on transient accommodations tax revenues currently used to allocate funds for infrastructure and tourism-related activities, and construct an equitable formula to be used in allocating revenues from the transient accommodations tax.

In their review, the Legislative Auditor shall consult with mayors and city councils of each county as well as the Hawaii State Association of Counties.

Your Committee on Tourism is in accord with the intent and purpose of H.C.R. No. 40 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1144 Water and Land Use on S.B. No. 1054 (Majority)

The purpose of this bill is to amend Section 171-52, Hawaii Revised Statutes, by clarifying the criteria for remnant classification and disposition.

The Department of Land and Natural Resources, the Department of Transportation, and the Punaluu Preservation and Cultural Committee all testified that the present language in the bill is too broad and ambiguous.

Accordingly, your Committee has amended this bill by conforming it to its companion, H.B. No. 1415, H.D. 1. These amendments: (1) clarify the definition of "remnant" by deleting "as a separate unit" and "reason of location, size, shape, or other characteristics" and inserting "the State, as a separate unit or as an addition to, or in connection with, other public lands or resources" into Section 1; (2) hone the criteria for remnant classification by deleting "scenic, aesthetic, or other public" from Section 1; (3) clarify the disposition restriction to provide in Section 1 that no parcel shall be disposed of as a remnant solely for the reason that it lacks an adequate access; or its exact size or location is then uncertain; and (4) clarify 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," into Section 1.

Your Committee on Water and Land Use is in accord with the intent and purpose of S.B. No. 1054, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1054, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hashimoto.
(Representatives Bunda and Say did not concur.)

SCRep. 1145 Health on S.B. No. 660

The purpose of this bill is to provide sick leave benefits to Hansen's disease patients participating in the Patient Employment Program (PEP).

Section 326-22, Hawaii Revised Statutes, provides for the compensation of patient employees, which currently includes vacation pay but not sick leave pay. This bill would add sick leave benefits to the compensation payable to patients employed under Section 326-21, Hawaii Revised Statutes.

Your Committee heard supporting testimony from the Department of Health, and finds that this bill would enable the Patient Employment Program to comply with the settlement of a discrimination complaint filed with the Office for Civil Rights (OCR) and would allow the program more flexibility in determining and implementing other substantive items in the negotiation.

Your Committee has inserted the words "with pay" following the words "sick leave" on page 1, line 9 of the bill, for the purpose of clarity.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 660, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 660, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1146 Health on S.B. No. 1947

The purpose of this bill is to amend Chapter 323D, Hawaii Revised Statutes, to provide that when the State Health Planning and Development Agency (SHPDA) conducts administrative reviews of certificate of need applications, pursuant to section 323D-44.5, it shall refer the application to the appropriate subarea council or countywide review committee for an informational hearing to allow for public participation early in the process.

Your Committee finds that even when applications for Certificates of Need meet the criteria for administrative review, it is desirable to have public input in the process. The streamlining procedures which SHPDA instituted following legislative approval have been well received; there have been a few applications, however, which engendered much controversy. For this reason your Committee believes that mandating a public meeting early in the process is important.

Your Committee heard testimony in favor of this bill from the Department of Health and from the State Health Planning and Development Agency. SHPDA testified that the detailed provisions for setting up public meetings would be better established by rule than by statute. A meeting has already been arranged with the Chairmen of the Subarea Health Planning Councils, the Statewide Health Coordinating Council (SHCC), and the SHCC committees to discuss the appropriate procedure.

Your Committee concurs with SHPDA's recommendation that details concerning procedures for the public meetings are best established by rule, and has thus amended the bill by adding new language to the first sentence of Section 2 to this effect. We have deleted the last sentence in Section 2 which specified certain procedures for the public information meeting.

Your Committee has also amended Section 1 of the bill for the purpose of clarity, and has corrected a stylistic error.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 1947, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1947, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1147 Consumer Protection and Commerce on S.B. No. 496

The purpose of this bill is to amend the Residential Landlord-Tenant Code, Chapter 521, Hawaii Revised Statutes, to provide greater flexibility in the return of security deposits by landlords to vacating tenants upon termination of rental agreements.

Section 521-44(c), Hawaii Revised Statutes, mandates that security deposits be returned by certified mail, return receipt requested, and postmarked before midnight of the fourteenth day after the date of the termination of the rental agreement. This bill would delete the requirement of certified mail, return receipt requested and would instead (1) make "acceptable proof of mailing," or "an acknowledged receipt by the tenant," within the fourteen-day limit presumptive proof of compliance and (2) allow the landlord to prove compliance "by any other competent evidence."

Your Committee heard testimony from the Hawaii Association of Realtors that this bill would provide greater flexibility for both the landlord and the tenant in the return of security deposits.

Your Committee has amended this bill by deleting the provision that "the landlord may also prove compliance with this subsection by any other competent evidence." Your Committee heard testimony from the Department of Commerce and Consumer Affairs who stated that there is a need to clarify this provision which is vague and would be subject to differing judicial interpretations.

Your Committee also amended this bill by appending the substance of S.B. No. 497, S.D. 1, to S.B. No. 496, S.D. 1, to clarify the twenty-eight day notice of termination under the Landlord-Tenant Code.

Current law provides that a landlord or tenant must give a written notice of at least twenty-eight days for termination of a month-to-month tenancy rental contract. However, 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 the 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. When the tenant gives the termination notice, the tenant would be responsible for full payment through the twenty-eighth day.

Testimony from the Department of Commerce and Consumer Affairs and the Hawaii Association of Realtors was supportive of the bill with its proposed amendments.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 496, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 496, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Peters.

SCRep. 1148 Consumer Protection and Commerce on S.B. No. 1469 (Majority)

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.

This bill would allow a corporation, by vote of its shareholders, to eliminate or limit the liability of its officers and directors for certain acts, omissions, and breaches of duty. Under this bill, liability could not be limited or eliminated for acts including breach of the duty of loyalty to the corporation; intentional acts or acts not performed in good faith; willful or negligent violation of any provisions concerning payment of dividend or stock purchase redemption under Chapter 415, Hawaii Revised Statutes; or for any transaction in which the officer or director received an improper benefit. The potential protections of this bill would be limited to directors and officers of certain publicly held corporations.

This bill also lists specific criteria which a director may consider in determining the best interests of the corporation. Permissible criteria would 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. Section 415-35, Hawaii Revised Statutes, requires a corporate director to perform his duties as a director "in the best interests of the corporation. . .", but specific examples of the criteria which the director may consider are not listed.

The Department of Commerce and Consumer Affairs, and a representative of Alexander & Baldwin, Inc. testified in favor of this bill. The Department submitted that passage of the bill would signal the State's commitment to a business climate which fosters corporations domiciling and remaining in Hawaii.

Your Committee believes that this bill would promote the public interest by specifically allowing a corporate director to consider the ramifications of corporate decisions on the community and economy. Your Committee also believes that offering directors a degree of protection from personal liability in the execution of corporate affairs will support a favorable business climate.

Your Committee was not presented with evidence, however, which warrants extending these protections to corporate officers, and it declines to do so. Your Committee believes that the protections offered by this bill are overbroad, and that a corporation should not be able to eliminate or limit a director's liability for gross negligence. Further, your Committee believes that requiring two-thirds approval of the voting shares, rather than just a majority, to limit or eliminate director liability should protect the interests of minority shareholders. Finally, your Committee believes that the provisions for limiting or eliminating director liability should not be restricted to publicly traded corporations, as smaller corporations may wish to implement these provisions as well.

The bill has been amended to reflect these changes. 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 S.B. No. 1469, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached as S.B. No. 1469, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 1149 Consumer Protection and Commerce on S.B. No. 1818

The purpose of this bill is to clarify the statutes relating to the contractors recovery fund.

The present language in Section 444-26, Hawaii Revised Statutes, is ambiguous as to whether more than \$12,500 is recoverable from the recovery fund on a given contract.

This bill clarifies Section 444-26, Hawaii Revised Statutes, by specifying that the maximum recovery for damages under a single contract is limited to \$12,500, regardless of the number of persons injured under the contract. This bill also clarifies that owners or lessees of real property who are injured in connection with a contract by a duly licensed contractor for construction of their own residence may recover against the recovery fund upon the showing of appropriate proof.

Testimony in favor of this bill was received from the Subcontractors' Association of Hawaii and the Contractors License Board.

Your Committee has made technical amendments to the bill by restating the amendatory language to read "regardless of the number of persons injured under the contract", and deleting the added definition of "injured person".

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1818, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1818, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Peters.

SCRep. 1150 Consumer Protection and Commerce on S.B. No. 298

The purpose of this bill is to extend to December 31, 1995 the regulation of mortgage brokers and solicitors under Chapter 454, Hawaii Revised Statutes. This bill would also make certain amendments to Chapter 454.

This bill would require compliance by a mortgage broker or solicitor with all provisions of the Real Estate Settlement Procedures Act, the Truth in Lending Act, and the Equal Credit Opportunity Act, in any transaction with a borrower. The bill would require a mortgage broker or solicitor to honor a written commitment letter with specified terms to make a mortgage loan, if the borrower has accepted the commitment and made a timely and complete satisfaction of all of its conditions.

Additionally, this bill would increase the bond required of a licensed mortgage broker under Section 454-3(c), Hawaii Revised Statutes, from \$15,000 to \$50,000. An institutional investor would be exempt from the requirements of Chapter 454 when handling a loan purchase agreement for specified resales, for placement of mortgages into pools (or packaging them into mortgage-backed securities), or for its own portfolio. This bill would repeal Section 454-3.5, Hawaii Revised Statutes, which prohibits mortgage brokers and solicitors from selling, offering to sell, or negotiating mortgage loans to more than twenty-five persons, other than institutional investors, during a period of twelve consecutive months. Finally, this bill would clarify the definition of "mortgage broker" in Section 454-1, Hawaii Revised Statutes.

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

Your Committee believes that the provisions of this bill are in the public interest. Your Committee finds that 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 is in agreement with the provision of the bill which would include Chapter 454 in the 1995 sunset review, pursuant to Chapter 26H, Hawaii Revised Statutes.

The Department noted that the bill would delete the definition of "institutional investor" from Section 454-1, Hawaii Revised Statutes. Your Committee was advised that the deletion of the definition was inadvertent, and has amended the bill so as to retain the definition.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 298, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 298, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Peters.

SCRep. 1151 Consumer Protection and Commerce on S.B. No. 156

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 would also amend 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"; substitutions for derivations of those terms would be similarly made. Additionally, this bill would require the Real Estate Commission to undertake a study to review the recommendations of Report No. 88-22 of the Legislative Auditor entitled, "Sunset Evaluation Update, Real Estate Commission", December 1988.

Your Committee heard testimony in support of this bill from the Hawaii Association of Realtors. The Real Estate Commission testified against this bill, advising your Committee that it has already addressed, or is in the process of studying, the five specific areas of study which the bill would require of it.

Your Committee believes that the continued regulation of real estate brokers and salesmen is in the public interest, and that the terminology change would appropriately implement the recommendation of the Legislative Auditor in his Sunset Evaluation Update, December 1988. Your Committee finds that the study contemplated by Section 3 of the bill is unnecessary in view of the representations of the Real Estate Commission, and accordingly this section has been deleted. The remaining sections of this bill have been renumbered.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 156, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 156, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Peters.

SCRep. 1152 Consumer Protection and Commerce on S.B. No. 1224

The purpose of this bill is to clarify the authority of the Commissioner of Securities to adopt rules in accordance with Chapter 91, Hawaii Revised Statutes, as necessary to carry out the purposes of Chapter 485, Hawaii Revised Statutes.

Your Committee heard testimony in favor of this bill from the Commissioner of Securities. The Commissioner advised your Committee that rulemaking authority was included in Chapter 485, Hawaii Revised Statutes, prior to Act 373, S.L.H. 1987. Act 373 created the position of Commissioner of Securities and the language relating to rulemaking was deleted, in an apparent oversight.

Your Committee believes that the deletion of the Commissioner's rulemaking authority was inadvertent, and the authority should be expressly restored.

Technical, nonsubstantive amendments have been made to this bill for the purposes of style and clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1224, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1224, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Cavasso.

SCRep. 1153 Consumer Protection and Commerce on S.B. No. 864

The purpose of this bill is to provide greater protection to buyers of health club contracts from prepayment losses.

This bill would require a health club contract to be paid in installments. No more than twenty percent of the contract price would be payable initially, and the balance would be paid in equal monthly amounts over the remaining contract term. The bill would require health clubs to register with the Department of Commerce and Consumer Affairs. Health clubs which have been fully operative for less than fifteen years, would generally be required to maintain security with the director in the form of a surety bond, certificate of deposit, or a recorded security interest in the capital assets of the health club. Buyers who lose contract price prepayments due to the closing of a facility would be allowed to file their claims against the bond. Finally, the bill would delete the current option which allows a health club to maintain a fidelity

bond for the benefit of injured buyers, in lieu of escrowing monies it receives from health club contracts before the club becomes fully operative.

Your Committee received testimony on this bill from representatives of several local health clubs, persons familiar with the health and fitness industry, and others. The Department of Commerce and Consumer Affairs also testified in support of the intent of this bill. The Department noted that this bill was enacted as a consumer protection measure in response to the closing of the International Fitness Center in late January 1989. Some testifiers raised concerns as to the amount and availability of surety bonds.

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

- (1) The security and registration requirements of Section 4 of the bill have been deleted;
- (2) Section 486N-8, Hawaii Revised Statutes, has been amended to prohibit the unexpired, aggregate term of any health club contract and extensions or renewals thereof from exceeding thirty-six months per buyer; and
- (3) Section 486N-8, Hawaii Revised Statutes, has also been amended to prohibit automatic renewal clauses in health club contracts.

Your Committee has also adopted the recommendation of a health club attorney, that this bill not affect any binding health club contract which existed prior to the effective date of this bill.

Your Committee believes that these amendments allow the bill to strike a better balance between the interests of consumer protection and the survival of the health club industry. A consumer's exposure to loss on a health club contract will be limited by the requirement that contracts be paid in installments. The bill will also protect the consumer by preventing a health club from selling several consecutive short-term memberships and thereby circumventing the prohibition against the sale of contracts of a period exceeding three years.

The security requirements have been deleted because of your Committee's concern that the combined effect of a reduction in cash flow and an increase in capital expense may make it very difficult financially for some existing health clubs to continue in business. Your Committee believes that without further study as to the availability of bonds for health clubs and the effect of the various security requirements, requiring such security would be imprudent.

Your Committee has also amended this bill to specify that the health club may charge interest on the overdue unpaid balance of any monthly installment subsequent to the initial payment.

Sections of this bill have been appropriately renumbered, and other technical, nonsubstantive changes have been made for purposes of style and clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 864, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 864, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hagino.

SCRep. 1154 Consumer Protection and Commerce on S.B. No. 1912

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

This bill would amend Section 405D-39, Hawaii Revised Statutes, by deleting securities of the type described in Section 403-128, Hawaii Revised Statutes, from the definition of "eligible assets" for foreign banks.

Your Committee heard testimony in support of this bill from the Department of Commerce and Consumer Affairs. This testimony indicated that the deletion of securities, as described in Section 403-128, Hawaii Revised Statutes, from "eligible assets" for foreign banks should be made since the market value of securities is not readily ascertainable. Since the "assets" held by a foreign bank are for the protection of creditors and the general public, there is a need to have those values quickly identified and not have their market value constantly scrutinized.

Your Committee finds that it is advisable to amend the definition of "eligible assets" to provide better regulation of the activities of foreign banks.

Your Committee has made a technical, nonsubstantive amendment on page 3, line 12 of this bill by replacing the word "paragraph" in the existing statute with the word "definition".

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1912, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1912, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hagino.

SCRep. 1155 Intergovernmental Relations and International Affairs on S.B. No. 622

The purpose of this bill is to authorize the Department of Accounting and General Services (DAGS) to acquire private commercial office space for use by state agencies.

Currently, the Department of Land and Natural Resources (DLNR) is responsible for acquiring any interest in real property and for coordinating the leasing of private office space for individual state agencies. The process is inefficient, lengthy, and frustrating for both lessors and tenant agencies. It is, additionally, not conducive to obtaining economical lease rents.

Your Committee heard testimony in support of this bill from both DLNR and DAGS. Your Committee finds that this bill will expedite the leasing of privately owned office space and reduce the cost of such leases.

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

Your Committee on Intergovernmental Relations and International Affairs is in accord with the intent and purpose of S.B. No. 622, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 622, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1156 Finance on S.B. No. 408

The purpose of this bill is to authorize the issuance of general obligation bonds and to declare findings that the total amount of principal and interest estimated for such bonds and all bonds authorized but unissued and calculated for all bonds issued and outstanding will not cause the debt limit to be exceeded at the time of issuance.

This bill is intended to meet the requirement of Article VII, Section 13, of the Constitution of the State of Hawaii. This constitutional provision requires the Legislature to include a declaration of findings in every general law authorizing the issuance of general obligation bonds that the debt limit will not be exceeded upon the issuance of bonds authorized by the law and in the past.

For purposes of continued discussion, your Committee has amended the bill by inserting the sum of \$1 as the total amount of general obligation bonds authorized. Other amounts in the bill and the proper bill references have been left incomplete since the precise data or estimates have not yet been established. It is the intent of your Committee to insert the appropriate amounts and references in conference.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 408, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 408, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1157 Finance 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 this bill by changing the effective date to July 1, 1989. The Department of Budget and Finance will adopt rules and subsequently inform employees about this new benefit plan. The Department plans to implement the plan by January 1, 1990.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1863, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1863, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1158 Finance on S.B. No. 1779

The purpose of this bill is to create the Hawaii Agricultural Development Corporation, a quasi-public corporation to facilitate joint public-private ventures in the development, commercialization, and marketing of new crops. It also creates a Hawaii Agricultural Development Revolving Fund and appropriates \$500,000 to the fund and \$200,000 for the operation of the corporation.

Your Committee received testimony in support of this measure from the Board of Agriculture. The bill has been amended by:

- (1) Reducing the appropriation to the fund to \$1;
- (2) Reducing the appropriation for the operation of the corporation to \$1;
- (3) Inserting 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 to comply with constitutional and statutory requirements;
- (4) Inserting the standard Ramseyer provision regarding bracketing and underscoring; and
- (5) Renumbering the sections affected for consistency.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1779, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1779, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1159 Finance 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 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 consist of seven members appointed by the Governor, which 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 made technical, nonsubstantive amendments for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1800, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1800, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 1160 Finance 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 Committee finds that based on a recent survey, 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.

The total federal capitalization grants of \$63 million, which the State expects to receive until 1994, are 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.

For the purposes of continued discussion, your Committee has amended this bill to appropriate the sum of \$2. 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 the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1882, S.D. 1, H.D. 1, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1882, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1161 Finance on S.B. No. 1250

The purpose of this bill is to fund the community-based Hawaiian Health Coalition, as defined in the federal Native Hawaiian Health Care Act of 1988.

Your Committee finds that these funds are necessary to commence planning for the Coalition to qualify for the federal matching funds that will be available in the next fiscal year.

Your Committee has amended this bill by inserting a new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit 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. 1250, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1250, S.D. 1, H.D. 1.

Signed by all members of the Committee.

SCRep. 1162 Finance on S.B. No. 1187

The purpose of this bill is to amend the liquor tax statute by changing the automatic adjustment period for the tax rate from a six-month to a twelve-month period, and to delete the sunset provision of Act 344, Session Laws of Hawaii 1986, to retain the current method of taxing liquor on a gallonage basis.

Your Committee received testimony unanimously in favor of retaining the gallonage basis for liquor taxation. Representatives of the liquor industry also testified in favor of repealing the administrative rate escalation formula, noting that Hawaii has the highest tax rate on beer in the nation and high rates on other classifications of liquor.

Your Committee has amended this bill by deleting the statute containing the liquor tax rate escalation formula.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1187, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1187, S.D. 1, H.D. 1.

Signed by all members of the Committee.

SCRep. 1163 Finance 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 and to appropriate funds for a study by the Executive Office on Aging to (1) determine methods of providing affordable liability insurance or limiting the liability of such organizations and (2) make recommendations for legislation and government programs to alleviate the shortage of adult day care facilities.

Testimony in support of this bill was given by the Department of Health, the Executive Office on Aging, the American Association of Retired Persons, the Hawaii Association of Day Care Centers, and the Director of Finance of the Department of Budget and Finance.

Your Committee has amended this measure by reducing from \$2,000,000 to \$1 the amount of funds made available to the Executive Office on Aging to provide grants to renovate and improve facilities offering services to the elderly, including day care and day health care facilities.

Your Committee has further amended the bill by adding a new section that provides the reasons why and the amount and rate by which the appropriations contained in this bill exceed the state spending limit to comply with statutory and constitutional requirements. Technical, nonsubstantive amendments have also been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1897, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1897, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 1164 Finance on S.B. No. 1966

The purpose of this bill is to change the manner in which one of the members of the Classification Compensation Appeals Board (Appeals Board) is selected.

Currently, the Board of Education and the exclusive bargaining unit representing educational officers each select one member of the Appeals Board. And these two members jointly select the third member who serves as chairperson. Instead, the bill makes the Governor responsible for selecting the third member who also serves as chairperson.

The bill also distinguishes between classification appeals and pricing appeals. The Appeals Board will still be required to meet on a biennial basis to receive pricing appeals. However, the Appeals Board will be required to meet on a quarterly basis to receive classification appeals.

The bill refers to position descriptions of educational officers established by the Department of Personnel Services. Your Committee finds that the Department of Personnel Services does not have classification or compensation jurisdiction over the Department of Education. Accordingly, this bill has been amended by removing the reference to the Department of Personnel Services and substituting the reference with the classification/compensation section of the Department of Education.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1966, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1966, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1165 Finance on S.B. No. 1551

The purpose of this bill is to provide 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 prior military credit in the Employees' Retirement System. More specifically, the bill will:

- (1) Allow an employee to purchase two years prior military credit in the Employees' Retirement System after the employee has worked for the State or county for fifteen years;
- (2) Allow an employee to purchase up to three years prior military credit in the Employees' Retirement System after the employee has worked for the State or county for twenty years; and
- (3) Allow an employee to purchase up to four years prior military credit in the Employees' Retirement System after the employee has worked for the State or county for twenty-five years.

This bill provides noncontributory members of the Employees' Retirement System the same opportunity as contributory members for the acquisition of military service credit.

Your Committee has amended this bill by providing that any member with eight, instead of fifteen, years of credited service may purchase up to two years of membership service credit.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1551, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1551, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 1166 Finance on S.B. No. 1321

The purpose of this bill is to appropriate funds for the development of a statewide plan to control violent behavior by the Office of State Planning. The plan envisioned should include a review of existing statutes and proposals for new legislation, programs and further research.

The Director of State Planning and the Senior Judge of the Family Court submitted comments on the measure.

Your Committee has amended this bill by:

- (1) Specifying that the \$150,000 appropriation is for the fiscal biennium; and
- (2) Inserting a new section stating the reasons why and the amount and rate by which the appropriation contained in the bill exceeds the state spending limit to comply with constitutional and statutory requirements.

Numerous technical, nonsubstantive revisions 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. 1321, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1321, H.D. 2.

Signed by all members of the Committee.

SCRep. 1167 Finance on S.B. No. 950

The purpose of this bill is to expand the number of hours a part-time member of the Hawaii 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. The bill also authorizes additional positions for the Department of Corrections. Finally, the bill appropriates funds for these purposes.

Your Committee has amended the bill by adding a new section which provides the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with statutory and constitutional requirements. Technical, nonsubstantive amendments have also been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 950, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 950, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1168 Finance 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 which should be restored and developed.

The Chairperson of the Board of Land and Natural Resources, representatives from the Kahana Valley Advisory Board, and other concerned individuals submitted testimony in support of this measure.

Your Committee has amended this bill by adding 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 to comply with constitutional and statutory requirements.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 940, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 940, H.D. 2.

Signed by all members of the Committee.

SCRep. 1169 Finance on S.B. No. 1363

The purpose of this bill is to amend the criminal injuries compensation law. Specifically, this bill will:

- (1) Provide for conformity with changes in the penal code dealing with violent crimes;
- (2) Increase the compensation of commission members from \$50 to \$125 per day, and the chairman from \$55 to \$150, and repeal the statutory maximum compensation amount that the chairman or members may earn;
- (3) Provide for the compensation of any Hawaii resident injured or killed in another state not having a compensation program; and
- (4) Give the commission the discretion to consider applications filed beyond the eighteen months statutory period.

Upon further consideration, your Committee has amended this bill by providing \$100 per day for the compensation of all commission members.

Technical, nonsubstantive amendments were also made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1363, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1363, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 1170 Finance on S.B. No. 1241

The purpose of this bill is to extend the authority of the Housing Finance and Development Corporation (HFDC) to approve and certify, for exemption under the general excise tax laws, qualified persons or firms which are involved in moderately or substantially rehabilitated projects, which are developed under Chapter 201E, Hawaii Revised Statutes, or developed under a government assistance program, or developed under the sponsorship of a private nonprofit for families in need of decent and low cost housing.

Under current law, HFDC's authority is limited to certifying qualified persons or firms involved only in newly constructed or rehabilitated projects developed under Chapter 201E or 356, Hawaii Revised Statutes. The extension of HFDC's authority contained in this bill is in harmony with State's objectives to reduce and eliminate the critical shortage of affordable housing, create and maintain stable housing development costs, and prevent speculation on affordable housing units by courageous and novel legislation designed to rapidly increase in an expeditious manner the inventory of affordable units.

Your Committee has amended the bill to make it clear that the general excise tax exemption described in Section 237-29, Hawaii Revised Statutes, is not limited by its section title. Accordingly, the title of Section 237-29 was amended to delete the phrase "low and moderate income." The amendment will conform the section title to the intent and substance of subsection (a) of Section 237-29, Hawaii Revised Statutes, which currently provides for general excise tax exemption for gross income relating to housing projects, including but not limited to low and moderate income housing projects, which are certified by HFDC under Section 201E-205, Hawaii Revised Statutes.

Under Chapter 201E, Hawaii Revised Statutes, and more recently under Act 15, Session Laws of Hawaii 1988, the Legislature has sought to provide HFDC with the needed flexibility to develop, on its own behalf or in concert with eligible developers, housing projects containing housing for persons of all levels of income so that the sale of certain of the units at market prices and the savings in cost to a housing project from the exemption of general excise tax would assure the economic feasibility in the development of a housing project which will encourage and enable the production of as many lower cost housing units as possible.

Section 237-29 was also amended to conform to the amendments made in this bill to Section 201E-205, Hawaii Revised Statutes. Additionally, your Committee has amended the bill to accommodate HFDC's activities under Act 15, Session Laws of Hawaii 1988, to make it clear that qualified persons or firms and housing projects which are certified or approved by HFDC under Act 15, Session Laws of Hawaii 1988, may also be entitled to a general excise tax exemption effective retroactive to April 20, 1988, the date when Act 15 was enacted.

Your Committee on Finance is in accord with the intent and purpose of s.B. No. 1241, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1241, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1171 Finance 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.

Testimony in favor of this measure was received from the Department of Personnel Services, the Hawaii Government Employees Association, the Employees Association of the City and County of Honolulu, and the Public Employees Management Association of Hawaii.

Your Committee has amended this bill to correct a technical error, and to insert 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 to comply with constitutional and statutory requirements.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1556, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1556, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 1172 Finance on S.B. No. 1553

The purpose of this bill is to reimburse attorney's 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 attorney's 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. In addition, abuse of this reimbursement process will be checked because the fees and costs are subject to the approval of the Board of Trustees.

Your Committee has amended this bill to provide further that for those appeals before a court of an appropriate jurisdiction, the fees and costs will be subject to the approval of the appellate court making the decision.

A new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit has also been added to comply with constitutional and statutory requirements. Other technical, nonsubstantive amendments have also been made for the purposes of clarity and style.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1553, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1553, H.D. 1.

Signed by all members of the Committee.

SCRep. 1173 Finance on S.B. No. 908

The purpose of this bill is to establish the principle of local management of the public school system as State policy.

The bill also creates exemptions from allotment requirements to facilitate school/community-based management. With these exemptions, schools would be exempt from quarterly allotment requirements. Schools would also be authorized to carry over allotted funds from one year to the next and to transfer operating funds between Legislative appropriations. Finally, the bill allows schools to hire personnel.

The Department of Education, the Hawaii State Teachers Association, and the Chamber of Commerce of Hawaii submitted testimony in support of the bill.

Your Committee has amended the bill by deleting a provision that would allow schools to transfer operating funds between Legislative appropriations. Technical, nonsubstantive amendments have also been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 908, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 908, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1174 Finance on S.B. No. 31

The purpose of this bill is to:

- (1) Establish a Legislative Advisory Committee within the Office of the Legislative Auditor to provide technical assistance to the Legislature upon request; and
- (2) Appropriate \$100,000 for fiscal year 1989-1990 for the establishment of the Committee and to meet the other purposes delineated in the measure.

The bill also repeals parts II and III of Chapter 23, Hawaii Revised Statutes, which established the Legislative Scientific Advisory Committee and the Legislative Economic Advisory Council.

The eleven member committee would represent a broad spectrum of the scientific, financial, economic, business, and academic communities. The gathering and analyzing of data, the reduction of disputed facts, and the clarification of policy questions for legislative resolution would be the primary responsibilities of this committee.

Your Committee has amended this bill by:

- (1) Specifying that committee vacancies be filled for the remainder of any unexpired term in the same manner as the original appointment;
- (2) Indicating in the appropriations section that the \$100,000 appropriated will be used for the establishment of the committee and to carry out the purposes of the measure; and
- (3) Inserting a section regarding the appropriation and its effect on the State expenditure ceiling.

Other technical, nonsubstantive revisions 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. 31, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 31, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1175 Finance on S.B. No. 828

The purpose of this bill is to establish, maintain, and support 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 this Program. In addition, monitoring is a critical component of the State's effort to reduce the impact of birth defects.

The bill has been amended by deleting the appropriation section and making technical, nonsubstantive amendments for style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 828, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 828, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1176 Finance on S.B. No. 2004

The purpose of this bill is to provide supplemental grants of \$25,000 to awardees of Phase I grants from the Small Business Innovation Research (SBIR) program of the federal government.

The supplemental state grants envisioned would provide Hawaii-based businesses an incentive to pursue other SBIR awards that would, in turn, expand the amount of innovation and research in the State.

Your Committee has amended this measure by:

- (1) Inserting the sum of \$1 in the appropriations section for purposes of continued discussion; and
- (2) Inserting 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 to comply with constitutional and statutory requirements.

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. 2004, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2004, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1177 Finance on S.B. No. 1975

The purpose of this bill is to classify narcotics enforcement investigators and investigators of the Attorney General's Office as Class A contributory members within the Employees' Retirement System.

Your Committee finds that these investigators should be treated as police officers for the purpose of pension and retirement benefits.

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

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1975, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1975, S.D. 1, H.D. 3.

Signed by all members of the Committee.

SCRep. 1178 Finance on S.B. No. 1825

The purpose of this bill is to increase the funding available for disaster assistance.

More specifically, this bill:

- (1) Increases the amount the Governor may expend for immediate relief of any single major disaster from \$750,000 to \$1 million;
- (2) Provides for an additional \$1 million to be used to match federal disaster relief funds following a presidential declaration of disaster; and
- (3) Appropriates \$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 has amended this bill by adding a new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with constitutional and statutory requirements.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1825, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1825, H.D. 1.

Signed by all members of the Committee.

SCRep. 1179 Finance on S.B. No. 1859

The purpose of this bill is to allow short-term employees to receive the benefits of the Public Employees Health Fund. More specifically, this bill:

- (1) Includes legislative employees within the definition of "employee" as it relates to the Public Employee Health Fund to insure that they are provided health benefits;
- (2) Allows the State and the counties to grant Health Fund benefits to persons employed by contracts for a period not exceeding one year 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 circumstances surrounding its fulfillment, personnel to perform the services cannot be obtained through normal civil service recruitment procedures; and
- (3) Increases the public employers' Health Fund contributions for retirees with fewer than ten years of service for the fiscal years July 1, 1989 through June 30, 1990 and July 1, 1990 through June 30, 1991.

Your Committee has amended this bill by amending the definition of "employee" to reinstate the existing exclusion of those persons employed temporarily on a fee or contract basis, except as allowed in this 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. 1859, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1859, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 1180 Finance 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 rentals paid by qualified lower income tenants.

Your Committee has amended this measure by:

- (1) Inserting the sum of \$1 for each year of the fiscal biennium in the appropriations section for purposes of continued discussion; and
- (2) Inserting 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 to comply with constitutional and statutory requirements.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1805, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1805, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1181 Finance 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.

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. 1839, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1839, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1182 Finance on S.B. No. 1810

The purpose of this bill is to create an agency, the Hawaii Island Natural Resource and Technology Authority (Authority), to consolidate management of the Natural Energy Laboratory of Hawaii (NELH) and the Hawaii Ocean Science and Technology (HOST) Park.

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) Appropriate \$965,000 for fiscal year 1989-1990 and \$970,000 for fiscal year 1990-1991.

Your Committee has amended this bill by:

- (1) Ensuring consistency in personnel management so that they will not suffer loss of accrued vacation, sick leave, and other employee benefits;
- (2) Providing the reasons why and the amount and rate by which the appropriation contained in this bill exceed the state spending limit to comply with statutory and constitutional requirements;
- (3) Repealing Chapter 227, Hawaii Revised Statutes; and
- (4) Making certain technical, nonsubstantive changes for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1810, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1810, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 1183 Finance on S.B. No. 1759

The purpose of this bill is to establish a Hawaii Historic Preservation Special Fund (Fund) to be administered by the Department of Land and Natural Resources for the deposit of legislative appropriations, and gifts, donations, or grants from public agencies and private individuals.

This bill appropriates \$3,750,000 in each year of the fiscal biennium to the Fund.

The Chairperson of the Board of Land and Natural Resources testified in support of this measure and indicated that a number of historic resources in the State are in need of maintenance or renovation. Moreover, federal matching grants-in-aid for the preservation of historic properties are no longer available, insofar as the federal government encourages the rehabilitation of historic buildings through a tax credit program. Although the proposed fund will not eliminate the need for special appropriations on a case-by-case basis entirely, the Fund would address the continued need for maintenance or renovation for qualified historic sites, and allow for planned programming. In addition, the Fund may encourage increased private sector contributions.

The Historic Hawai'i Foundation also submitted testimony in support of this measure.

Your Committee has amended this bill by adding a new section which provides the reasons why and the amount and rate by which the appropriation contained in this bill exceed the state spending limit to comply with statutory and constitutional requirements. 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. 1759, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1759, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1184 Finance 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. An earlier state job-sharing pilot project for teachers and librarians has been successful and made into a permanent program of the Department of Education.

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. 1555, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1555, S.D. 1, H.D. 1.

Signed by all members of the Committee.

SCRep. 1185 Finance 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.

Your Committee heard strong testimony from both public and private agencies in support of this bill. Your Committee finds that child abuse and neglect is emerging as a major public health concern. Measures to prevent child abuse and neglect, such as those utilized by the Healthy Start Pilot Project, have proven to be effective. Research demonstrates that in many cases abusive parents themselves were abused as children. Prevention efforts are intended to terminate the cycle of abuse and neglect, as well as assisting abused and neglected children.

For purposes of continued discussion, your Committee has amended this bill to insert the sum of \$1 for each year of the fiscal biennium in the appropriations section. 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. 1628, S.D. 2, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1628, S.D. 2, H.D. 1.

Signed by all members of the Committee.

SCRep. 1186 Finance on S.B. No. 1572

The purpose of this bill is to establish the State of Hawaii Recycling Commission to formulate an industry recycling plan identifying or addressing recycling markets, incentives, subsidies, methodologies, and issues.

Your Committee has amended the bill by adding a new section which provides the reasons why and the amount and rate by which the appropriation contained in this bill exceed the state spending limit to comply with statutory and constitutional requirements. Technical, nonsubstantive amendments have also been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1572, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1572, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 1187 Consumer Protection and Commerce on S.B. No. 255

The purpose of this bill is to (1) extend regulation of collection servicing agents to December 31, 1995; (2) amend Chapter 454D, Hawaii Revised Statutes, to delete mortgage servicing agents from regulation thereunder; (3) delete reference to mortgage servicing agents from the title of that chapter; and (4) require real estate servicing agents to provide each customer with annual and closing statements which show the amounts received and disbursed with any remaining balances. This bill would also require that each licensed mortgage broker deposit a \$50,000 bond with the Department of Commerce and Consumer Affairs under Chapter 454, Hawaii Revised Statutes.

Testimony in support of this bill was presented by Department of Commerce and Consumer Affairs. The Department suggested that the bonding requirements for mortgage brokers should be deleted from this bill. The Department explained that S.B. No. 298, S.D. 1, relating to mortgage brokers and solicitors, proposes to raise the bond amount from \$15,000 to \$50,000.

Your Committee is in agreement with the recommendation of the Department of Commerce and Consumer Affairs. Accordingly, Section 3 of this bill, which sets forth the bonding requirements for mortgage brokers, has been deleted. The remaining sections of this bill have been renumbered accordingly.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 255, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 255, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Peters.

SCRep. 1188 Agriculture on S.B. No. 625

The purpose of this bill is to authorize the Department of Agriculture (DOA) to assist qualified new farmers to secure loans for farming.

Currently, the DOA's agricultural loans program under Sections 155-5, 155-6, and 155-8, Hawaii Revised Statutes, only apply to qualified farmers. This bill proposes to include the new farmer program borrowers under the DOA's loan program.

Your Committee received supporting testimony on this bill from DOA.

Your Committee finds that this bill complements the other proposed statutory amendment for the new farmers program on interest rates (S.B. No. 538, S.D. 2), and that this bill is a necessary part of the program to assist new farmers and to encourage more people to become farmers.

Your Committee has amended this bill by: (1) deleting SECTION 4, 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 5 and 6 to 4 and 5.

Your Committee on Agriculture is in accord with the intent and purpose of S.B. No. 625, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 625, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 1189 Tourism on S.B. No. 1294

The purpose of this bill, as received by your Committee, is to include the officers and employees of the Hawaii Visitors Bureau (HVB) within the scope of the State Ethics Code. The bill would also require that HVB contracts with the Department of Business and Economic Development (DBED) comply with the purchase of service requirements of Chapter 42.

Your Committee received testimony from the Hawaii Hotel Association, and concerns were raised in requiring a private organization to comply with the State Ethics Code. The Association recommends that the Hawaii Visitors Bureau be allowed to receive gifts and in-kind contributions and to keep records of the amount or value of gifts and in-kind contributions for disclosure.

Your Committee has amended this bill by deleting its provisions and inserting a requirement that HVB disclose to DBED in a quarterly report the value of all gifts and in-kind contributions received by HVB. However, HVB is not

required to disclose the names of persons making the gifts and in-kind contributions. The bill further directs DBED to adopt procedures and to set parameters in implementing the reporting requirements.

Your Committee on Tourism is in accord with the intent and purpose of S.B. No. 1294, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1294, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1190 Finance 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 and to more effectively enforce the State's discrimination laws.

More specifically, the bill:

- (1) Includes minimum qualification requirements for the selection of commission members to ensure a commission committed to the task for which it was established. 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) Provides that the members serve without compensation, but shall be paid per diem and travel expenses;
- (3) Appropriates \$441,000 for fiscal year 1989-1990, and \$1,404,520 for fiscal year 1990-1991; and
- (4) Provides guidelines to ensure smooth transition from the current enforcement jurisdiction by the Department of Labor and Industrial Relations and the Department of Commerce and Consumer Affairs to the Civil Rights Commission.

Your Committee has amended this bill to appropriate \$1 for fiscal year 1989-1990 and \$1 for fiscal year 1990-1991 for discussion purposes. In addition, a new section stating the reasons why and the amount and rate by which the appropriations contained in this bill exceeds the state spending limit has been added to comply with constitutional and statutory requirements.

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. 1413, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1413, S.D.2, H.D. 2.

Signed by all members of the Committee.

SCRep. 1191 Finance 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. The bill also includes a section establishing a mechanism for use of an ignition interlock system following a sentence of revocation to prevent persons with alcohol dependency from driving while they are under the influence of alcohol.

The State Department of Transportation, the State Attorney General, the Prosecutors and Police Chiefs of the City and County of Honolulu, and the Courts of Kauai, Maui, and Hawaii, the State Judiciary, and the Department of Health submitted testimony in favor of this measure.

Driving under the influence of intoxicating liquors is a major problem across the country causing death, injury, and untold personal tragedy to those involved and their families and friends. Your Committee finds that administrative license revocation will provide an additional method of decreasing the incidence of these cases and will assist those in need of counseling to obtain professional help.

Upon further consideration, your Committee has amended this bill to include the use of the interlock system in the penalty provisions for driving under the influence of alcohol. In addition to current penalties, including revocation, connection of the interlock system will be required for one year for a first offense, and for four years following a one-year prompt and absolute suspension for a second offense. For a subsequent offense, an offender's license will be permanently revoked.

To prevent those whose driver's licenses have been revoked from driving, your Committee has also raised the penalties for these violations up to a year in jail, a \$2,000 fine, and permanent license revocation for a third offense.

Your Committee has further amended this bill by adding 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 to comply with constitutional and statutory requirements.

Your Committee has also made nonsubstantive changes for consistency and clarification.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1148, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1148, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 1192 Finance on S.B. No. 1117

The purpose of this bill is to appropriate funds for a variety of mental health services deemed vital in developing a new, effective, comprehensive system of mental health care.

More specifically, this bill would:

- (1) Provide a wide range of bilingual mental health services to immigrants and refugees on a statewide basis;
- (2) Assist the general population by upgrading case management services and supporting the plan, design, and construction of mental health centers in Waipahu and Kalihi-Palama;
- (3) Assist our children by:
 - (A) Establishing a secured, short-term residential treatment facility for adolescents;
 - (B) Providing adolescent day treatment services on the islands of Molokai, Hawaii, Maui, and Kauai;
 - (C) Establishing children's mental health teams to: prevent out-of-home placement of children, help families to keep and maintain their children at home, and reduce inappropriate hospitalization of children; and
 - (D) Providing for the prevention of serious emotional problems and early intervention through the early childhood family education program; and
- (4) Offer special budget provisions jointly developed by the Department of Health's Mental Health Division, the Hawaii Family and Friends of Schizophrenics, the Mental Health Association, and the Mental Health Consumer Council.

Your Committee received testimony in support of various aspects of this bill from many agencies and organizations including: the Department of Health; the Office of Children and Youth; the Commission on the Handicapped; the Judiciary; the Family Court of the First Circuit; the Mental Health Association in Hawaii; the Office of United Self-Help; the Hawaii Chapter of the National Association of Social Workers Inc.; the Hawaii Mental Health Consumer Council; the Inter-agency Council For Immigrant Services; Catholic Charities of the Diocese of Honolulu; the Hawaii Alliance for Reform in Mental Health Administration; and the Hawaii Family and Friends of Schizophrenics.

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

- (1) Deleting provisions that would establish six permanent positions for the crisis response project as well as the related appropriations;
- (2) Reducing the appropriation relating to case management services for fiscal year 1990-1991 from \$1,948,660 to \$1,748,660;
- (3) Deleting appropriations for outreach services to assist homeless, mentally ill persons;
- (4) Deleting appropriations for services associated with alternative community-based housing for the mentally ill;
- (5) Deleting provisions relating to a program on alternative dispute resolution; and
- (6) Amending the effective date to be July 1, 1989.

Your Committee has further amended this bill by adding a new section which provides the reasons why and the amount and rate by which the appropriations contained in this bill exceed the state spending limit to comply with statutory and constitutional requirements.

Finally, your Committee has made numerous technical, nonsubstantive amendments throughout the entire bill 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. 1117, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1117, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 1193 Finance on S.B. No. 1787 (Majority)

The purpose of this bill is to:

- (1) Establish an Archaeological Site Fund (Fund) to be administered by the Department of Land and Natural Resources (DLNR);
- (2) Establish a seven member Commission on Native Hawaiian Burial Sites to advise the DLNR on matters relating to burials and reinterment;
- (3) Prohibit any person who violates burial sites statutory provisions from participating in the construction of any state project for ten years; and
- (4) Appropriate \$50,000 to the Fund and \$100,000 to carry out the other purposes of the measure.

Testimony in general support of the intent of this measure was received from the Administrator of the Office of Hawaiian Affairs, and representatives from Malama I Na Kupuna O Hawai'i Nei, the Protect Kahoolawe 'Ohana, and the Hawaii Rainbow Coalition.

The Chairperson of the Board of Land and Natural Resources suggested the insertion of the phrase, "practices of native Hawaiians" in lieu of the phrase, "practices of Hawaii's ethnic groups" on page 9, line 12 to make the qualifications of the commission members consistent with their responsibilities. Other qualifying phrases to delineate native Hawaiian burials and remains have been made on that same page. In addition the word "knowingly" has been added to the penalty provision regarding work on state projects to eliminate accidental or inadvertent occurrences from the application of the ten year prohibition.

Your Committee has amended the bill by adding a new section which provides the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with statutory and constitutional requirements.

Technical, nonsubstantive revisions have also been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1787, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1787, S.D. 2, H.D. 2.

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

SCRep. 1194 Finance 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 has amended this bill to correct certain typographic, technical, and stylistic errors; no substantive changes were made.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1554, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1554, H.D. 1.

Signed by all members of the Committee.

SCRep. 1195 Finance on S.B. No. 1052

The purpose of this measure is to establish the Pacific Health Commission (Commission), a public nonprofit organization, which shall prepare a plan to assist in the development of a health care delivery system which meets the needs of Asian and Pacific Basin residents.

The Director of the Department of Health (Director) testified in support of this measure indicating that the Commission would be a joint venture between Hawaii and California for the purpose of developing projects for health promotion and other related information systems. In addition, the Director noted that healthcare is the second largest industry in Hawaii, and as a state, Hawaii has a cost-effective, prevention-oriented system which could also serve the greater Pacific region. Coupled with California's technological expertise, Hawaii's knowledge and special relationship with the territories and nations of the Pacific Basin could assist in meeting the increased healthcare needs of the area, and develop further the State's local healthcare industry.

Your Committee has amended the bill as follows:

- (1) Placed the Commission in the Office of the Governor for administrative purposes only;
- (2) Specified that the Commission shall consist of eight members from California and eight members from Hawaii, with four Hawaii members to be directly appointed by the Governor of Hawaii, two Hawaii members to be appointed by the Governor of Hawaii from a list of nominees submitted by the Hawaii Senate President, and two Hawaii members to be appointed by the Governor of Hawaii from a list of nominees submitted by the Hawaii House Speaker;
- (3) Stated that the California members be appointed pursuant to California law and in a manner similar to the appointment of Hawaii members;
- (4) Delineated that no funds would be made available to the Commission unless matched by the State of California's contribution; and
- (5) Provided the reasons why and the amount and rate by which the appropriation contained in this bill exceed the state spending limit to comply with statutory and constitutional requirements.

Numerous nonsubstantive, technical revisions have been made for purposes of style and clarity and conformance to appropriate statutory drafting techniques.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1052, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1052, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 1196 Finance on S.B. No. 527

The purpose of this bill is to recognize the critical functions performed by substitute teachers as well as part-time temporary teachers in the maintenance and continuity of daily education by: (1) providing that the pay rates of substitute teachers be compatible with that of regular entry level teachers as calculated on a per diem basis; and (2) making an appropriation for appropriate pay rate adjustments for eligible substitute teachers and part-time temporary teachers.

Your Committee received testimony in support of this bill from both the Department of Education and the Hawaii State Teachers Association.

Your Committee has amended this bill by adding a new section which provides the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with statutory and constitutional requirements. Technical, nonsubstantive amendments have also been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 527, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 527, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 1197 Finance on S.B. No. 785

The purpose of this bill is to set forth the conditions for the 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 made technical, nonsubstantive amendments to the bill 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. 785, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 785, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1198 Finance on S.B. No. 2022

The purpose of this bill is to remove the requirement of self-sufficiency for child care programs established by the University of Hawaii. In addition, this bill enables the Legislature to provide supplementary funding through the appropriation of State general revenues and allows private and other public funding to be utilized by the University to provide child care services.

Since its inception eighteen months ago, the Center has provided a valuable service to University students and staff. However, the requirement that the Center operate only on revenues received through fees makes it difficult for the Center to charge affordable fees. Many of the students are on fixed incomes while attending the University. This bill is intended to promote further access to postsecondary opportunities for individuals with children.

Your Committee has amended this bill by referring to "child care program" instead of "child care center" when this term does not refer to physical facilities. Other technical, nonsubstantive amendments have been made to the bill 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. 2022, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 2022, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1199 Finance 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 Committee 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 Hawaii's streets and highways constitute a cause of great public alarm and concern, your Committee finds 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.

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. 1850, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1850, H.D. 2.

Signed by all members of the Committee.

SCRep. 1200 Labor and Public Employment and Intergovernmental Relations and International Affairs

The purpose of this bill is to enable the Governor to modify the days as well as the hours of government offices and to give the mayors of each county the same authority which under current law is limited to the Governor.

Under current law, the business hours and days of State and county offices are 7:45 a. m. to 4:30 p. m., Monday to Friday, and by executive order, the Governor may modify the business hours of public offices to meet specified public purposes.

The bill enables the Governor to also modify business days and gives the mayors of each county the authority to modify business hours and days of the public offices within their respective jurisdiction. Testimony submitted by the Director of Civil Service of the City and County of Honolulu and by the Chairman of the Conference of Civil Service Commissioners and Personnel Directors supported the intent and purpose of the bill.

The Hawaii Government Employees Association expressed a concern with the bill's effect on hours of work as an exclusive item of negotiation and believes that the bill should be amended to make it clear that the authority of the Governor and mayors to modify the hours and days of work is limited to modification of the hours and days that public offices are to be opened for business, and that the bill does not allow the Governor and mayors to tamper with hours of work as an item of negotiation by the expedient use of executive orders.

Your Committees have accordingly made amendments to the bill to retain the original intent of Section 80-1, Hawaii Revised Statutes, without altering the bill's purpose of extending the Governor's authority to modifying the days of business and conferring that same authority to the mayors of each county.

Your Committees have also deleted the ambiguous reference to "municipal subdivisions of the State" and made other nonsubstantive, technical amendments to the bill.

Your Committees on Labor and Public Employment and Intergovernmental Relations and International Affairs are in accord with the intent and purpose of S.B. No. 976, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 976, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 1201 Labor and Public Employment on S.B. No. 833 (Majority)

The purpose of this bill is to amend the provisions of the Hawaii Workers' Compensation State Fund (Fund) law as follows:

- (1) Changes the name of the Fund to the Hawaii State Compensation Mutual Insurance Fund;
- (2) Requires that the Fund not be a state agency, but a nonprofit independent mutual insurance corporation;
- (3) Further defines the assets of the Fund to exclude legislative appropriations;
- (4) Provides that the money and property of the Fund are the sole property of the Fund;
- (5) Provides that the Fund commence operation on appointment and qualification of the board, and requires the board to provide insurance coverage within one year of appointment and qualification;
- (6) Provides that upon payment in full of the loan from the State, the unexpired terms of the appointed directors of the board of directors expire, and the Fund's policyholders shall elect the new directors;
- (7) Provides for filling board vacancies;
- (8) Provides for annual audits by an independent certified public accountant;
- (9) Prohibits the Fund from receiving any further appropriation from the State after the initial appropriation; and
- (10) Requires the Fund to be subject to insurance laws to the same extent as any provider of workers' compensation insurance within the State.

Your Committee has amended this bill by deleting the provision in Section 7 of the bill, which prohibits the Fund from receiving any further appropriation from the State after a special initial appropriation. The removal of such reference to any appropriation is consistent with your Committee's intent that the measure not serve as a vehicle to make the fund operational.

Technical, nonsubstantive amendments have also been made for purposes of style and clarity.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of S.B. No. 833, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 833, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.
(Representatives Bybee and Anderson did not concur.)

SCRep. 1202 Labor and Public Employment on S.B. No. 1945

The purpose of this bill is to conform the notice of insurance requirements for out of state employers to section 386-122, and to make clear that employers must comply with the provisions of section 386-121, which requires that the insurers be authorized to transact the business of workers' compensation insurance in Hawaii.

Your Committee heard favorable testimony on this bill from the Department of Labor and Industrial Relations.

Your Committee has amended this bill by deleting the substance and inserting the provisions of H.B. No. 1819 which conforms the insurance requirements for out of State employers to the 1988 amendments to section 386-122, Hawaii Revised Statutes, and by removing the specific requirement of section 386-121, Hawaii Revised Statutes.

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

Signed by all members of the Committee.

SCRep. 1203 Labor and Public Employment on S.B. No. 676

The purposes of this bill are two-fold: (1) to establish a new advisory committee on training, and (2) to clarify that the Director of the Department of Personnel Services may utilize the services of institutions, organizations and individuals possessing education and training competence.

Your Committee heard testimony on this measure from the Department of Personnel Services.

Your Committee has amended this bill by deleting the substance and inserting the provisions of H.B. 730, H.D. 1, which allows the Department of Personnel Services to establish a new advisory committee with a new composition of committee members. Clarification was also given to the Director of Personnel Services to utilize services of various organizations to provide in-service training for civil service employees.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of S.B. No. 676, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 676, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1204 Intergovernmental Relations and International Affairs on S.B. No. 253

The purpose of this bill is to provide each county with the power to require disclosure of pertinent information in transactions involving the acquisition of interest or investment in real property within the county by aliens. The bill also requires the counties to release any information on foreign interests in real property to a single state agency designated by the Governor.

Recently, the State has witnessed the increased acquisition of real property by foreign investors. This has sparked statewide concern over the extent of foreign investment in the State, and the effect such investment may have on the well-being of the State. However, accurate figures and information on the scope and composition of foreign investment are difficult to obtain. As a result, residents, as well as government officials, are receiving conflicting reports as to the extent and impact of such investment. Ultimately, this lack of accurate, timely information has led to misconceptions and confusion by both public officials and the general public.

A comprehensive system of obtaining information on foreign investment is essential to ensure that decision-makers and the public are well-informed, and to avoid the fallacies and misperceptions that have been witnessed with the recent surge of foreign investment.

The most complete and efficient approach to obtaining information on foreign investment involves modifying and mobilizing mechanisms that already exist on the Federal, state, and county levels. This bill enables the counties to do their part in this three-tiered system. Your Committee finds that the counties, through the real property tax data bases, have access to individual and corporate real property information. Your Committee further finds that the most comprehensive information regarding properties can be obtained through the semi-annual and annual property tax billings. By enabling the counties to use these as vehicles for gathering disclosure information, and by cross-referencing this information with the information gathered on the state and Federal levels, government officials and the public will have the facts needed for a comprehensive understanding of the issue of foreign investment in Hawaii.

It is the intent of your Committee that the counties work together to develop a uniform policy regarding the scope of disclosure that will be required, the method of collecting the information, and the form the disclosure will take. This uniformity will, hopefully, prevent unbalanced treatment of non-resident aliens within the state.

Your Committee has made several amendments to the bill. First, all references to "aliens" have been changed to "non-resident aliens." Your Committee finds that resident aliens are protected under the 14th Amendment of the U.S. Constitution, thus making disclosure requirements for resident aliens unconstitutional. Further, it is not the intent of this legislation to require disclosure by residents who legally reside and work in the State. Nor is it the intent of this legislation to discourage stable, long-term investment.

Second, your Committee has amended the bill by deleting some types of information that the counties would be authorized to require. Specifically, references to market value of the assets of the business enterprise or the real property, balance sheets and income statements, statement of financial condition, sales, assets, operating income and depreciation, and the identity and nationality of each director and executive officer have been deleted. Your Committee finds that this information may be perceived as proprietary, and such inquiry is therefore beyond the realm of simple disclosure.

Thirdly, your Committee has amended the bill to clarify that the disclosure requirements of the counties are limited to the types of information listed in the bill.

Finally, your Committee has added a provision that requires any county choosing to implement such disclosure requirements to do so by county ordinance.

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

Your Committee on Intergovernmental Relations and International Affairs is in accord with the intent and purpose of S.B. No. 253, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 253, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1205 Transportation on S.B. No. 1894

The purpose of this bill is to require trucks to be entirely covered when carrying loads of rock, boulders, or any other material that may be spilled.

Your Committee received testimony on this bill from the State Department of Transportation, the State Department of Health, the Honolulu Police Department, and the Hawaii Transportation Association.

Your Committee finds that rocks and boulders would not be effectively restrained by tarpaulins or canopies. Your Committee further finds that windblown loads of granular material have an adverse impact on other motor vehicles travelling behind, or beside trucks carrying such loads.

Your Committee has amended this bill by requiring operators of motor vehicles transporting granular material loads to cover their loads if the load protrudes above the side of the lowest wall of the container area of the motor vehicle, or if the load, where it contacts the sides, front and rear of the cargo container area, protrudes higher than twelve inches from the top of the walls of the container area of the motor vehicle.

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

Signed by all members of the Committee.

SCRep. 1206 Transportation on S.B. No. 1983

The purpose of this bill is to initiate a one year demonstration project with off-hour road work on the most congested portion of Interstate H-1.

Your Committee received favorable testimony on this bill from the Department of Transportation.

Your Committee finds that road work performed along Interstate H-1 during daylight hours adds to traffic congestion. Your Committee further finds that there has not been a concerted effort to explore the practical feasibility and advantages of off-hour road work, an avenue which should be utilized to alleviate traffic congestion. Your Committee further finds that certain types of projects, such as landscape maintenance, the installation and rehabilitation of lighting systems, and litter removal, cannot be conducted during off-hours due to practical and safety concerns.

Your Committee has amended this bill by exempting emergency roadwork projects, projects that if undertaken at night would jeopardize the health and safety of the public, and roadwork that cannot be done safely and efficiently at night. Your Committee has further amended this bill by making other non-substantive amendments in the interest of clarity.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1983, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1983, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1207 Consumer Protection and Commerce on S.B. No. 1874

The purpose of this bill is to strengthen and clarify several aspects of condominium property regime law.

Specifically the bill would do the following:

- (1) Require condominiums with six or more apartments to secure a fidelity bond of not less than \$20,000 nor more than \$100,000 covering all officers, directors, employees and managing agents who handle association funds;
- (2) Require associations to annually register their projects with the Real Estate Commission and provide updated information on a continuing basis;
- (3) Provide for initial and continuing condominium registration fees;
- (4) Provide for handling and disbursement of association funds;
- (5) Define false statements and provide the Commission with general rule making power relating to chapter 514A, Hawaii Revised Statutes;
- (6) Allow the Commission to investigate associations and managing agents;
- (7) Grant the Commission increased jurisdiction to obtain cease and desist orders and powers to enjoin;
- (8) Increase the maximum penalty for violating the chapter from \$1,000 to \$2,000;
- (9) Provide for disposal of old condominium records; and
- (10) Specify, strengthen, and clarify the qualifications necessary to be a managing agent.

Your Committee received supporting testimony on this bill from the Department of Commerce and Consumer Affairs, the Real Estate Commission, the Hawaii Independent Condo and Co-op Owners and the Hawaii Council of Associations of Apartment Owners.

Your Committee also received testimony from Hawaiiiana Management and the Hawaii Institute of Real Estate Management. Hawaiiiana Management suggested that the bill be amended to clearly state that association funds may be deposited in a trust company. The Hawaii Institute of Real Estate Management testified regarding its concern that at

times, the bonding requirement may be unrealistic, or bonds may become unavailable. It suggested that the bill be amended to address this potential problem.

Your Committee finds that this administration bill is largely the result of a 1988 study entitled "Report to the Legislature - A Fidelity Bond Study on Condominium Managing Agents and Self-Managed Condominium Associations" and from discussions between the State, the Commission, and insurance companies and agents. Your Committee further finds that this bill will strengthen and clarify several vital areas in condominium law and allow more efficient and beneficial regulation of condominium property regimes.

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

- (1) By providing that an association, rather than an aggrieved person, shall recover from the fidelity bond covering persons handling the association's funds, by court order if terms of the bond require a court order;
- (2) By adding a clause which allows association funds to be deposited in trust companies, and to be invested in U.S. government obligations;
- (3) By adding a clause which requires that association funds collected by a managing agent be disbursed only by the managing agent or its employee, under the supervision of the association's board of directors;
- (4) By reducing the maximum fidelity bond required of a managing agent from \$500,000 to \$100,000; and
- (5) By adding a clause which prohibits an association from recovery from the real estate recovery fund for losses of association funds occurring after the effective date of an act establishing a condominium management recovery fund.

Your Committee has also amended the bill to correct a technical drafting error which resulted in references in the bill to Section 514A-109. These amendments substitute the proper section, i.e., 514A-98, in all instances where Section 514A-109 appears.

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

Finally, your Committee notes that the bill directs the Real Estate Commission to adopt, amend, or repeal rules as necessary to effectuate Chapter 514A, Hawaii Revised Statutes. This bill requires condominium projects to periodically provide the commission with certain information, and your Committee intends that the Commission promulgate appropriate rules to preclude the release or use of such information for commercial purposes.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1874, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1874, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1208 Consumer Protection and Commerce on S.B. No. 1948

The purpose of this bill is to implement certain findings and recommendations made by the Legislative Auditor in the Auditor's "Sunset Evaluation Update Report" regarding Chapter 464, Hawaii Revised Statutes. Chapter 464 regulates the practices of engineering, architecture, surveying and landscape architecture. This bill would also amend the chapter so as to discontinue regulation of landscape architects, decrease the experience requirement for board membership, eliminate one of the fourteen seats on the board, increase the number of public members on the board from three to four, modify the reputation requirement for licensure, provide for consistency in penalties and appeals, and clarify terminology. This bill would also have the Board undertake a study to determine the optimal requirements for professional experience for qualification to take the respective professional examinations.

The Board of Registration of Professional Engineers, Architects, Surveyors and Landscape Architects presented testimony on this bill. It supports the reenactment of Chapter 464. It advised your Committee that it takes no position with regard to the Legislative Auditor's recommendation that registration of landscape architects be discontinued. The Board favors an increase in the number of engineers, rather than public members, 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 the bill which lowers the professional experience requirement for Board membership from nine years to five years. It advised your Committee 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. The Board opposes the provision of the bill which would delete firms and corporations from Section 464-14, and thereby limit the Board's authority to impose sanctions. While firms and corporations are not registered, they are regulated to some extent.

Testimony in support of the continued regulation of landscape architects was received from the Hawaii Society/The American Institute of Architects, the Hawaii Business League, and an irrigation consultant/owner.

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. The bill has been amended 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 increased the number of seats on the Board from fourteen to fifteen, in order to accommodate the Board's recommendation that the number of engineers be increased from three to four. This change affects former Section 9 of the bill. According to the Legislative Auditor, seventy-four per cent of the decisions recorded in Board minutes between 1983 and 1987 concerned engineer candidates. Your Committee believes that an increase in the number of engineers on the Board is justified by the burden of committee work relating to engineers. Your Committee will retain the current number of three public seats on the Board.

An amendment has also been made to the last paragraph of former Section 11 of the bill, which affects Section 464-8, Hawaii Revised Statutes, so that it reads as follows:

No person shall be eligible for [registration] licensure 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.

Your Committee understands that that this standard has passed legislative scrutiny, and has been advised by the Board that it has no objection to this new language. 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.

Your Committee has adopted the recommendation of the Board that the reference to Section 464-14, Hawaii Revised Statutes, be eliminated from former Section 17 of the bill. The Board advised your Committee that cases involving unlicensed activity go directly to circuit court, and persons involved in such cases would not be affected by a Board decision.

The study of professional experience requirements for examination, contemplated by former Section 19 of the bill has been deleted as unnecessary.

Finally, your Committee has amended the purpose clause of Section 1 of the bill to reflect some of these amendments. As amended herein, the bill is substantively identical to H.B. 585, H.D. 1, S.D. 1, which also relates to professional engineers, architects, surveyors, and landscape architects. Technical, nonsubstantive amendments have also been made 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 S.B. No. 1948, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1948, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1209 Consumer Protection and Commerce on S.B. No. 1229

The purposes of this bill are: (1) to require motor vehicle repair dealers, mechanics, or apprentices to include in the written estimate given to customers, a reasonable estimate of the time and date of completion of the job; (2) to prohibit performance of labor or the supplying of parts in variance with the estimate without the customer's consent; (3) to require that the customer be promptly notified of delays in completion of repairs, and to require that absent such timely notification, the repair dealer lend the customer a vehicle; and (4) to add to the list of prohibited practices under Chapter 437B, Hawaii Revised Statutes, (a) subcontracting, recommending, or referring motor vehicle repair work to, or assisting a repair dealer or mechanic whose registration or certification is not in full compliance with that chapter, and (b) failing to directly supervise a motor vehicle mechanic apprentice/trainee or motor vehicle mechanic helper.

Your Committee heard testimony in support of this bill from the Motor Vehicle Repair Industry Board, and the Regulated Industries Complaints Office of the Department of Commerce and Consumer Affairs. This testimony indicated that this bill would provide a means of protecting consumers against unreasonable delays in the repair of their vehicles.

Opposition to the prohibited practices portion of the bill was presented by C.A.R. Enterprises, Inc., which testified that a referral is merely a suggestion, and the customer should bear the consequences if he or she chooses to engage a shop based on a referral. An attorney for an auto body shop submitted testimony that delays in completing auto body repairs are often attributable to circumstances beyond the control of the shop, including wet weather, unavailability of parts, and time involved in obtaining insurance company authorizations when the job turns out to be different than the original estimates indicated. Similar testimony was presented by an individual who works in the automobile repair business.

Upon further consideration, your Committee has deleted Section 1 of the bill which enlarges the estimate provisions of Section 437B-15, Hawaii Revised Statutes. Your Committee finds that while this provision would be beneficial to consumers, it does not adequately deal with the difficulties which compliance would create for the motor vehicle repair industry.

To address this problem, your Committee added to the bill a directive requiring the Motor Vehicle Repair Industry Board to undertake a study to determine viable alternatives, including proposed legislation, to best protect the consumer against problems caused by delays in the completion of motor vehicle repairs, without creating undue hardship on the motor vehicle repair industry. The Board is directed to submit a report of its findings and recommendations to the Legislature no later than twenty days prior to the convening of the Regular Session of 1990.

Your Committee has also made technical changes to the bill which have no substantive effect.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1229, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1229, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1210 Consumer Protection and Commerce on S.B. No. 819

The purpose of this bill is to prohibit the use of the labels "made in Hawaii" or "island fresh" on any item, product, souvenir, or other merchandise or food product, which is less than fifty-one per cent manufactured, assembled, fabricated or produced within the State.

Your Committee heard testimony in support of this bill from the Department of Business and Economic Development, which noted that the fifty-one per cent requirement would protect both the manufacturer and the consumer. The Department of Agriculture also testified in favor of this bill.

Your Committee, upon further consideration, has amended this bill to bring it into conformity with the provisions of H.B. No. 1060, H.D. 1, Relating to Labeling, while also making some changes to the text of the latter bill.

This amendment impacts on S.B. No. 819, S.D. 1, by deleting its reference to "food product", at the suggestion of the Department of Agriculture. The Department testified that the Division of Measurement Standards is not technically capable of determining the composition of a food product or its source of origin.

This amendment also adds to the bill the milk labeling provisions of H.B. No. 1060, H.D. 1. Your Committee finds applicable and has incorporated into this bill the following recommendations made by the Board of Agriculture at the hearing on S.B. 1095, S.D. 1, Relating to Milk:

- (1) References to "milk and milk products" for mandatory labeling have been replaced with "fluid milk for human consumption";
- (2) The requirement of "affixing" a notice to a carton or container has been changed to "displaying" such a notice on a carton or container;
- (3) The reference to the "facing" of a carton or container has been changed to "principle display panels".

With respect to the third recommendation, the Board advised your Committee that the term "principal display panels" is consistent with the weights and measures terminology used by federal authorities and throughout the states.

Your Committee has also changed the effective date of this bill from effective on approval, to October 1, 1989, to allow those affected by its provisions adequate time to prepare for compliance.

Your Committee believes that this bill, as amended, will provide consumers with a better basis upon which to make their decisions, and that it will also promote fairer marketing practices.

Finally, your Committee has made the "Hawaii made products" and "Island fresh milk" provisions of this bill into separate sections of the Hawaii Revised Statutes, for readability. Your Committee has also made technical, nonsubstantive changes for the purposes of style and clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 819, S.D. 1, as amended herein, and recommends that it pass Second Reading in form attached hereto as S.B. No. 819, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hayes.

SCRep. 1211 Education on S.B. No. 1382

The purpose of this bill is to require the Department of Education (Department) to develop standards to determine in which school facilities air conditioning should be installed because of excessive heat. The bill also requires the Department to plan for and request necessary appropriations.

The Department, the Hawaii State Teachers Association, and the Friends of Wilson School testified in support of the bill. The public schools are responsible for, among other things, providing an environment conducive to learning, and excessively hot conditions are not conducive to optimum learning.

A concern was raised that a school may suffer from extreme cold rather than extreme heat. Consideration must be given to local conditions, as well as standards which may be developed, in identifying the facilities warranting special attention and in determining what kind of devices are needed to control air temperature. An effective policy must address all extreme weather conditions.

In response to this concern and others, your Committee amended the bill as follows:

- (1) Expanded the scope of the bill to address extremes of temperature rather than just excessive heat; and

- (2) Required the Department to consider local conditions in deciding whether acoustic noise control and climate control are required for effective classroom instruction;
- (3) Authorized the Department to require a private entity, rather than the parent-teacher association of a particular school, to pay for maintenance and electricity costs of air conditioners which are not installed by the Department of Accounting and General Services; and
- (4) Defined "air conditioning" as any mechanical device which cools or heats air.

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

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

Signed by all members of the Committee except Representatives Hashimoto and Honda.

SCRep. 1212 Education on S.B. No. 1870

The purpose of this bill is to mandate that the Department of Education formulate policies and establish procedures to implement in the public schools a school-community based management system to diffuse education decision-making to the school level. The bill requires the Board of Education to define common educational goals, which are to be fulfilled by schools participating in school-community based management. The bill also allows State agencies to waive applicable policies or procedures requested by a participating school.

Testimony in support of the bill was submitted by the Department of Education, the Hawaii State Teachers Association, the Hawaii Business Roundtable, the Kailua-Waimanalo Community Education Coalition, the League of Women Voters of Hawaii, and the Chamber of Commerce of Hawaii.

While in support of the bill, the Hawaii Business Roundtable recommended an amendment to the bill to change the waiver provision. Rather than to allow State agencies to waive applicable policies and procedures, the Hawaii Business Roundtable proposed that State agencies be required to approve waivers when requested by individual schools unless adherence to those policies or procedures can be justified.

In consideration of this and other testimony, your Committee amended the bill as follows:

- (1) Changed the term "school-community based management" to "school/community-based management" in all instances to emphasize the role of the community in the new management system;
- (2) On page 1, line 18, inserted the word "businesses," along with parents and students, to specifically include the involvement of this critical sector in school/community-based management;
- (3) On page 1, line 19, recognized the idea that community members can take greater responsibility for creating an effective learning environment;
- (4) On page 2, line 1, supported the concept that principals, teachers, support staff, students, parents, and community members are participants affected by educational decisions;
- (5) On page 2, lines 3-6, deleted the provision that, based on research, experts believe that educational reform efforts will be most effective and long lasting when carried out by people who feel a sense of ownership and responsibility for the school/community-based management process;
- (6) On page 2, line 23, changed the word "bill" to "Act";
- (7) On page 3, line 9, changed the word "standards" to "objectives";
- (8) On page 3, lines 10-18, deleted the provision specifying that schools may be unable to achieve their objectives because of some existing rules, policies, or procedures of specified State agencies;
- (9) On page 3, line 18, changed the word "students" to "education";
- (10) On page 3, line 19-21, deleted the provision mandating the Board of Education to establish a plan whereby all schools will eventually become locally managed;
- (11) On page 4, lines 1-4, deleted the concept that initial schools will be considered as a demonstration of the feasibility and effectiveness of school/community-based management and a step toward restructuring the public school system;
- (12) On page 5, lines 4-5, deleted the provision specifying that the Board of Education and the Superintendent of Education shall establish procedures to implement the new management system. Instead, inserted a provision specifying that the policies formulated by the Board of Education and the superintendent shall include criteria and procedures to determine which schools shall participate in the system;
- (13) On page 5, line 6, added a provision requiring the Board of Education to appoint a representative selection panel to recommend which schools should be selected to participate;

- (14) On page 5, line 10, deleted the phrase "allows if not" to emphasize that the school/community-based management system is intended to encourage school initiative;
- (15) On page 5, line 22 through page 6, line 11, deleted the provision allowing State agencies to waive applicable policies and procedures when requested to do so by a school participating in the school/community-based management system. Instead, inserted a waiver provision requiring State agencies to approve waivers when requested by individual schools unless adherence to those policies or procedures can be justified;
- (16) On page 6, lines 8-11, revised the provision for processing and approving waivers to collective bargaining agreements, and deleted the requirement to include a process for appeal;
- (17) On page 6, lines 12-13, deleted the statement authorizing the Department of Education to adopt rules to implement school/community-based management since it already has the authority.

Other technical, non-substantive revisions have been made for purposes of style and clarity.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1870, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1870, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 1213 Education and Health on S.B. No. 1622

The purpose of this bill is to require the Board of Education to adopt standards to be used as guidelines for a school inspection program to ensure a high level of sanitation, safety, maintenance, upkeep, and care of the general physical appearance of the public schools consistent with public health and safety standards. The bill also requires the Board of Education to appoint an advisory committee to assist in devising those standards.

The Department of Education, the Department of Accounting and General Services, and a private individual submitted testimony in support of the bill. Your Committees find that the physical condition of school facilities impacts significantly upon the overall educational environment. The intent of this bill is to ensure that school facilities are well maintained.

While in support of the bill, the Department of Education testified that costs are associated with the mandated activities proposed by the bill. Since the bill does not include any appropriations, the Department of Education expressed its intent to return to the Legislature at a later time with requests for appropriations to pay for the costs of these activities.

On another matter, according to the Department of Education, the bill expresses a very clear intent by the Legislature of the need to develop standards and conduct inspections to ensure that school facilities are well maintained. However, the bill stops short of amending the Hawaii Revised Statutes. Your Committees find that a statutory change would strengthen the bill.

Accordingly, your Committees have amended the bill by deleting Section 2 of the bill, and inserting a new Section 2 adding a new Section to Hawaii Revised Statutes mandating the Department of Education to establish a school inspection program.

Technical, nonsubstantive amendments were also made to the bill for the purposes of style and clarity.

Your Committees on Education and Health are in accord with the intent and purpose of S.B. No. 1622, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1622, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Chang, Duldulao, Hashimoto, Kawakami and Leong.

SCRep. 1214 Water and Land Use on S.B. No. 672

The purpose of this bill is to help conserve and protect the State's wildlife and other natural resources by establishing a mandatory hunter education program for all licensed hunters born after December 31, 1971, as well as all first-time licensees. Such a program would provide opportunities for educating and training sportspersons in the principles of good sportsmanship, natural resource conservation with emphasis on wildlife, outdoor safety, game care, and outdoor ethics.

Your Committee finds that the State's limited natural resources are under pressure due to the State's expanding population, increased leisure time, greater mobility, and accompanying interest in outdoor recreation. Accordingly, your Committee finds that there is a need to upgrade the Department of Land and Natural Resources' (DLNR) voluntary hunter safety training program to a mandatory hunter education program.

Your Committee received written testimony in general support of this bill from DLNR, the Hawaii Rifle Association, the Koko Head Skeet Club, the Natural Resources Defense Council, and the Sportsmen's Council of Hawaii. Based on the amendments recommended in the above testimony, your Committee has amended the bill as follows:

- (1) Replaced the issuance of certificates with the issuance of written exemptions to certain persons who are not required to attend the hunter education classes, thereby ensuring the integrity of the hunter education program by:
- (a) Inserting the phrase "or written exemption" between the words "certificate" and "issued" on lines 11-12 of page 1;
 - (b) Inserting the phrase "or is exempted from completing the hunter education program as provided under this section" at the end of Section 183D-28(a);
 - (c) Replacing the beginning sentence in Section 183D-28(c) that reads: "The following persons shall be issued the hunter education certificate without necessity of participation in the hunter education program:" with: "The following persons shall not be required to successfully complete the hunter education program provided they meet at least one of the following requirements:" and
 - (d) Replacing the last sentence in Section 183D-28(c) that reads: "A hunter education certificate issued under this subsection shall be valid for the life of the person." with: "Upon application and satisfaction of the requirements of either subsection (c)(1) or (c)(2), the department shall issue an exemption which shall be in written form and be valid for the life of the person."
- (2) Changed the effective date of this bill from upon approval to July 1, 1990, to enable the hunting public to be informed of the new requirements, especially since all hunting licenses expire annually on June 30th.
- (3) Deleted provisions that would have established an application fee or certificate fee program to help finance the hunter education program. Your Committee finds that the existing program is offered for free; moreover, hunters already financially support the program through tax paid during the purchase of firearms and ammunition and deposited into the Pittman-Robinson Fund.

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. 672, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 672, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 1215 Water and Land Use on S.B. No. 1891

The purpose of this administration bill is to amend Section 171-6, Hawaii Revised Statutes, to authorize the Board of Land and Natural Resources to assess a service charge for each delinquent payment due on lease rentals, sales, and other accounts of the Department.

Your Committee received supportive testimony from the Department of Land and Natural Resources and the Department of Transportation. The intent of this bill is to serve as a deterrent to delinquent payments.

Your Committee has amended this bill to correct technical drafting errors, by substituting "a" for "per" on page 4, line 17 of the bill as received (to accurately state the existing statute) and by substituting "a" for "per" on page 4, line 18 (for consistency).

Your Committee on Water and Land Use is in accord with the intent and purpose of S.B. No. 1891, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1891, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 1216 Water and Land Use on S.B. No. 1245

The purpose of this bill is to allow a lessee, with the consent of the Board of Land and Natural Resources, to construct or place an employee dwelling on the leased premises, and to prohibit the lessee from using the leased premises as the principal residence of the lessee.

Your Committee received testimony from the Department of Land and Natural Resources. Testimony from the Department of Land and Natural Resources indicated that the employee housing provision is already contained in the lease conversion document, but if the principal domicile provision is included, the Department would not be able to issue lease conversion for residential-home gardening purposes.

Testimony from the Department of Land and Natural Resources further indicated that although the Department suggested the language for S.B. No. 1245, S.D. 1, the Department believes that the proposed amendment to Act 237, Session Laws of Hawaii 1988 is not necessary to carry out the purpose and intent of the bill since the employee housing provision is already a part of the lease conversion document and the principal residence provisions would prohibit the conversion of residential-home gardening permits.

Your Committee also received testimony from several Waimanalo permittees supporting leases that would provide for a term of thirty-five years and allow farmers to reside on their leased agricultural lands.

Your Committee has amended this bill by replacing the amendment in the bill as received by your Committee with an amendment to allow the Department of Land and Natural Resources to enter into thirty-five year leases with certain designated persons. Your Committee also added language requiring the Board of Land and Natural Resources to provide in the lease that farmers may be permitted to reside on their leased agricultural lands to protect their investments.

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. 1245, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1245, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 1217 Water and Land Use on S.B. No. 1803

The purpose of this bill is to amend Section 206E-10, Hawaii Revised Statutes, which permits the Hawaii Community Development Authority to acquire any real property by condemnation, to allow an award of compensation to be increased by reason of any increase in the value of real property caused by the designation of a community development, district, or plan adopted pursuant to a designation, or the actual or proposed acquisition, use, or disposition of any other real property by the Hawaii Community Development Authority.

Your Committee received testimony from the Hawaii Community Development Authority and a member of the City Council, City and County of Honolulu, on this bill.

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

- (1) Added a new part to Chapter 206E, Hawaii Revised Statutes, which establishes the purposes, definitions, boundaries, and development policies and restrictions of the Honolulu Waterfront Community Development District;
- (2) Provided that the Hawaii Community Development Authority shall consist of seventeen voting members; that heads of the departments of the State or their respective designated representatives shall not serve as ex officio, voting members; that of the seventeen voting members, seven shall be selected from a list of ten prospective appointees recommended by the local governing body of the county in which the initial designated district is situated; and that when vacancies occur in any of seven positions for which the members were selected from a list of county recommendations, the governor shall fill such vacancies on the basis of one from a list of two recommendations, two from a list of three recommendations, three from a list of four recommendations, four from a list of five recommendations, five from a list of six recommendations, and seven from a list of eight recommendations, by amending Section 206E-3, Hawaii Revised Statutes;
- (3) Incorporated the Aloha Tower Complex into the Kakaako Community Development District, by amending Chapter 206E, Hawaii Revised Statutes; and
- (4) Included in the development guidance policies of the Kakaako Community Development District that development shall result in a community which permits an appropriate land mixture of residential, commercial, industrial, maritime, and other uses; that existing view planes of Aloha Tower from downtown Honolulu shall be preserved; that no fast or submerged lands of the Aloha Tower complex shall be sold; that the Aloha Tower shall be preserved as a historical monument; that no use of the lands within the Aloha Tower area shall be permitted except for compatible maritime and harbor uses and such other uses accessory and related thereto; that Irwin Park shall be retained as a public park subject to certain reservations and conditions; that the Hawaii Community Development Authority and Department of Transportation shall agree as to replacement facilities for maritime activities; and that the Hawaii Community Development Authority is authorized to impose, prescribe, and collect rates, rentals, fees, or charges for the lease, use, and services of its projects at least sufficient to pay the costs of operation, maintenance, and repair, if any, of its projects.

The amendments to the bill are similar to the language found in H.B. No. 1801, H.D. 2, H.B. No. 1740, and H.B. No. 1801, H.D. 2, S.D. 1.

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

Your Committee on Water and Land Use is in accord with the intent and purpose of S.B. No. 1803, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1803, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Apo, Hashimoto and Hemmings.

SCRep. 1218 Judiciary and Legislative Management on S.B. No. 886

The purpose of this bill is to provide explicitly for the temporary succession to the position of Auditor in the event the Auditor cannot continue to serve due to death, resignation, or other circumstance. The bill provides that the First Assistant or the First Deputy will become the Acting Auditor until an Auditor is appointed by the Legislature.

In support of the bill, the Office of the Auditor submitted testimony that the bill assures continuity in authority and responsibility for the auditing function.

As part of its testimony the Office of the Auditor submitted a letter from the Office of the Attorney General suggesting that the bill be revised to indicate the will of the Legislature with respect to the authority of the Acting Auditor.

In consideration of this testimony and other concerns, the bill has been amended as follows:

- (1) Revised the title of the proposed new section to clarify that the temporary Auditor shall serve in an acting position rather than to serve as a successor;
- (2) Added the provision that the Acting Auditor shall have all of the powers and duties of the Auditor; and
- (3) Deleted the word "new" from line 8 of the bill as received.

Your Committees on Judiciary and Legislative Management are in accord with the intent and purpose of S.B. No. 886, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 886, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Kihano and Cavasso.

SCRep. 1219 Legislative Management on S.B. No. 1464

The purpose of this bill is to require any State agency which is the subject of a study by the Legislative Auditor to submit a report in response to the recommendations contained in the study.

The Legislative Auditor submitted testimony in support of the bill. According to the Legislative Auditor, agencies which are the subjects of studies are invited to respond to the recommendations contained in the studies. In many cases the responses are general in nature and do not address the specific recommendations. In other cases the responses are selective in addressing only certain recommendations. This bill would motivate the agencies to address all of the specific recommendations and strengthen legislative oversight.

In response to these observations, your Committee has amended the bill as follows:

- (1) Required the report to address each recommendation contained in the study which has been implemented;
- (2) Required the report to address each recommendation contained in the study which has not been implemented; and
- (3) Added that reasons for not implementing recommendations may include objections to the Legislative Auditor's recommendations or a lack of sufficient resources to implement them.

Your Committee on Legislative Management is in accord with the intent and purpose of S.B. No. 1464, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1464, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1220 Finance on S.B. No. 1734

The purpose of this bill is to finance various capital improvement projects throughout the State.

Your Committee has amended this bill to provide funds for education, transportation, recreation, and other various capital improvement projects.

Your Committee has further amended this bill by providing reasons why and the amount and rate by which the appropriation contained in this bill exceeds the State spending limit to comply with statutory and constitutional requirements.

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

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1734, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1734, S.D. 1, H. D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1221 Finance on S.B. No. 832

The purpose of this bill is to allow the Legislature to make appropriations over the general fund expenditure ceiling, provided that two-thirds of the members of both houses approve and they are informed of the reasons for and the dollar amount and rate by which the appropriations exceed the ceiling.

Your Committee has amended this bill by deleting the substance and inserting new material, which provides for improved public access to legislative data bases and the legislative process.

Your Committee finds that an informed and active citizenry is the most dynamic force of democracy. Good government provides people with the greatest opportunities to voice their concerns and participate in the decision-making process.

Of the three branches of government, the Legislature relies most heavily on direct public input. It is imperative that the Legislature makes a concerted effort to provide timely information to encourage public input in the decision-making process.

As the Legislature prepares to temporarily relocate to less centralized quarters while the State Capitol is closed for asbestos abatement, the exigency of this situation is even more apparent. Immediate action addressing public access and participation issues is urgently needed. Technology and telecommunications are the means by which improved public access and participation in the legislative process will become a reality.

The purpose of this bill, as amended, is to encourage greater public access and participation in the legislative process, particularly through efficient, technological means. More specifically, this bill would:

- (1) Appropriate \$1,910,000 for fiscal biennium 1989-1991, to develop a plan for state information services, to develop and implement a pilot videotex information services program, for a conference on future economic development held by the High Technology Development Corporation (HTDC), and to provide terminals in public libraries that would provide government information services;
- (2) Establish the Legislative Access Commission to:
 - (A) Promote and expand access to legislative data and the legislative process to ensure public participation in decision-making;
 - (B) Develop and implement standards, policies, and procedures for legislative data bases and information networks;
 - (C) Establish, operate, and manage legislative data bases and information networks, including the two legislative information systems, commonly known as "SHADO" and "HOIKE"; and
 - (D) Recommend, develop, and implement new methods for increasing public participation in the legislative process, including the use of such technologies as teleconferencing, voice and image processing, etc.;
- (3) Appropriate \$50,000 for a study by the Office of the Legislative Auditor to determine how legislatures in the other forty-nine states:
 - (A) Provide for public access to the legislative process and legislative data by electronic means; and
 - (B) Administer automated systems in the legislative process;
- (4) Appropriate \$1,375,000 for the establishment and operation of legislative data bases and legislative information networks, including the two legislative systems, commonly known as "SHADO" and "HOIKE", and the expenses of the Legislative Access Commission; and
- (5) Appropriate \$50,000 for a study by the Office of the Legislative Auditor to survey the administration of the legislatures of the other forty-nine states.

At least 27 states have joint legislative commissions or committees that oversee legislative data processing. Establishing a Joint Committee on Public Access to Legislative Information will be an effective way in which Legislature can achieve its goal of greater public access and participation.

Your Committee has also amended this bill to add 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 to comply with constitutional and statutory requirements.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 832, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 832, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1222 Finance on S.B. No. 245

The purpose of this bill is to provide a tax credit of an unspecified amount to State taxpayers to satisfy constitutionally mandated requirements.

Your Committee finds that Article VII, Section 6, of the State Constitution requires the Legislature to provide a tax refund or tax credit when the State general fund balance at the close of each of two successive fiscal years exceeds five percent of the general fund revenues for each of the two fiscal years.

Your Committee finds that this condition has been met and that the Legislature, therefore, is required to provide a tax refund or tax credit to the taxpayer.

Your Committee has amended this bill to specify that a tax credit totalling \$200 million shall be returned to the people of the State. The actual amount of the credit would be reasonably calculated based on this total credit amount.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 245, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 245, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1223 Finance on S.B. No. 816

The purpose of this bill is to afford relief to anyone in the State who has made use import tax payments to the State where such use import tax payments were also being made by another taxpayer. The bill removes the three-year limit for a refund or credit in cases where the claim is based on a duplicate payment made by an individual or entity other than the claimant.

Your Committee finds that between 1969 and 1981, General Motors dealers in Hawaii and the General Motors Overseas Division duplicated use tax payments for automobiles imported into the State. Upon discovery of the duplicate payment, the Hawaii dealers filed for a refund of the overpayment. However, due to the statute of limitations, the dealers were denied claims for refunds for those years beyond the three year limitation. This bill would allow the dealers to file claims for those years.

Your Committee believes that this is a special situation which centers on the issues of fairness and equity. However, your Committee has some serious concerns about this bill. First, the waiver of the statute of limitations which is proposed by this bill should not be open ended, and should be considered a special case. Second, a credit or refund for overpayment of tax should only be made if the claimant actually absorbed the cost of the overpayment, and not if the cost of the overpayment was recovered by being passed through to a third party in the form of a higher price.

Therefore, your Committee has amended the bill to:

- (1) Establish a twenty year statute of limitations for claims based on duplicate payment;
- (2) Require the claimant, in the case of a claim based on duplicate payment, to prove that the tax for which the claim is being made was not passed through to a third party; and
- (3) Limit the amount of any credit or refund based on duplicate payment to thirty percent of the total eligible claim amount if the claim is not filed within three years after payment of tax.

Your Committee has further amended this bill by deleting section 3 and making technical amendments for the purposes of clarity and style.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 816, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 816, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1224 Finance on S.B. No. 1748

The purpose of this bill is to establish procedures governing executive budget requests that are not contained in the executive budget or the supplemental budget and which are submitted to the Legislature for consideration less than twenty days before the convening of each regular session.

Your Committee has amended this bill in its entirety by deleting its contents and replacing it with the contents of H.B. No. 1810, H.D. 1. In addition, a findings and purpose section has been added to the bill.

This bill, as amended, would improve the present system of purchasing services from the private sector and providing grants and subsidies. Specifically, this bill establishes a new chapter on grants, subsidies, and purchases of service and repeals chapter 42, Hawaii Revised Statutes. This bill would shift the focus of decision-making to emphasize the importance of applying available resources to assessed needs. Under this measure, the state agencies would identify and assess needs for services first and based on the needs assessment, agencies would evaluate the most appropriate service delivery system. If the agency determines that services can be better addressed through a private provider, the agency will submit a recommended budget as part of the agency's program budget for inclusion into the Executive Budget. Upon the appropriation of funds, the state agencies would then advertise for proposals.

Appropriations for purchases of service, grants, and subsidies made prior to July 1, 1989, would not be subject to the provisions of this bill and would be expended in accordance with existing Chapter 42 requirements.

Article VII, section 4, of the State Constitution requires that public funds shall be used only for public purposes and granted only pursuant to standards established by law. Your Committee finds that this bill meets this constitutional

requirement. Your Committee further finds that this bill establishes the means by which to provide the services in the most effective and efficient manner.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1748, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1748, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1225 Finance on S.B. No. 1856

The purpose of this bill is:

- (1) To continue for five more years the flexibility legislation granted to the University of Hawaii and the Department of Education by Act 321, Session Laws of Hawaii 1986;
- (2) To request further evaluation by the Legislative Auditor of the result of the flexibility legislation;
- (3) To request educational assessment reports from the University and Department of Education;
- (4) To remove payroll matters from those specifically covered in the flexibility legislation; and
- (5) To maintain the Governor's responsibility to ensure the economic and efficient management of the State's financial resources.

Your Committee heard testimony in support of the bill from the President of the University of Hawaii, the Superintendent of Education, and the Comptroller.

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

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1856, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1856, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1226 Finance on S.B. No. 544

The purpose of this bill is to provide the Governor with 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.

Technical, nonsubstantive revisions 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. 544, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 544, H.D. 2.

Signed by all members of the Committee.

SCRep. 1227 Finance on S.B. No. 690

The purpose of this bill is to allow the Department of Transportation to perform emergency roadway work and repair utility lines, where the expenditure is more than \$4,000 but less than \$10,000, without going through the formal state advertisement and bid process. These provisions would take effect on approval, and be repealed on July 1, 1994.

In emergency situations, your Committee believes that it is in the best interests of the public health and safety to react expeditiously to correct or eliminate street and highway problems or defects.

Technical, nonsubstantive revisions 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. 690, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 690, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1228 Finance 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 burdened. 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 to alleviate some of the financial burden currently experienced by the State and the counties.

Your Committee has amended this bill by adding provisions which would require the State to collect the revenues from the liquor and tobacco taxes and then to pay them over to the counties based on a formula presented by the administration. The formula is based on the present grants-in-aid, an additional \$1 million, and distribution of the remainder based on the present distribution of additional grants in the budget to be used for infrastructure and highways. Your Committee feels that the counties need these additional moneys, and that the moneys from these taxes will provide these additional moneys. This year is the time to move on providing revenues to the counties while there is a surplus at the state level. If the surplus is substantially reduced either through expenditures or due to a fall off in the economy, then the moneys will not be available. The Legislature can consider granting the counties the right to impose these taxes at a later date.

Your Committee has also amended the bill to provide for the transfer of parks between the State and the counties based on the agreement between the State and the counties. This transfer is to take place on January 1, 1990, which will give both governments time to prepare for the transfer. The moneys from the additional revenues will be more than sufficient to pay for the parks transferred to the counties. For the period July 1, 1989, to December 31, 1989, while the parks remain with the State, the counties will pay for their costs by a reduction of the revenues transferred from the liquor and tobacco taxes.

Amendments have been made to provide for the appropriate mechanism of transferring the liquor and tobacco revenues from the State to the counties and for the payment of the costs of the collection and transfer of these revenues and the costs of the parks for the period they remain with the State. Other amendments have been made to conform the bill with the main amendments discussed in this Committee Report.

Technical, nonsubstantive amendments have also been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 161, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 161, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1229 Finance on S.B. No. 1565

The purpose of this bill, as received by your Committee, is to appropriate funds as follows:

- (1) To create a unit within the Adult Probation Division of the Circuit Court for the supervision, monitoring, assessment, and treatment of intra-family sexual assault offenders; and
- (2) To provide for assessment and treatment for child victims and their families in cases of intra-family sexual assault.

Your Committee agrees that intensive counseling and treatment should be provided for both the victim and the person convicted of the crime of sexual assault where the victim is a member of the defendant's family. Unfortunately, the title of the bill is not broad enough to encompass treatment for the victims and their families. Therefore, your Committee has amended this bill by deleting the provisions appropriating funds which provide for assessment and treatment for child victims and their families.

The bill has been amended further by:

- (1) Adding a findings and purpose section;
- (2) Changing the sums appropriated to \$2 for purposes of continued discussion; and
- (3) Inserting a new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the State spending limit to comply with constitutional and statutory requirements.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1565, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1565, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 1230 Finance 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 twelve months any allowance or exception granted to the 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 thirty days of any suspension.

Act 320, Session Laws of Hawaii 1986, granted both the 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 Committee finds that the flexibility granted has enabled both the UH and the DOE to administer their programs more effectively and efficiently, thus 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 Committee has made a technical, nonsubstantive amendment to the bill for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1868, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1868, S.D. 1, H.D. 1.

Signed by all members of the Committee.

SCRep. 1231 Finance 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.

Your Committee has amended this measure by:

- (1) Reducing the appropriation for FY 1989-1990 to \$10,000,000;
- (2) Deleting the first accord priority sites (Mokuleia Beach Park, Makaleha Beach Park, Kawailoa Beach Support Parks, Mauna Lahilahi Point, 78 statewide trail rights-of-ways, Makalawena Beach, Kukaniloko Birth Site, and Poipu Beach Expansion) from Section 13; and
- (3) Inserting a new section which states the reasons why and the amount and rate by which the appropriations contained in this bill exceed the State spending limit to comply with constitutional and statutory requirements.

Other technical, nonsubstantive revisions have been made to the bill for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1910, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1910, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1232 Finance 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. Specifically this bill would:

- (1) Require each authorized insurer to file a statement with the Department of Taxation on or before March 1st of each year, setting forth the total business transacted and the amount of gross premiums received in the previous year;
- (2) Set the rates of tax on premiums from property insurance contracts for domestic insurers and others for 1989, 1990, and 1991;
- (3) Set the rates of tax on premiums from life insurance contracts for domestic insurers and others for 1989, 1990, and 1991; and
- (4) Require insurers whose tax liability were more than \$1,000 to pay their taxes on a quarterly basis with each quarterly payment being 25 percent of the insurer's tax liability for the preceding year.

The issue of insurance premium taxes has been the subject of negotiations between the Hawaii Domestic Insurers Tax Committee and certain foreign insurers for several years. While your Committee is informed that the insurers involved are close to an understanding on this issue, it notes that resolution of this issue must preserve the revenues collected by the State from insurance premium taxes and end the tax protest.

Your Committee has amended the bill to make this Act applicable to taxable years beginning after December 31, 1989. Other technical, nonsubstantive revisions have been made to the bill for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 855, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 855, S.D. 1, H.D. 1.

Signed by all members of the Committee.

SCRep. 1233 Finance on S.B. No. 99

The purpose of this bill is to:

- (1) Establish a Hawaii Health Registry; and
- (2) Fund studies to ensure that the health of the public is maintained at its optimum level.

For purposes of continued discussion, your Committee has amended this bill by changing the appropriation amounts to \$1 each.

In addition, your Committee has amended the bill by adding a new section that provides the reasons why and the amount and rate by which the appropriations contained in this bill exceed the state spending limit to comply with statutory and constitutional requirements. Technical, nonsubstantive changes have also been made throughout the bill for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 99, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 99, H.D. 2.

Signed by all members of the Committee.

SCRep. 1234 Finance on S.B. No. 1367

The purpose of this bill is to clarify the definition of "disabled", and to add a definition of "sedentary work" to Section 346-71, Hawaii Revised Statutes, which sets forth the requirements for the State's general assistance program participants who are mentally or physically impaired.

This bill also allows general assistance recipients to receive the same earned income exemptions provided to recipients of other financial assistance programs.

Your Committee has amended this bill by:

- (1) Decreasing the appropriation amounts to \$1 for fiscal year 1989-1990 and \$1 for fiscal year 1990-1991 for the purposes of continued discussion;
- (2) Inserting a new section stating the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the State spending limit to comply with statutory and constitutional requirements; and
- (3) Making other technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1367, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1367, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 1235 Finance on S.B. No. 1405

The purpose of this bill, as received by your Committee, is to allow the Board of Regents of the University of Hawaii to initiate pricing review positions within the Board of Regents personnel system. In addition, before submitting funding requests to the Legislature with regard to pricing review decisions, the Board of Regents must first consult with and receive the approval from the appropriate collective bargaining units.

Your Committee finds that pricing reviews and salary surveys should not be subject to collective bargaining negotiations. In addition, the original intent of this bill was to propose the establishment of an optional retirement plan at the University of Hawaii to provide portability of benefits and to enhance efforts to recruit qualified faculty. The present version of this bill, S.B. No. 1405, S.D. 1, H.D. 1, does not accomplish this purpose.

Accordingly, this bill has been amended by:

- (1) Deleting the requirement that the Board of Regents consult with and receive the approval of the appropriate collective bargaining units; and
- (2) Establishing an optional retirement plan for new University faculty and administrators to either become noncontributory members of the Employees' Retirement System or to enroll in a retirement plan established by the University of Hawaii. Under the University of Hawaii Retirement Plan, the University would contribute fifteen percent of the participant's basic annual earnings inclusive of stipends. The Board of Regents would also have to certify to the Governor the amounts to be included in the general appropriation bill for the alternate retirement plan.

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

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1405, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1405, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1236 Finance on S.B. No. 895

The purpose of this bill is to help rehabilitate inmates by:

- (1) Providing for the treatment of incarcerated sex offenders in community correctional centers; and
- (2) Establishing a model program on Oahu to identify and rehabilitate inmates who are physically, mentally, or developmentally disabled.

Your Committee received testimony in support of this bill from the Department of Health and a graduate student from the School of Social Work at the University of Hawaii.

Your Committee has amended this bill by:

- (1) Adding a new Section 2 which provides the reasons why and the amount and rate by which the appropriations contained in this bill exceed the State spending limit to comply with statutory and constitutional requirements; and
- (2) Incorporating the specifics of the model program to be established on Oahu to meet the rehabilitation needs of the physically, mentally or developmentally disabled into the appropriate appropriations section.

Subsequent sections have been renumbered, and technical, nonsubstantive amendments have also been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 895, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 895, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1237 Finance on S.B. No. 1896

The purpose of this bill is to give the Department of Transportation (Department) flexibility in the disposition of moneys in its special funds which are determined to be in excess of the respective fund requirements for an ensuing twelve-month period. Specifically, this bill would:

- (1) Establish in the Airport Revenue Fund a separate account for moneys received by the Department from statutorily authorized contracts, leases, or other arrangements. Moneys deposited in the separate account can be used for costs and expenses related to the statewide system of airports, including operations, maintenance, repairs, acquisitions, or additions to airport facilities.
- (2) Consolidate the existing Harbor Special Fund and the Second Separate Harbor Special Fund when applicable revenue bonds are exhausted. In addition, upon revenue bond exhaustion, the Harbor Reserve Fund will be abolished. Moneys from harbor properties, excluding certain properties used for recreation or the landing of fish, will be deposited into the Harbor Special Fund, and will be appropriated for the statewide system of harbors including the costs of operation and maintenance of the harbors system, and acquisitions and additions to the system as well; and
- (3) Allow the Department Director to transfer moneys in excess of 150 percent of the requirements for the ensuing twelve-month period among the State Highway Fund, the separate account in the Airport Revenue Fund, and the Harbor Special Fund.

Technical, nonsubstantive revisions 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. 1896, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1896, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 1238 Finance on S.B. No. 149

The purpose of this bill is to provide a tax incentive under the State income tax law to owners of land, which they have leased for development and on which residential condominium apartments and similar types of residential dwelling units have been developed, to encourage these landowners to voluntarily sell their fee simple interest in the land to the lessees.

Your Committee has amended this bill by clarifying the conditions in which this tax incentive will be granted as follows:

- (1) Up to twenty-five percent of the total gain on any sale or exchange of land shall be excluded from gross income, adjusted gross income, and taxable income;
- (2) The incentive shall be applicable only with respect to those condominium property regimes with existing facilities as of December 31, 1988; and

- (3) References to "horizontal property regime" have been amended to "condominium property regime."

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 149, S.D. 1, H. D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 149, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1239 Finance on S.B. No. 1140

The purpose of this bill is to create a revolving fund for the deposit of the one percent of all capital improvement appropriations for the acquisition of works of art.

Your Committee has amended this bill to:

- (1) Specify that the requirement applies only to state funds;
- (2) Specify that the provisions apply only to the construction cost element;
- (3) Specify that the requirement applies to construction or renovation of state buildings, and not all construction projects;
- (4) Expand the applicability of the requirement to all appropriation measures, and specify that the requirement is not restricted to the executive, executive supplemental, judiciary, and judiciary supplemental budgets; and
- (5) Make other technical, nonsubstantive amendments 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. 1140, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1140, H.D. 2.

Signed by all members of the Committee.

SCRep. 1240 Finance on S.B. No. 783

The purpose of this bill is to create a stronger service system for juvenile status and law offenders by establishing the Youth Services Board (Board) as the State agency responsible for the planning and coordination of public and private services for youths in need of delinquency prevention services. Generally, the Board would serve as the advocate for youths and provide a focus for the needs of youths in this State.

Under this bill, the Board would:

- (1) Be responsible for the planning, development, and operation of youth service centers throughout the State which will be concerned with intake and referral for youth in need of services;
- (2) Establish an Office of Youth Services which would be responsible for investigating and reporting misfeasance and malfeasance within the youth service system, inquiring into areas of concern, and conducting periodic audit evaluations of the youth service system; and
- (3) Be authorized to convene youth services teams for the purpose of resolving disputes arising among agencies over the delivery of service to youths.

This bill also transfers the duties of the family court intake agency relating to the informal adjustment of status offenders to the Board.

Finally, this bill appropriates \$300,000 in each year of the fiscal biennium to carry out the purposes of this Act.

Your Committee has amended this bill by adding a new section which provides the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with statutory and constitutional requirements.

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

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 783, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 783, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 1241 Finance on S.B. No. 70

The purpose of this bill is to better compensate attorneys and physicians who volunteer to serve on the Medical Claim Conciliation Panels by increasing the compensation from \$100 to \$300 per claim.

Your Committee finds that since the creation of the panels in 1976, the remuneration for each panel member has remained at \$100 per claim. Because these volunteers must spend many hours away from their regular professional duties, raising the compensation would serve to help reduce the financial loss incurred by these members. Although the \$300 cannot adequately compensate these members for their public service, it would be a welcome recognition of the level of their sacrifice. In addition, the increase in compensation should increase the number of physicians and attorneys who might be willing to participate on the panels.

Your Committee received testimony in support of this bill from the Department of Health, the Department of Commerce and Consumer Affairs, the Hawaii State Bar Association, and an attorney member of a panel.

Your Committee has amended this bill by adding a new section 3 which provides the reasons why and the amount and rate by which the appropriation contained in this bill exceeds the state spending limit to comply with statutory and constitutional requirements. Technical, nonsubstantive amendments have also been made for purposes of style and clarity.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 70, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 70, S.D. 1, H.D. 1.

Signed by all members of the Committee.

SCRep. 1242 Finance on S.B. No. 1297

The purpose of this bill is to establish an Office of Tourism (Office) within the Department of Business and Economic Development for administrative purposes.

The duties of the Office will include:

- (1) The development and marketing of the State's visitor industry;
- (2) The coordination and implementation of long-range tourism-related State policies and directions;
- (3) The coordination of private sector tourism-related activities;
- (4) The coordination of research conducted in furtherance of tourism development;
- (5) The provision of technical assistance for tourism-related development to agencies and private industry upon request; and
- (6) The establishment of a tourism impact management system.

The bill also provides for an executive who will be in charge of this Office. This position will be exempt from State civil service laws.

In addition, the bill provides for the transfer of the functions and duties of the existing Tourism Branch of the Department of Business and Economic Development to the Office.

The visitor industry has long been regarded as one of the most important sectors 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 affect 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 and social interests of the State.

Your Committee has amended this measure by:

- (1) Specifying that the Office will be headed by a single executive designated as the "tourism administrator";
- (2) Deleting references to a "deputy director of tourism", and inserting references to a "tourism administrator", wherever appropriate; and
- (3) Requiring the adoption of appropriate rules by the Office for implementation of its duties and responsibilities.

Other technical, nonsubstantive revisions have also 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. 1297, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1297, H.D. 2.

Signed by all members of the Committee.

SCRep. 1243 Finance on S.B. No. 667

The purpose of this bill is to allow the Department of Land and Natural Resources to conduct public hearings, with at least twenty days' notice, prior to the designation of any state owned lands into the natural area reserves system or before having the Governor revoke or modify an executive order setting aside lands for the natural area reserves system.

The bill also provides that \$4 million shall be annually appropriated from the general fund into the Natural Area Reserve Fund (hereafter referred to as "Fund"). The Fund shall also consist of any other moneys received from public and private sources. Any balance remaining in the Fund at the end of any fiscal year shall be carried forward in the Fund for the succeeding fiscal year.

In addition, the bill provides that the Department include in its annual report the management objectives that have been completed and an analysis of problems and issues encountered in meeting or failing to meet such objectives.

Your Committee has amended this bill by changing the effective date to July 1, 1989, and inserting a new section which states the reasons why and the amount and rate by which the appropriation contained in this bill exceed the State spending limit to comply with constitutional 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. 667, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 667, S.D. 1, H.D. 2.

Signed by all members of the Committee.

SCRep. 1244 Housing on S.B. No. 1857

The purpose of this bill is to: (1) exempt market-priced units in an economically integrated housing project from the Housing Finance and Development Corporation's (Corporation) repurchase requirements; and (2) to clarify that the Corporation has the option to invoke the repurchase requirement for dwelling units financed under a federally subsidized mortgage program.

Currently, in economically integrated housing projects, a number of units are set aside as affordable housing. These units are sold at below-market price to qualified buyers. The government subsidization of certain project costs normally borne by developers enables developers to provide a large percentage (usually 40 percent) of the units in each project as affordable housing. In its present form, Section 201E-222, Hawaii Revised Statutes, prohibits the resale of all project units on the open market for ten years after the date of purchase to prevent individuals from engaging in speculation on affordable units, that is, buying a house at a below-market price, then selling it at the market price. Such a scenario, in effect, amounts to public subsidization of private investment and speculation.

Your Committee received testimony from the Corporation stating that the buy-back provisions are intended to prevent speculation only on the Corporation's affordable type of home, not the market-priced units.

At the time buy-back provisions were first established, the Farmers Home Administration (FmHA) expressed concern that when an FmHA subsidized unit was sold the Corporation's buy-back provision would prevent FmHA from being reimbursed for the interest it had in the property. However, these concerns have proven to be unfounded. In fact, the result of waiving the buy-back restriction has been to allow financing of affordable units at mortgage interest rates as low as one percent and the subsequent sale of these units shortly after purchase, with the following results:

- (1) The original purchaser makes a windfall profit on a government subsidized purchase; and
- (2) The unit goes on to the open market and is lost forever as an affordable unit, since the Corporation cannot repurchase it and sell it at an affordable price.

The Corporation testified that it should have the option of implementing the buy-back restrictions on homes financed under a federally subsidized mortgage program. In its testimony, the Corporation suggested that by reinstating the Corporation's option to use the buy-back restriction on units financed under federal programs, speculation can be reduced, and the FmHA will still be able to recover its subsidies.

Your Committee has amended the bill to exempt buyers of market-priced units from certain other requirements by amending:

- (1) Section 201E-2, Hawaii Revised Statutes, to change the definition of "qualified residents" so that buyers of market-priced units are not restricted from owning other property; and
- (2) Section 201E-222, Hawaii Revised Statutes, to modify the owner-occupancy requirement to exempt buyers of market-priced units from the owner-occupancy requirement set forth in that section.

Your Committee has further amended the bill by including provisions requiring that the sale of real property for other than residential uses and uses accessory and related thereto are subject to legislative disapproval.

Your Committee on Housing is in accord with the intent and purpose of S.B. No. 1857, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1857, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1245 Planning, Energy and Environmental Protection on S.B. No. 430

The purpose of this bill, as received by your Committee, is to designate the Department of Business and Economic Development (DBED) as the lead agency in planning, designing, and establishing geothermal energy transmission

corridors for the construction of electrical transmission lines, pipelines, or any other form of infrastructure necessary for the transmission of thermal energy, electrical energy, water power, or telecommunications.

This bill also specifies that DBED shall assume or otherwise transfer the responsibility of operating and maintaining geothermal energy transmission corridors and their related infrastructure. The use of these corridors by any developer shall be permissive and not mandatory. Transmission costs incurred by any developer for intra-county projects not recovered through avoided cost payments from the contracting utility shall be reimbursed by DBED through a waiver of the mineral rights royalty payments normally made by the developer to the State.

In addition, the bill further provides that the Department of Transportation will be limited to the designation and establishment of energy transmission corridors transporting energy generated through energy sources other than geothermal or hydroelectric resources.

The development of alternate sources of energy in Hawaii is a major priority of the State. Geothermal energy, in particular, exhibits strong potential to become a viable source of alternate energy in Hawaii. The development of the infrastructure necessary to transmit geothermal-based energy to intercounty destinations is an important phase in the overall development of the industry. Your Committee finds that this bill will establish the process whereby geothermal energy transmission corridors may be designated.

Your Committee further finds that there are negative short-and long-term effects resulting from regular exposure to the electric and magnetic fields from transmission lines. The danger is especially insidious because many people may be exposed regularly to electric and magnetic fields without realizing they are adversely affecting their health and well-being.

Consequently, your Committee has amended this bill by making the Department of Health the lead agency to ensure the public health by allowing it to monitor the planning, designing, and establishing of geothermal energy transmission corridors.

Your Committee has also amended the bill as follows:

- (1) By specifying that geothermal energy transmission corridors include 69 kv or greater electrical transmission lines and roadways;
- (2) By ensuring the participation of affected community organizations and appropriate counties when the Department of Health designates, establishes, and adopts its rules under Chapter 91;
- (3) By providing that the new part created by the bill which includes existing sections 196-1 to 196-6, Hawaii Revised Statutes, be entitled, "PART I. ENERGY CONSERVATION PLANNING";
- (4) By deleting the provision making the use of corridors by developers permissive and not mandatory; and
- (5) By deleting the provision allowing for the reimbursement of transmission costs through a waiver of the mineral rights royalty payments.

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. 430, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 430, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Apo, Bunda, Hashimoto, Lee and Hemmings.

SCRep. 1246 Housing on S.B. No. 1128

The purpose of this bill is to permit second dwelling units in rural districts pursuant to county ohana zoning ordinances.

Your Committee finds that a primary purpose of Act 229, Session Laws of Hawaii 1981, is to provide more affordable housing. Testimony received in support of this bill from the Hawaii Association of Realtors, the Planning Committee Chair of the Kauai County Council, and two concerned citizens, recommended the revision of an amendment by the 1988 Legislature to Section 46-4(c), Hawaii Revised Statutes, whose wording inadvertently made the construction of affordable ohana housing on rural lots illegal.

However, testimony was also received from representatives of the Kaimuki, Kalihi, and Kailua Neighborhood Boards that discussed problems regarding density and overcrowding, resulting from abuses of ohana zoning, which adversely affect older established communities. This testimony suggested that individual community problems could be dealt with more effectively by giving the counties expanded authority to regulate ohana zoning in ways that are appropriate to their individual needs. The representatives from the Neighborhood Boards suggested amendments giving the counties more power to restrict ohana zoning in older established neighborhoods.

Your Committee has therefore amended the bill by:

- (1) Broadening the authority of the counties to regulate ohana zoning by changing "shall" to "may" in Section 46-4(c);
- (2) Giving counties the authority to determine whether ohana units would have a negative impact on the neighborhood where they are proposed; and

- (3) Requiring applicants for ohana permits to present a notarized statement stating that no recorded covenant or deed restriction prohibits the construction of a second dwelling on their property.

Your Committee on Housing is in accord with the intent and purpose of S.B. No. 1128, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1128, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1247 Planning, Energy and Environmental Protection on S.B. No. 1344

The purpose of this bill is to take prompt, strong, local action to decrease the amount of chlorofluorocarbons (CFCs) from escaping into the atmosphere by prohibiting over-the-counter sales of refrigerants, raising the standards of repair facilities, and promoting recovery and recycling of CFCs in Hawaii.

Your Committee has amended this bill by focusing on the regulation of CFC emissions from air conditioning units, including both mobile air conditioners installed in motor vehicles and larger stationary units. Refrigerators and freezers have been removed from the scope of this bill because an infrastructure capable of handling the recycling, recovery, and destruction of CFC emissions from refrigerators and freezers does not exist at present.

In 1987, the Legislature enacted Part VII of Chapter 342 Hawaii Revised Statutes, which established minimum requirements governing the transportation, recycling, and disposal of used oil. Unfortunately, this part has proven ineffective because many people continue to secretly dump used oil, rather than comply with the complicated and burdensome provisions of Chapter 342.

Your Committee fears that if this bill required the regulation of refrigerators and freezers, unknowledgeable consumers may also dispose of their unwanted refrigerators and freezers in secluded areas rather than comply with cumbersome and complicated regulations. If the regulation of CFC emissions from refrigerators and freezers were mandated at this time, the Legislature would be proceeding without a full understanding of potential enforcement and infrastructure problems.

More specifically, the amended bill places limitations on air conditioners, including mobile air conditioners, utilizing CFCs by:

- (1) Prohibiting the wilful causing or allowing of CFCs to be released into the air from any source;
- (2) Prohibiting any person from performing service on air conditioner units, including mobile air conditioners, without using refrigerant recovery and recycling equipment. The penalty will be provided by rules to be adopted by the Office of Consumer Protection;
- (3) Prohibiting the sale of CFC coolant suitable for use in air conditioners and mobile air conditioners in containers smaller than fifteen pounds net. Related rules will be adopted by the Department of Health. The penalty for this offense will be a fine of not more than \$100 for each separate offense;
- (4) Prohibiting the servicing of mobile air conditioners without using refrigerant recovery and recycling equipment, certified by Underwriter Laboratories. Related rules will be adopted by the Motor Vehicle Repair Industry Board. The penalty for this offense will be a fine ranging from \$75-\$1,000, depending on the number of separate offenses; and
- (5) Prohibiting the servicing of air conditioning units without using refrigerant recovery and recycling equipment and will prohibit the disposing of air conditioning units without first properly removing CFCs. The penalty for this offense will be license revocation by the Contractors License Board and a fine ranging from \$75-\$1,000, depending on the number of separate offenses.

This bill has been further amended for the purpose of clarity by:

- (1) Amending the definition of "CFCs" to mean any of the chlorofluorocarbon chemicals CFC-11, CFC-12, CFC-112, CFC-113, CFC-114, CFC-115, and CFC-502;
- (2) Substituting the term "refrigerant recovery and recycling equipment" for all of the references to "vampire";
- (3) Changing the effective date to January 1, 1992; and
- (4) Making other technical, nonsubstantive amendments.

It is the intent of your Committee that in adopting rules for this bill, the Department of Health, the Office of Consumer Protection, the Motor Vehicle Repair Industry Board, and the Contractors License Board, shall consider whether used CFC refrigerants should be considered hazardous wastes with regard to the federal Resource Conservation and Recovery Act (RCRA). RCRA requires permits for the transport and handling of hazardous wastes.

Currently, the United States Environmental Protection Agency (EPA) does not interpret used CFC refrigerants to be hazardous wastes pursuant to RCRA. However, solvents and discarded virgin CFCs are subject to RCRA requirements. The EPA is expected to issue a formal interpretation soon and this interpretation should be considered when rules are adopted.

It is also the intent of your Committee that in adopting rules for this bill, the Office of Consumer Protection, the Motor Vehicle Repair Industry Board, and the Contractors License Board require all businesses that service air conditioners to purchase refrigerant recovery and recycling equipment in order to receive or renew their business license registration.

The rules adopted by the Department of Health, the Office of Consumer Protection, the Motor Vehicle Repair Industry Board, and the Contractors License Board should require that all equipment meet the Air Conditioning and Refrigeration Institute's purity standards for recovered and recycled refrigerants or similar standards to ensure that only equipment of the highest quality are utilized.

In addition, the Department of Health, the Office of Consumer Protection, the Motor Vehicle Repair Industry Board, and the Contractors License Board should also consider the proper destruction of CFCs, in addition to the mandatory recovery and recycling of CFCs in their rules.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of S.B. No. 1344, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1344, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Hashimoto, Lee and Hemmings.

SCRep. 1248 Planning, Energy and Environmental Protection on S.B. No. 148

The purpose of this bill is to prohibit the use of nondegradable plastic connecting devices in the State.

Many animals and marine life ingest plastics mistakenly as food or become fatally ensnared in plastic items, including plastic connecting rings commonly found on "six packs" of beer or soda. This bill, by banning nondegradable plastic connecting devices, would serve to diminish threats to animal and marine life.

Your Committee has amended this bill by inserting the words "capable of achieving" in line 20, page 2.

Your Committee has further amended this bill by eliminating the exemptions proposed in the section entitled "prohibited acts."

Your Committee has further amended this bill by placing the new part into Chapter 339, Hawaii Revised Statutes, rather than Chapter 342. Testimony by the Department of Health indicated that Chapter 339 is the appropriate chapter to incorporate the proposed amendments.

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

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of S.B. No. 148, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 148, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representatives Apo, Bunda, Hashimoto, Lee and Hemmings.

SCRep. 1249 Housing on S.B. No. 1360

The purpose of this bill is to amend Section 201E-221, Hawaii Revised Statutes, which deals with restrictions, including buy-back by the Housing Finance and Development Corporation (HFDC), on transfer of dwelling units purchased from HFDC. The proposed changes include: (1) providing for full disclosure of any subsidy provided by the HFDC at the beginning of the sales contract for the sale of the unit by the HFDC, including the amount of subsidy, what the subsidy entails, and conditions of the subsidy; (2) limiting the accrument of interest costs on the subsidy to thirty years; and (3) allowing for the payment of the subsidy and the interest accrued before the transfer or sale of the unit. This bill would apply to all purchasers of dwelling units sold pursuant to Act 105, Session Laws of Hawaii, 1970, as amended, and take effect retroactive to June 19, 1970.

Your Committee heard testimony in support of this bill from the HFDC, members of the Koolauloa Subdivision Homeowners Association, and the Paalaa Kai Subdivision. Testimony from the homeowners showed that there had been considerable misunderstanding and confusion over the repayment of subsidies granted for home construction and infrastructures in the subdivision which have subsequently presented financial burdens to owners. This bill would prevent future misunderstandings as to "hidden costs" in the form of unspecified subsidies. It would also correct the problems of open-ended debt accumulation by limiting such debt to thirty years and by applying these provisions retroactive to June 19, 1970.

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

Your Committee on Housing is in accord with the intent and purpose of S.B. No. 1360, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1360, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Duldulao.

SCRep. 1250 Consumer Protection and Commerce on S.B. No. 556

The purpose of this bill is to adopt the 1985 revised version of the Uniform Limited Partnership Act ("ULPA").

Testimony in support of this bill was presented by the Department of Commerce and Consumer Affairs ("DCCA") 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 govern domestic and foreign limited partnerships, are 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 chapter would track those of the ULPA for clarity in reference and interpretation.

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 limited partnership and certificates of amendment and cancellation. Articles 1 and 2 recognize that the basic document in any 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 governmental 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.

Article 4 provisions relate to general partners with respect to the addition of general partners, withdrawal of a general partner, powers and liabilities, contributions, and voting rights.

Article 5 deals with finances of partnerships. Included in this article are provisions for the form of contributions, liability for contribution made by a limited partner, sharing of profits and losses of limited partnerships, and sharing of distributions.

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.

Article 7 provisions deal with the assignment of partnership interests. Included are sections dealing with the nature of partnership interest, assignment of partnership interest, rights of creditors, an assignee's right to become a limited partner, and the power of a deceased or incompetent's estate.

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.

Your Committee has adopted the following proposed amendments from DCCA, the Hawaii Bar Association, and the Commission to Promote Uniform Legislation:

- (1) Replaced the language of Section -203(b) regarding the extension of the term of a limited partnership after the partnership is terminated because of the expiration of the term;
- (2) Deleted the language in Section -203.5(5) that applied to foreign limited partnerships, which are covered by Section -906.5;
- (3) Added subsection (a) designation to Section -203.6 to accommodate a new subsection (b) providing for reinstatement of a limited partnership within 90 days after involuntary cancellation. Subsection (b) is based on a restatement provision of corporate law;
- (4) Added subsection (4) to Section -204(a) to cover the certificate of correction and any other type of document not otherwise enumerated;

- (5) Added a comma to Section -206 to clarify that "any certificate relating thereto" applies to domestic and foreign limited partnerships;
- (6) Reinserted language from ULPA into Section -301(a)(1) in order to accommodate instances where the date of formation of a limited partnership is a date other than the date of filing of the certificate;
- (7) Deleted language in Section -705 because the practice in Hawaii is to use the term "legal representative";
- (8) Added the word "foreign" in Section -904(a) to make that section clearly apply to foreign limited partnerships;
- (9) Added the word "not" in Section -904(a)(2) in order to read the sentence properly;
- (10) Reinserted language from ULPA in Section -905 for clarity;
- (11) Added language in Section -906(a) to make certain that a general partner certifies and signs the application for a certificate of withdrawal;
- (12) Added language in Section -1102 to specify that the 1985 version of ULPA with modification is adopted;
- (13) Corrected a section reference from ULPA in Section -1104(1); and
- (14) Corrected fee section in Section -1107 to add filing fees for the types of documents omitted in prior drafts.

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, the Hawaii Bar Association, and the Commission to Promote Uniform Legislation, which your Committee adopts.

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

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 556, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 556, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1251 Consumer Protection and Commerce on S.B. No. 1232 (Majority)

The purpose of this bill is to permit stand-alone trust companies or trust holding 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.

Under this bill, before acquiring or organizing such businesses, the trust company or trust holding company must obtain approval from the Commissioner of Financial Institutions. In order to grant approval, the Commissioner must find, among other things, that approval of the application would not jeopardize the financial stability of the trust institution or the proposed subsidiary. To reduce total exposure, the total investment of the trust company or its holding company in the stock, assets, or operations of any real estate, insurance, or securities subsidiary or affiliates is limited to \$500,000.

To avoid conflicts of interest, the bill requires physical separateness of the subsidiary from other business activities 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. The bill requires 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 institution. 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.

This bill gives the Commissioner of Financial Institutions the discretionary authority to examine any real estate, insurance, or securities corporation which is authorized by Chapter 406, Hawaii Revised Statutes.

The Department of Commerce and Consumer Affairs, through the Commissioner of Financial Institutions, submitted that minimal safeguards regarding safety and soundness are present in this bill. The Insurance Commissioner advised your Committee similarly, and noted that if this bill were enacted, a trust institution wishing to engage in additional businesses would have to comply with trust company laws, insurance laws, as well as the provisions of this bill. The Department took no position as to the passage of this bill.

Representatives of Bishop Trust Company, Ltd. and American Trust Co. of Hawaii, Inc. testified in support of this bill. They advised your Committee that the passage of the bill would enable local trust institutions to return to a more level competitive position with mainland securities and insurance companies which offer a full range of products and services, including trust services. They noted that the bill safeguards against potential conflicts between interests of the trust institution, its subsidiary, and its customers, and added that as a fiduciary, trust companies are held to a higher standard of care.

Hawaiian Trust Company, Ltd. testified against this bill, stating that it would provide Bishop Trust Company and American Trust with an unfair competitive advantage over Hawaiian Trust and banking organizations that are in, or may enter, the trust business in the future.

The Hawaii State Association of Life Underwriters and the Hawaii Association of Realtors also testified in opposition to this bill. These groups raised concerns about the potential creation of a monopoly and about conflicts of interest.

A representative of First Hawaiian Bank submitted that the bill should apply to all trust institutions including the trust divisions of banks, to avoid preferential treatment of trust companies. Your Committee was advised by the Department of Commerce and Consumer Affairs, however, that banks were not included in the scope of this bill because of the relative complexities created by overlapping state and federal regulation of banks. The Department advised your Committee that stand-alone trust companies are not subject to such dual regulation.

Your Committee believes that the interests of trust company customers will be properly protected by the fire-walls and other provisions of this bill. 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 should not occur. This bill will enable trust companies to more fairly compete in a market which has changed, without jeopardizing the investments of their trust customers.

Your Committee agrees with the recommendation of the Department of Commerce and Consumer Affairs that the following language should be added to the end of line 15, page 18 of the bill:

[P]rovided that nothing herein shall prohibit any authority or powers permissible under federal law or regulation for a trust company or a trust holding company affiliated with a bank or bank holding company.

This bill is intended to affect only stand-alone trust companies. Your Committee added the foregoing language to clarify that the bill does not modify any existing powers currently held by banks as granted by either federal or state law.

Your Committee has also amended this bill by deleting the reference to "joint-stock company" on page 16, line 2, for consistency with other provisions of Section 3 of the bill. Other technical, nonsubstantive amendments have been made to the bill for purposes of style and clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1232, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1232, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 1252 Consumer Protection and Commerce and Health on S.B. No. 1385

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

This bill would: (1) replace the term "podiatry" with the term "podiatric medicine; (2) expand the definition of podiatry to include diagnosis and treatment of the "malleoli, and soft tissues about the ankle, except for ankle fractures; and (3) provide that podiatry does not include amputation, "except for digital amputation." This bill also requires licensure of any person practicing "podiatric medicine" and requires licensure of any person using the title "D.P.M." or "doctor of podiatric medicine."

Your Committees received testimony in support of this bill from several podiatrists and find that the expanded definition describes present practices in podiatric medicine accurately.

Your Committees, in keeping with the intent of this bill, have amended the bill by replacing the term "podiatry" as used in several other sections in Chapter 463E with "podiatric medicine."

Your Committees on Consumer Protection and Commerce and Health are in accord with the intent and purpose of S.B. No. 1385, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 1385, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representative Duldulao.

SCRep. 1253 Consumer Protection and Commerce and Judiciary on S.B. No. 967

The purpose of this bill is to amend certain provisions of Chapter 467, Hawaii Revised Statutes, relating to the licensing, suspension and revocation of licenses issued to real estate brokers and salespersons.

This bill would allow the Commission to revoke the license of a broker or salesperson for the unauthorized procurement of any knowledge of questions or any copy of forms relating to the licensure examination, for the purpose of disseminating the information to future examination takers. The Commission advised your Committees of a growing problem of licensees' willfully memorizing and disseminating questions from examinations, a practice which may be curtailed by this bill.

The bill would also amend the provisions concerning issuance of a new license to a broker or salesperson whose license has been terminated in connection with payment on his or her account from the real estate recovery fund. Current law states that the broker or salesperson is ineligible to receive a new license until he or she has repaid the fund in full. The bill would add a provision making the person ineligible to apply for a new license for at least two years from the effective date of the termination of the license. The Commission noted that this amendment would provide greater consistency with the waiting period for application for a new license after revocation.

The bill would clarify that an applicant for the real estate broker examination must possess a current active or inactive license as a real estate salesperson.

The bill would make it misdemeanor to file a false statement with the Commission's designated testing agency. The Commission advised your Committees that this proposal is recommended by the Educational Testing Service.

Finally, the bill would replace certain gender specific terminology with gender neutral language.

Testimony in support of this bill was presented by the Real Estate Commission.

Upon further consideration, your Committees have amended this bill by deleting the Commission's authority to revoke a license for the unauthorized procurement of information relating to the licensure examination. While your Committees understand the Commission's concern about professional test-takers who memorize exam questions for subsequent dissemination, the bill may impinge on the free speech rights of bona-fide examinees.

Your Committees on Consumer Protection and Commerce and Judiciary, are in accord with the intent and purpose of S.B. No. 967, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 967, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 1254 Consumer Protection and Commerce on S.B. No. 300

The purposes of this administration bill are: (1) to extend the regulation of public accountants under Chapter 466, Hawaii Revised Statutes; (2) to amend the requirements for licensure as a certified public accountant; (3) to provide the Board of Public Accountancy with the authority to initiate quality reviews of the professional work of accounting firms; (4) to enlarge the grounds for, and scope of, discipline which may be imposed by the Board of Public Accountancy; and (5) to make a number of clarifications to Chapter 466.

The Board of Public Accountancy testified in support of this bill.

Section 1 of the bill extends regulation of public accountants under Chapter 466 until December 31, 1995.

Section 2 of the bill adds a number of new sections to Chapter 466. It authorizes the Board of Public Accountancy (the "Board") to impose a penalty for commission of a single act prohibited by Chapter 466, rather than requiring evidence of a general course of conduct. This provision would enable the Board to act more expeditiously against licensees allegedly engaged in wrongful conduct. It is similar to the current provision of Section 466-11(d), Hawaii Revised Statutes, which applies only to acts prohibited by Section 466-10.

Another provision proposed by Section 2 of the bill allows the Board authority to appoint a "quality review committee" to review the publicly available professional work of firms on a random basis. Your Committee believes that such a committee will result in the enhancement of professional accounting work performed by licensees.

Section 2 also adds the requirement that in every case in which it is proposed to revoke or suspend a license or permit or an application has been denied, the person concerned shall be given an opportunity for a hearing under Chapter 91, Hawaii Revised Statutes.

Finally, this section adds a provision authorizing the Director of Commerce and Consumer Affairs to establish advisory committees, to serve as consultants to the Board in their review of certified public accountants and public accountants referred for possible disciplinary action, and as experts to the Department of Commerce and Consumer Affairs for investigation.

Section 3 of the bill expands the purpose of Chapter 466.

Section 4 of the bill adds definitions to the chapter.

Section 5 of the bill deletes the requirement that the Board annually elect a secretary-treasurer, and replaces it with a requirement for election of a vice chairperson. This section also expands the scope of the Board's rulemaking power, and specifically authorizes the Board to grant, deny, suspend, revoke or restore licenses. It repeals the provision of Section 466-4(g), Hawaii Revised Statutes, which allows a person who was a member of the Board of Public Accountants on January 1, 1974 to continue as a member of the Board without reappointment for the duration of their term.

Section 6 of the bill changes the regulatory scheme of the chapter from registration to one of licensure, and gives the Board sole jurisdiction, power, authority, and discretion to license and grant the designation of "certified public accountant" ("CPA") to persons who have paid appropriate fees and meet certain age, personal history, education, experience, and examination requirements. The current requirement that the applicant possess good moral character has been replaced with a requirement that the applicant possess a history of competence, trustworthiness, and fair dealing. Under the current education requirements, an applicant for licensure as a CPA must possess a baccalaureat degree, plus thirty additional semester hours of study which can be commenced only after the completion of one hundred five hours toward the completion of the baccalaureat degree. The bill deletes the delay period before beginning the additional thirty hours of study. It adds a requirement that eighteen of the hours toward the baccalaureat degree or toward the thirty additional hours, be in upper division or graduate level accounting or auditing courses. Another new requirement states that if the applicant possesses the eighteen advanced hours in accounting or auditing subjects, thirty months of experience may be substituted for the thirty semester hours of additional study.

Section 6 also adds a provision requiring that a notarized or certified statement from present or former employer(s) be submitted as evidence of satisfaction of the experience requirement. It specifies the elements and requirements to sit for the Uniform Certified Public Accountant examination. This section adds a provision for the Board to make rules prescribing the methods and requirements for exemption from examination requirements. Another new provision states that licenses are renewable biennially, and sets forth license renewal requirements.

Section 7 of the bill makes certain changes to the requirements for licensure as a "public accountant." The current requirement that the applicant possess good moral character has been replaced with a requirement of a history of competence, trustworthiness, and fair dealing.

Sections 8 and 9 add new provisions concerning the issuance and renewal of a permit to practice public accountancy, and the restoration of a forfeited permit. It also establishes the requirement that all accounting firms obtain a permit.

Section 10 of the bill enlarges the grounds for, and scope of, disciplinary action which may be imposed by the Board.

Sections 11 through 13 primarily reflect housekeeping measures.

Your Committee believes that it is in the public interest to continue the regulation of public accountants under Chapter 466, as amended this bill.

Your Committee has amended the bill to delete several provisions which are customarily accommodated by rules, which if not yet adopted, should be adopted by the department or board under their rule making authority. The deletions are not intended to interfere in any way with any rule making authority of the department or board. Your Committee recognizes the rulemaking authority of departments and boards which are necessary to administer and enforce the laws of the State. Accordingly, the deletion of several references to adoption of rules, are technical and nonsubstantive in nature.

In addition, your Committee has made style changes by replacing the phrase "sole jurisdiction, power, authority and discretion" with the term "may" which is intended to convey the same meaning as the phrase which has been replaced.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 300, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 300, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1255 Consumer Protection and Commerce on S.B. No. 418

The purpose of this bill is to provide the commissioner of securities with rulemaking authority to provide for alternatives to the present statutory requirement that financial planners have errors and omissions insurance.

Section 485-14(g), Hawaii Revised Statutes, requires financial planners to have errors and omissions insurance. This bill would grant the Commissioner of Securities rulemaking authority to provide for alternatives to the present statutory requirement.

Your Committee finds that some financial planners have found difficulty in obtaining the required errors and omissions insurance and believes that there should be flexibility in the requirements of insurance depending on the type and scope of investment advisory services offered, so long as consumers are protected.

Your Committee received supporting testimony from the Department of Commerce and Consumer Affairs and from the International Association for Financial Planning, Inc., Hawaii Chapter.

Your Committee has amended the bill to incorporate a legislative standard for any alternative requirement that the Commissioner may adopt in lieu of errors and omissions insurance. Any alternative to insurance must provide protection for the investment advisor's client.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 418, S.D. 1, as amended herein and recommends that it pass Second Reading in the form attached hereto as S.B. No. 418 S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1256 Consumer Protection and Commerce on S.B. No. 1175

The purpose of this bill is to amend Chapter 452, Hawaii Revised Statutes, to strengthen and clarify the provisions relating to the licensing of massage therapists.

This bill would make the following changes in the current statute:

- (1) Change the title of the administrative board from Board of Massage to Board of Massage Therapy;
- (2) Require mechanical or electrical apparatus used in massage treatment to be approved by the U.S. Food and Drug Administration;

- (3) Clarify the criteria necessary to practice as a massage therapy apprentice;
- (4) Clarify the definition of massage student therapist to mean "any person who engages in the study or practice of massage therapy who is under the direct supervision of the teacher in a school setting";
- (5) Provide two avenues for massage licensure, one by completing an apprenticeship program under a sponsoring licensed massage therapist; the other, by completing a program of schooling approved by the Board of Massage Therapists;
- (6) Require disclosure by Board of Massage members of their affiliation with any apprenticeship or other massage therapy training program;
- (7) Require the Board of Massage to adopt rules relating to training programs;
- (8) Add "structural kinesiology" as a subject for the preparation of massage therapists; and
- (9) Provide that a forfeited license shall not be restored unless the applicant meets all requirements for the examination, including the training requirement.

Your Committee heard testimonies from the Board of Massage and several massage therapists that were in agreement with the provisions of this bill.

Your Committee has amended the bill to make it clear that a massage therapist apprentice as defined by law, who has a valid permit issued by the Board and who is sponsored by a licensed massage therapist, and a massage therapist student as defined by law, who is under the supervision of a teacher in a school setting are exceptions and not conditions to the licensing requirements for massage therapists.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1175, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1175, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1257 Consumer Protection and Commerce on S.B. No. 101

The purpose of this bill is to repeal Chapter 450, Hawaii Revised Statutes, relating to fumigation. This bill would also make Section 92-28, relating to state service fees, inapplicable to Chapters 144, 145, 147 and 450, Hawaii Revised Statutes.

Your Committee heard testimony in support of this bill from the Hawaii Pest Control Association.

Your Committee also heard testimony from the Board of Agriculture. The Board testified that it had requested the deletion of Chapters 144, 145, and 147 from the provisions of Section 92-28, since these chapters no longer have statutorily assessed fees. This request was incorporated into S.B. No. 101, S.D. 1. However, the Board further testified that the Office of the Attorney General believes that this amendment may create a technical problem with the bill since the deleted chapters relate to agriculture, and the title of the bill relates only to fumigation. Accordingly, the Board suggested that the proposed changes related to Chapters 144, 145 and 147 be deleted from the bill.

Your Committee has adopted the foregoing suggestion of the Board by amending the bill to delete all proposed changes with regard to Chapters 144, 145 and 147.

Your Committee believes that the repeal of Chapter 450, Hawaii Revised Statutes, is appropriate since fumigators are adequately covered by Chapter 460J, relating to pest control operators.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 101, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 101, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1258 Consumer Protection and Commerce on S.B. No. 150

The purpose of this bill is to implement certain of the findings and recommendations made by the Legislative Auditor in its "Sunset Evaluation Update Report" regarding Chapter 439, Hawaii Revised Statutes, which regulates the practice of beauty culture, more commonly known as cosmetology.

This bill would amend the laws regulating cosmetology by:

1. Extending Chapter 439 until December 31, 1995 under the sunset law;
2. Requiring licensure rather than certification of beauty operators, apprentices, instructors and cosmetology schools;
3. Requiring the Board of Cosmetology to include at least one licensee member from an island other than Oahu;

4. Reducing the experience requirement for instructor- trainees from three years to one year, as a registered beauty operator;
5. Reducing the experience requirement for instructors from three years, to one year active service as a registered beauty operator;
6. Eliminating the Board's discretion to issue and revoke a temporary permit to a person holding an instructor's registration in another jurisdiction, for the limited purpose of commercially demonstrating a hair or cosmetics product line, or for instructing in hairstyling in a school or under the sponsorship of any organization approved by the Board;
7. Providing that applications for reexamination under the chapter be filed with the professional testing service which prepares and provides the examinations, rather than with the Board;
8. Deleting certain criteria pursuant to which an applicant may have been issued a temporary permit to practice cosmetology;
9. Deleting the Board's authority to waive the requirement that a registered managing operator have practiced in the State for at least one year, upon a showing of alternative experience and hardship on the shop;
10. Requiring that the transfer or ownership, change in beauty shop name, and relocation of a beauty shop shall require filing of an application together with required fees; and
11. Requiring that all cosmetology schools have sufficient equipment and adequate facilities as prescribed by Board rules.

Testimony in support of this bill was submitted by the Board of Cosmetology, the Chancellor for Community Colleges of the University of Hawaii, a cosmetology school, and a cosmetologist. The Department of Education submitted testimony in support of the continued licensure of cosmetology schools by the Board of Cosmetology.

Your Committee believes that the provisions of Chapter 439, as amended by this bill, will properly regulate the practice of beauty culture, and that the chapter should be extended through December 31, 1995.

Your Committee agrees with the Board's recommendation that the bill be amended so as to prohibit Board members from membership on or affiliation with any school teaching any of the classified occupations. Your Committee believes that persons affiliated with a beauty school should not be members of the Board because of possible conflicts of interest.

Technical, non-substantive amendments have also been made to this bill for the purposes of style and clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 150, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 150, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1259 Consumer Protection and Commerce on S.B. No. 1823

The purpose of this bill is to amend Chapter 468K, Hawaii Revised Statutes, to: (1) specifically empower the Director of Commerce and Consumer Affairs to fine a licensee travel agent or travel agency sales representative, or to suspend or revoke the license, for any cause prescribed by the chapter, or for any violation of the rules, and to refuse to grant any license for any cause that would be ground for revocation or suspension of a license; (2) add three additional grounds for revocation, suspension, or (newly added) refusal to issue a license; (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; and (4) make minor language, technical, and procedural changes.

Your Committee heard testimony in support of this bill from the Hawaii Business League. The Department of Commerce and Consumer Affairs also testified in favor of this bill, with one exception. The Department advised your Committee that it strongly opposed the provision on page 9 of the bill, which would authorize the Director to revoke, suspend, or deny a license to "a person who has been an officer, director, or partner of a corporation or partnership with at least fifty-one percent of controlling shares or more, and whose license issued under this chapter is revoked or suspended." The Department submitted that the fifty-one percent requirement would allow two individuals with equal ownership and control to escape regulation. It advocated reinstatement of the original language of the bill which made no reference to a requirement of fifty-one percent stock ownership.

Upon further consideration, your Committee has amended this bill to delete from S.B. No. 1823, S.D. 1, the fifty-one percent standard which the Department opposed. In its place, your Committee has added the following provision:

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

Your Committee believes that this language will give the Director the appropriate degree of flexibility to determine whether licensure should be denied, revoked, or suspended.

The bill was also amended to insert a statement of findings and purpose and to correct certain typographic, technical, and stylistic errors.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1823, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1823, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1260 Consumer Protection and Commerce and Judiciary on S.B. No. 422

The purpose of this bill is to create a new chapter entitled Gold and Silver Stamping which would provide a standard for the fineness of gold and silver products and a scheme for enforcement.

Your Committees have found that unscrupulous persons or firms have been manufacturing in Hawaii or importing into Hawaii gold and silver items that are improperly marked to overstate the precious metal content. Sales of such items are deceptive and mislead consumers into purchasing items believed to be of higher value than they actually are. The publicity and sales of such items have eroded the public's confidence in jewelry items sold in Hawaii. The public has no practical way of knowing if an item is mismarked or underkarated and no way of checking the manufacturer's reputation if the item does not have a trademark.

Moreover, the selling of underkarated items creates an unfair competitive advantage as against legitimate dealers selling legitimate items.

The purpose of this bill is to create: definitions and standards for precious metal content, a trademarking requirement when items are stamped with "14K," "sterling," or any other marking or label which makes a representation as to the precious metal content, and criminal and civil remedies to enforce these standards and requirements.

The Department of Commerce and Consumer Affairs testified in support of this bill and stated that the private right of action on the part of industry associations and criminal liability for violation of these provisions would provide an effective means of enforcing compliance. Therefore, the Department did not feel that there would be a need for an agency of the Executive Branch to be involved in enforcing compliance of this bill.

The Board of Agriculture testified in support of this bill. Testimony in support of this bill was presented by a manufacturer and wholesaler of jewelry, the Hawaii Jewellers Association and a retail jeweler.

Your Committees have amended this bill as follows:

- (1) Added the words registered "under the laws of the United States" to the definition of "trademark" on page 3, line 9 of the original bill.
- (2) Added the words "being a manufacturer or dealer in gold or silver articles" to page 3, line 11 of the original bill, to match the change made to Section 7 directing the penalties toward manufacturers and dealers, thus protecting victims and other purchasers of noncompliance items.
- (3) Added the word "such" for clarity to restrict the use of misleading quality descriptions on plated articles, on page 6, line 18 of the original bill.
- (4) Added the word "or" on page 6, line 22 of the original bill to correct a typographical error.
- (5) Added the words "for any manufacturer or dealer to" on page 8, line 14 of the original bill to match the change made to Section 7 directing penalties toward manufacturers and dealers, not consumers or victims.
- (6) Added the words "contraband and" to page 8, line 17 of the original bill to define mismarked articles as contraband as indicated by the title of this section.
- (7) Deleted Section -10 Compliance monitoring.
- (8) Provided for injunctive relief only in Section -11, Injunctive relief and suits.
- (9) Deleted Section -12 Award of costs to defendant because federal statute supersedes state law.

Your Committees have renumbered sections, made technical amendments to this bill, and have added language which clarifies several of its provisions without substantially changing its intent or purpose.

Your Committees finds that consumers are being deceived by the mismarking and underkarating of jewelry. Your Committees believe that S.B. No. 422, S.D. 1, H.D. 1, is a positive step to address these problems.

Your Committees on Consumer Protection and Commerce and Judiciary are in accord with the intent and purpose of S.B. No. 422, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 422, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees.

SCRep. 1261 Consumer Protection and Commerce on S.B. No. 1813

The intent of the bill is to make numerous amendments to the Insurance Code with the purpose of resolving inconsistencies in the code, as well as resolving specific issues addressed by the Insurance Division since the Insurance Code became effective.

Your Committee received testimony in support of this bill by the Department of Commerce and Consumer Affairs, Insurance Division and the Hawaii Insurers Council. The Insurance Division proposed that Section 1 of the bill amending section 431:2-307 be expanded to permit utilization of the insurance examiners' revolving fund by Insurance Division staff examiners for reimbursement of exam-related and educational/training expenses. The Division also proposed that the examiners be permitted to access the fund for other expenses related to the examination process.

Your Committee believes that staff examiners should be permitted to recoup educational and training expenses, and that it is appropriate to pay expenses related to the examination process out of the insurance examiners' revolving fund. Your Committee has therefore amended Section 1 of this bill.

The Hawaii Insurers council opposed the proposed new subsection 431:10C-203(b) because they believe an insurer cannot implement a rate pursuant to the proposed rate filing until the effective date of the filing. They also believe that provision when combined with the requirement that offers for renewal of policies must be made at least thirty days prior to its expiration. However, motor vehicle insurers are currently prohibited from implementing field rates until the expiration date of the thirty day waiting period. Accordingly, your Committee believes the language in subsection (b) would allow the commissioner to approve the use of rates before the termination of that thirty day period.

Finally, your Committee amended this bill by amending the existing definition of "association" captive insurer by deleting the requirement that such entities have been in continuous existence for at least one year. Your Committee believes the amendment would encourage the formation of association captives hoping to form in Hawaii and does not believe that the number of association captives forming here will be significantly affected by the one-year formation requirement.

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

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

SCRep. 1262 Consumer Protection and Commerce on S.B. No. 1814

The purpose of this bill is to create a new article in the Insurance Code, Chapter 431, Hawaii Revised Statutes, to contain provisions applicable to motorcycle and motor scooter insurance. Presently, motorcycle and motor scooter liability insurance requirements are found in Part V of Article 10C, which this bill would repeal.

In general, the creation of Article 10G of the Insurance Code, as contemplated by this bill, would:

- (1) Specify coverage required of an insurance policy covering a motorcycle or motor scooter;
- (2) Prohibit the driving of a motorcycle or motor scooter upon any public street, road, or highway unless it is insured under a liability policy as provided in the bill;
- (3) Establish licensing or permit prerequisites for obtaining such coverage;
- (4) Provide that tort liability is not abolished with respect to accidental harm incurred in or arising out of a motorcycle or motor scooter accident, and state the circumstances under which a cause of action in tort shall exist;
- (5) Require the operator of an insured motorcycle or motor scooter to carry a proof of insurance card, to be exhibited to a law enforcement officer upon demand;
- (6) Establish penalties for violation of the article;
- (7) Authorize the Insurance Commissioner to adopt rules pursuant to Chapter 91, Hawaii Revised Statutes, to carry out the purposes of the article; and
- (8) Establish rules for ratemaking, administration, and for rate review by an aggrieved person.

This bill also proposes to amend existing provisions of the insurance law, which would:

- (1) Delete the requirement that fees paid by insurers for the drivers' education fund, derived from motorcycles, motor scooters or similar vehicles, be expended by the University of Hawaii community college employment training office for the operation of a drivers' education program for operators of motorcycles, motor scooters or similar vehicles;

- (2) Delete the provision requiring the Insurance Commissioner to make rules for the distribution of the drivers' education fund, and for its execution; and
- (3) Clarify the general inapplicability of the no-fault law to motorcycles and motor scooters.

Your Committee heard testimony from an attorney for a local automobile and motorcycle rental company suggesting that the bill be amended to specifically allow the self-insuring of motorcycles and motor scooters. The Department of Commerce and Consumer Affairs submitted that self-insurance should be an option available to governmental entities. The Department had no objection to allowing other motorcycle and motor scooter owners to self-insure provided they can fulfill certain requirements. Your Committee was advised that at least one private motorcycle owner has applied for such self-insurance, and that the City and County of Honolulu and other counties are presently self-insured for their motorcycles and motor scooters.

The Chancellor for Community Colleges of the University of Hawaii, a Unit Motorcycle Safety officer from Hickam Air Force Base, the owner of a motorcycle shop, and a motorcycle rider testified against the bill's proposed deletion of current funding for the University of Hawaii motorcycle and motor scooter drivers education program. These testifiers stated that the program is valuable in educating drivers and preventing accidents. The University of Hawaii Chancellor advised your Committee that student enrollment in the program is almost evenly divided between new riders and experienced riders. It was submitted that continued funding is needed in order to maintain low tuition charges and to attract enrollees.

This bill has been amended by your Committee as follows:

- (1) By adding a new section allowing the self-insuring of motorcycles and motor scooters, and specifying the requirements for the same;
- (2) By adding motorcycle and motor scooter education fund provisions to Article 10G, and providing that fund fees shall be expended by the University of Hawaii community college employment training office for the operation of a drivers' education program for operator of motorcycles, motor scooters or similar vehicles; and
- (3) By moving the bracket on page 13, line 3 to the end of line 24 on page 12 of the original bill because it was not intended that the Commissioner's authority to make rules be deleted.

With regard to the amendments concerning self-insurance, your Committee notes that it has previously passed out H.B. No. 1746 this session, which would clarify that motorcycles and motor scooters may self-insure. The instant bill would repeal the sections affected by the House bill, however. Therefore your Committee has amended this bill to clarify that motorcycles and motor scooters will still be able to self-insure under this bill.

Your Committee also received testimony that the provisions of the bill requiring a license or permit prior to obtaining motorcycle or motor scooter insurance, could be erroneously construed as applying to corporations, such as U-drive companies. Since a corporation cannot obtain a motorcycle or motor scooter license or permit, it should be clear that this requirement does not apply to corporations. Your Committee believes that it is unnecessary to restate this point in the bill.

Technical, nonsubstantive amendments have also been made to the bill for the purposes of style and clarity.

Your Committee believes that this bill, as amended, will provide needed clarity to the motorcycle and motor scooter insurance law.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1814, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1814, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 1263 Consumer Protection and Commerce on S.B. No. 424

The purpose of this bill is to regulate persons engaged in the profession of social work.

In general, this bill proposes to:

- 1) Specify the requirements for licensure, educational qualifications, fees, and biennial renewal of license;
- 2) Create two categories of social worker licenses (licensed master social worker, and licensed independent social worker), and specify the levels of qualification for each category;
- 3) Specify grounds for disciplinary action;
- 4) Establish exemptions from academic and examination prerequisites for current practitioners (grandfather clause); and
- 5) Provide for confidentiality of privileged communications between social workers and clients.

Testimony in favor of this bill was heard from the National Association of Social Workers ("NASW"), individual social workers, a former social worker client, Parents Anonymous, a retired public health nurse, and others. 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 Department of Human Services, the Department of Corrections, the Department of Commerce and Consumer Affairs, and a social worker/NASW member. 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, as well as the Judiciary, advised your Committee of their concerns that their present difficulty in recruiting social workers would be exacerbated by the broad definition of the practice of social work. These testifiers indicated that individuals may qualify for social worker positions in the state civil service without holding academic degrees in social work. The Judiciary suggested that social workers employed by State government be exempted from the licensing requirement.

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 undergo sunset review and be repealed as of December 31, 1992, unless extended by the Legislature.

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 S.B. No. 424, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 424, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Shon.

SCRep. 1264 Consumer Protection and Commerce on S.B. No. 269

The purpose of this bill is to eliminate the add-on of tax to the purchase price of goods or services.

This bill would make it a deceptive trade practice for a person, in the course of that individual's business, to "[add] any additional charge to the list or posted price of goods or services, including any charge added pursuant to a representation that the charge constitutes the collection of a state tax."

Under current law, the general excise tax ("GET") is imposed on retail sales at the rate of 4 percent of gross receipts. Many merchants are passing on to purchasers an amount equal to 4.17 percent and are calling this amount "sales tax". Transactions subject to the transient accommodations tax may be passed on at a rate of 5.25 percent or 5.26 percent, although the tax on the provider is 5 percent.

The Director of Taxation testified that the Department of Taxation does not oppose this bill, although he submitted that the bill as drafted is not the answer to this problem.

The Department of Commerce and Consumer Affairs ("DCCA") submitted that when GET was deductible on federal income tax returns, it may have been advantageous to the consumer to have it separately stated from the purchase price of goods and services. DCCA added, however, that since the deduction has been repealed, there is no longer any reason to allow a merchant to separately state the GET. DCCA noted that this bill would end inconsistent practices by merchants who add varying amounts of "tax" to customer purchases. DCCA suggested that the language of the proposed amendment be narrowed.

The Department of Business and Economic Development testified in opposition to this bill, noting its broad ramifications on normal trade practices involving add-ons including service charges, freight and shipping charges, and commissions. Additional testimony in opposition to this bill was received from the Tax Foundation of Hawaii, the Chamber of Commerce of Hawaii, the Hawaii Island Chamber of Commerce, the Hawaii State Bar Association, and a

number of other trade and professional organizations, and private businesses. The Retail Merchants of Hawaii noted that the bill would require massive repricing of merchandise.

Your Committee supports the limitation of the rate of "tax" added at the point of sale, to the stated tax rate in Chapter 237, Hawaii Revised Statutes. However, it believes that the language proposed by this bill is overly broad.

Your Committee has added language to page 2, beginning on line 7 of the bill to clarify that it is a deceptive trade practice to add any additional charge "of more than 4.167 per cent" to the list or posted price of goods or services, or "more than 5.256 percent as a transient accommodations tax."

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 269, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 269, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 1265 Consumer Protection and Commerce on S.B. No. 1230

The purpose of this bill is to provide further regulation of the motor vehicle repair industry.

This bill would promote public confidence in the industry, and would change existing regulation, by:

- (1) Extending the administration of the certification program to all neighbor islands;
- (2) Providing greater flexibility in the fee structure for motor vehicle repair dealers and mechanics;
- (3) Providing that the certification exam for motor vehicle mechanics shall include both a written test and a performance test of motor vehicle mechanics, and a nonrefundable fee of \$30 per category tested;
- (4) Allowing the written portion of the test to be given orally;
- (5) Requiring all motor vehicle mechanic apprentices/trainees and motor vehicle helpers to register with the Motor Vehicle Repair Industry Board;
- (6) Requiring all motor vehicle mechanic apprentices/trainees and motor vehicle helpers to be assigned to, and to be the responsibility of, a certified motor vehicle mechanic;
- (7) Requiring that each registered and certified mechanic be assigned no more than five apprentices/trainees or helpers;
- (8) Requiring that each unregistered and certified motor vehicle mechanic be assigned not more than two apprentices/trainees or helpers; and
- (9) Allowing a motor vehicle repair dealer ten days to replace a terminated mechanic who has been assigned mechanic apprentices/trainees or helpers, in order to reassign the apprentices/trainees or helpers.

The effective date of the bill would be July 1, 1989, provided that rules adopted pursuant to this bill would take effect after December 31, 1989.

Your Committee heard testimony on this bill from the Motor Vehicle Repair Industry Board. The Board opposed registration of apprentices/trainees and helpers as proposed by this bill, because the registrant would not be required to meet any minimum level of competency. It submitted that the current application and licensure fee schedule is adequate. It opposed the reestablishment of a performance test, on the grounds that it would still create hardship on neighbor island mechanics, which was the purported reason that the requirement was originally eliminated. The Board supported in principle, a limitation on the number of apprentices/trainees or helpers assigned to a licensed mechanic.

The Chancellor for Community Colleges of the University of Hawaii submitted testimony in opposition to the registration of motor vehicle apprentices and trainees. Currently, all apprentices are registered with the Apprenticeship Division of the State Department of Labor and Industrial Relations. It was suggested that registration be restricted to those individuals actually employed in jobs which fall within the scope of the current mechanics certification legislation.

The Society of Collision Repair Specialists testified that all persons involved with the diagnosis or repair of motor vehicles should be licensed or supervised by licensed mechanics, in order to protect the consumer. It submitted that the performance exam should be retained. Both the Society and the the Automotive Body and Painting Association recommended that the ten day period for replacing a supervising mechanic should be extended to a more reasonable period of thirty days.

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

- (1) Deleted Sections 1, 2 and 3 of the bill;
- (2) Changed the supervisory requirements, such that a registered or certified motor vehicle mechanic shall be assigned no more than a total of five apprentices/trainees and helpers; and

- (3) Allowed a motor vehicle repair dealer thirty days, rather than ten days, to replace a supervising mechanic who has been terminated.

Your Committee has also deleted the portion of the bill concerning the effective date of rules adopted pursuant to this bill, as it is no longer applicable.

Technical, nonsubstantive amendments have also been made to the bill for the purpose of style and clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1230, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1230, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Shon.

SCRep. 1266 Consumer Protection and Commerce on S.B. No. 1427

The purpose of this bill is to amend Section 269-16, Hawaii Revised Statutes, to require the Public Utilities Commission's appearance in an appeal from its order, only in cases in which there was no adverse party in the case below, or where there is no adverse party to the appeal.

Currently, Section 269-16, Hawaii Revised Statutes states that the Commission shall be a party to all matters from which an order of the Commission is appealed.

The Chairman of the Public Utilities Commission ("PUC") indicated that he had no opposition to the bill. The Department of Consumer Affairs' Consumer Advocate testified in support of this bill.

Your Committee has amended this bill by adding several new sections which incorporate Sections 2 and 3 of H.B. No. 1666, H.D. 1, relating to public utilities. The amendments to this bill will appropriate \$150,000 out of the state general revenues to be expended by the Division of Consumer Advocacy, Department of Commerce and Consumer Affairs, for a comprehensive study of areas of consumer concern relating to local measured service in telecommunications, including the following:

- (1) The impacts on residential consumers' cost of telephone service and telephone calling patterns;
- (2) The impacts on public service agencies who utilize telephone communications to provide services;
- (3) The impacts on business cost of telephone service and telephone calling patterns;
- (4) The potential for repression of usage;
- (5) The potential alternatives to local measured service; and
- (6) Other effects of the implementation of local measured service on various subscriber groups.

Your Committee notes that House Concurrent Resolution No. 241 adopted by the 1988 Legislature urged caution and a studied approach toward local measured service. The resolution states that before local measured service is permitted, the benefits, effects and structure of, and alternatives to, such a pricing mechanism should be carefully studied. Your Committee believes that a study of local measured service which includes the foregoing areas of consumer concern would provide a useful counter-balance to the viewpoint of the telephone company. The appropriation for this study is supported by the Consumer Advocate. While the amendment to this bill would ordinarily require the bill to be referred to the Committee on Finance, your Committee understands that the Committee on Finance has waived referral on this measure since it had already approved the appropriation in H.B. No. 1661, H.D. 1.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1427, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1427, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 1267 Judiciary on S.B. No. 1914

The purpose of this bill is to repeal Chapter 342, Hawaii Revised Statutes, relating to environmental quality, and enact seven new chapters on air pollution, water pollution, noise pollution, solid waste pollution, hazardous waste, underground storage tanks, and used oil transport, recycling, and disposal.

These chapters establish permit procedures, provide for monitoring and enforcement of regulations, allow for inspection of sites and investigation of complaints, provide for research, educational and training programs to prevent, control and abate pollution, and establish penalties and public participation requirements.

Your Committee received testimony in favor of this measure from the Department of Health and the American lung association of Hawaii.

Upon further consideration, your Committee has amended this bill as recommended by the testifiers. Specifically, the amendments include:

- (1) Mandating that the open burning control rules shall be enforced by any duly authorized officer or employee of the Department of Health rather than police officers;
- (2) Adding a definition of "individual wastewater system" to the chapter concerning water pollution;
- (3) Specifying that grants and loans made for the construction of necessary water treatment works and other projects intended for wastewater reclamation or waste management by other than conventional means must include reasonable assurances that the applicant will provide proper and efficient operation and maintenance of the treatment works after its construction;
- (4) Amending the definition of "solid waste" in the chapter on hazardous waste to conform it to Federal law;
- (5) Removing the requirement that the Director of Health promote the optimum balance between economic development and environmental quality in the determination of public interest in hazardous waste control;
- (6) Amending the penalty provision of the chapter on hazardous waste to conform it to Federal law; and
- (7) Clarifying that the Department of Health need not hold a public hearing for every corrective action plan approval made in response to a release from an underground storage tank.

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

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1914, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1914, S.D. 1, H.D. 1.

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

SCRep. 1268 Judiciary on S.B. No. 621

The purpose of this bill is to provide for injunctive relief and damages caused by the misappropriation of a trade secret, which is basically information of a commercial value.

Your Committee received testimony in support of this measure from a professor of law of the William S. Richardson School of Law, a representative from the Hawaii Commission for the Promulgation of Uniform State Laws, and the High Technology Development Corporation.

This bill would provide a framework for legal protection of trade secrets, which can include both technical and financial information that a business firm treats as proprietary. If a competitor wrongfully acquires a firm's trade secrets, this bill would give the injured firm a remedy in civil court.

Upon further consideration, your Committee has amended the bill on page 3, § -3(b). This section allows a court, in "exceptional circumstances," to award an injured trade secret owner a "reasonable royalty" instead of injunctive relief. This provision, as is, might undermine the general rule that a trade secret owner is entitled to prevent use of a misappropriated secret. To avoid this result, your Committee has amended this section so that the alleged wrongful user bears the burden of proof of "exceptional circumstances." This amendment is intended to place the burden of proving that "exceptional circumstances" exist upon any party asking to be allowed continued use of a misappropriated trade secret. Your Committee intends that, subject to the usual principles of equity, injunctive relief will be the general rule in cases of trade secret misappropriation. Courts should allow continued use of misappropriated trade secrets only in extraordinary cases.

In addition, whether the facts proven justify continuing use is a question of law. Your Committee intends that this question be fully reviewable upon appeal, and not subject to the "abuse of discretion" standard used for reviewing other aspects of injunctive relief.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 621, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 621, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1269 Judiciary on S.B. No. 68

The purpose of this bill is to amend the schedule for district court costs to streamline the collection process.

Currently, many small fees are required. This bill will provide for the increase in the amount of some fees and eliminate other fees, thus reducing the amount of time spent on the fee collection process.

Your Committee received testimony in favor of this measure from the Administrative Director of the Courts.

Upon further consideration, your Committee has amended the measure by including therein a new section 4 which would provide that a court shall award a landowner reasonable attorney's fee, cost and expenses incurred by the landowner in successfully protecting the incidental rights of land ownership. Such incidental rights would include the

right to be free from any encroachment by landowners of adjacent lands, and the right to lateral and subjacent support of land by adjacent lands.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 68, as amended herein, and recommends that it pass Second Reading and be placed on the calendar for Third Reading in the form attached hereto as S.B. No. 68, H.D. 1.

Signed by all members of the Committee.

SCRep. 1270 Judiciary on S.B. No. 754

The purpose of this bill is to amend Section 84-15, Hawaii Revised Statutes, to raise from \$1,000 to \$4,000 the threshold amount for generally requiring a competitive bidding process for State agency contracts with legislators, employees, or businesses in which a legislator or an employee has a controlling interest.

Your Committee received testimony in support of this measure from the State Ethics Commission.

Your Committee has made technical, non-substantive amendments for purposes of style and clarity.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 754, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 754, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1271 Judiciary on S.B. No. 757

The purpose of this bill is to change the period within which the State Ethics Commission may initiate an investigation or file charges for alleged violations of the Ethics Code by a legislator, employee, former legislator, or former employee, from one year after termination of employment to within three years of an alleged violation. The bill simultaneously changes the statute of limitations for a State suit resulting from a commission determination of misconduct to one year from the date of the determination.

Your Committee received testimony in support of this measure from the State Ethics Commission, which testified that the current law does not give the Commission the power to proceed with charges initiated after one year after a state employee or official terminates state employment or service. Your Committee finds that this has created difficulty for the Commission in pursuing some cases, as the Commission may not learn of a violation immediately, even if the violation occurred within one year after termination.

Your Committee also received testimony from Common Cause Hawaii in support of this bill.

Your Committee has made technical, 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. 757, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 757, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1272 Judiciary on S.B. No. 1154

The purpose of this bill is to stiffen the penalties for the promotion of marijuana and other controlled substances by: (1) reducing the amount of marijuana and schedule V substances necessary to prove the offenses of Sections 712-1247, 712-1248, and 712-1249.5, Hawaii Revised Statutes; (2) creating a class "A" marijuana felony offense, designated as "commercial promotion of marijuana in the first degree"; (3) making the distribution of marijuana or a schedule V substance in any amount to a minor a class A felony; and (4) making the use of a weapon or other specified dangerous item to prevent the theft removal, search and seizure, or destruction of marijuana a class A felony.

This bill also contains provisions relating to the custody, photographing, inventorying, and weighing of marijuana seized as evidence.

Your Committee received testimony in support of this measure from the Coalition of Law Enforcement Agencies comprising the State Attorney General and the Prosecuting Attorneys and the Police Chiefs of the various Counties, which indicated that the drug problem in Hawaii has become epidemic. During a nationwide marijuana eradication program, Hawaii accounted for twenty-five percent 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 S.B. No. 1154, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1154, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1273 Judiciary on S.B. No. 2001

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 need for probate or guardianship 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 Act by signing a simple statement to the effect that the property is being placed in trust in accordance with the provisions of the Act. 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, the appointed trustee continues 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 finds that this bill would help to ease the anxiety of those preparing for the event of personal incapacity or death. This bill provides the vehicle for that preparation and safeguards control over an individual's properties while that individual is able.

Upon further consideration, your Committee has amended the bill by substituting the term "guardian of the property" for "conservator." 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 has also amended the bill to correct certain typographic, technical, and stylistic errors.

Your Committee received testimony in support of this measure from the Commissioner of the Commission to Promote Uniform Legislation, who also expressed approval of substituting "guardian of the property" for the archaic term, "conservator."

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

Signed by all members of the Committee.

SCRep. 1274 Judiciary on S.B. No. 671

The purpose of this bill is to authorize any police officer or agent of the Department of Land and Natural Resources to conduct searches, on probable cause, and to seize any equipment, article, instrument, aircraft, vehicle, vessel, business records, or natural resources used or taken in violation of the law on historic preservation or conservation and resources.

Your Committee has substantially amended this bill to provide for a better coordinated shoreline and ocean waters enforcement program with regard to recreational activities. As amended, the bill would transfer the marine patrol program from the Department of Transportation to the Department of Land and Natural Resources.

Your Committee finds that transferring the marine patrol program from the Department of Transportation to the Department of Land and Natural Resources will result in a more coordinated and better enforcement effort of all regulations of ocean activities. The latter department presently has the manpower, equipment, training, knowledge and years of experience in how to protect Hawaii natural resources as well as protecting Hawaii's citizens who enjoy ocean related activities.

Activities involving natural resources connect the activity with the resource in a cause and effect relationship. The enforcement of regulations of ocean activities should thus include the enforcement of rules that protect the ocean resource.

Your Committee finds that as our population grows and ocean activities become more popular with our residents and visitors, the need for effective enforcement is paramount.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 671, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 671, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 1275 Judiciary on S.B. No. 1197

The purpose of this bill is to prohibit a range of activities involving anabolic steroids, including possession without prescription, possession for sale, improper prescription, sale, transportation, or manufacture.

Your Committee finds that illicit steroids are presently being distributed and used in our State and the problem will escalate if we continue to ignore it. Current estimates show that nationally, anabolic steroid black market transactions were valued at one hundred million dollars in 1986 and are presently grossing from four hundred to five hundred million dollars annually. Moreover, steroids have been linked to a host of adverse reactions as well as to liver damage, heart disease, possible liver and prostate cancer, hepatitis, hypertension, addiction, and aggressive behavior. Your Committee finds that this bill will assist law enforcement agencies in combating this problem, encourage caution on the part of the medical community in their prescription practices, and reduce the likelihood of illegal procurement through nonmedical means.

Your Committee received favorable testimony from the Narcotics Enforcement Division of the Attorney General's Office, the Department of Health, the Public Defender's Office, the Honolulu Police Department, the John A. Burns School of Medicine, and the Hawaii Cattleman's Council.

Your Committee has amended the measure to:

- (1) Clarify and more specifically define "anabolic steroids" to include in addition to the enumerated compounds, any other drug which has a similar effect on a person's physiological system;
- (2) Exempt from the provisions of this Act, those anabolic steroids that are expressly intended for administration through implants to cattle and other nonhuman species and that are approved by the Food and Drug Administration for such use;
- (3) Provide a "knowing" state of mind as an element to the criminal offense;
- (4) Delete the "transport" provision in the bill.
Your Committee finds that "to transport" would encompass virtually any conduct where a person was discovered outside of a home in possession of steroids. Similarly, "import into this state" is deleted, since these two provisions would provide an enhanced punishment solely based on the location of the arrest;
- (5) Rework other provisions in the "anabolic steroids; penalties" section; and
- (6) Make other technical and nonsubstantive amendments to comport with style and clarity.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1197, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1197, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 1276 Judiciary on S.B. No. 755

The purpose of this bill is to allow the State Ethics Commission to serve a "charge and further statement of alleged violations" of the Ethics Code by publication in the event the the Commission cannot locate an individual to effectuate personal service as the current law requires.

Your Committee agrees that in certain instances, there may be purposeful avoidance of personal service by some in order to thwart the Commission from proceeding further with a pending case. The bill, as received, would allow the Commission to effectuate notice by publication without procedural safeguards that ensure that all diligent efforts have been made before publication is resorted to. Your Committee therefore has amended the bill to require the Commission to obtain a court order allowing service by publication before doing so. An affidavit would need to be submitted to the court outlining the steps the Commission had taken in its attempt to serve the charge or complaint by personal service or by registered mail.

Your Committee received testimony in support of this measure from the State Ethics Commission and Common Cause Hawaii.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 755, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 755, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 1277 Judiciary on S.B. No. 3

The purpose of this bill is to provide for eventual public access to restricted records that were transferred to the State Archives.

As received by your Committee, the bill would vest title to such records with the State Archives and remove restrictions on access to those records seventy-five years after the creation of the record.

Your Committee received testimony in support of this measure from the Department of Accounting and General Services and the Office of Information Practices.

While your Committee finds that a time limitation on the confidentiality of archival records should be established, we are concerned that the seventy-five years proposed in this measure may not be sufficient. In particular, we are troubled by the possibility that a person with a legitimate privacy interest which certain archival records might reference, may still be living seventy-five years after the records are created. This is a distinct possibility given the fact that the longevity of our citizens continues to increase. Accordingly, your Committee has amended this bill after consulting both the State Archives and the Office of Information Practices. As amended, this bill would increase the seventy-five year restriction on access to eighty years.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 3, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 3, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 1278 Judiciary on S.B. No. 764

The purpose of this bill is to make the provisions of the Hawaii Tort Reform Act of 1986 permanent.

A special session of the Legislature was called in 1986, for the purpose of enacting tort reform statutes. Several of the provisions enacted were set to automatically repeal on October 1, 1989 unless the Legislature extended them. This bill seeks to strike the sunset clause and make the tort reform act permanent.

Your Committee has amended this bill by extending the provisions of the Hawaii Tort Reform Act of 1986 for 2 years as opposed to making the act permanent.

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 also amended this bill to provide for the continuance of insurance rate reductions and clarifies 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 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 on Judiciary is in accord with the intent and purpose of S.B. No. 764, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 764, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 1279 Judiciary on S.B. No. 34

The purpose of this bill is to clarify the campaign contribution reporting law to specify the reporting periods within which cumulative contributions in excess of \$100 must be aggregated and reported for public disclosure.

Under this measure, the reporting period would begin on January 1 of the year preceding a primary, special primary, and special election. In the case of general election, said period would begin on the day after the last regularly scheduled primary election.

Your Committee notes that by establishing these accumulation periods statutorily, they will serve the purpose of determining whether a candidate had received the maximum allowable contributions.

Your Committee has made a technical, nonsubstantive amendment by replacing the period on page 2, line 12 of this bill with a semicolon, and has corrected a technical drafting error in the numbering of the sections of the bill.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 34, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 34, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1280 Judiciary on S.B. No. 12

The purpose of this bill is to repeal Section 157-16, Hawaii Revised Statutes, relating to divulging of information obtained pursuant to the Milk Control Act.

Current statutes allow the Board of Agriculture to inspect and investigate all places within the State where milk is being produced, sold, stored, processed, or containerized. The Board also is empowered to examine and audit the books and accounts of licensed producers, producer-distributors, and distributors. Under Section 157-16 the information obtained by any person pursuant to such investigations and inspections, and examinations or audits cannot be divulged except where necessary for enforcement purposes or if in the public interest.

Your Committee received testimony in support of this measure from the chairperson of the Board of Agriculture, and finds that Section 157-16 is not needed and the interest of confidentiality will be safeguarded by Act 262, Session Laws of Hawaii 1988. Specifically, your Committee finds that Section -14 of the Act pertaining to unwarranted invasion of personal privacy will ensure that confidentiality will be maintained. Moreover, any violation would be punishable as a misdemeanor at minimum in accordance with Section -17 of the Act.

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

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 12, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 12, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1281 Judiciary on S.B. No. 10

The purpose of this bill is to prohibit the sale of liquor-filled candies containing alcohol in excess of one-half of one per cent by weight to persons below the age of twenty-one.

Your Committee finds that while the liquor content of such confectionery is low, a limitation of its sale is still appropriate in light of the problem of alcohol abuse. This measure will serve to ensure that such products will not foster the alcohol problem.

Your Committee received supporting testimony from a law corporation in Honolulu which represents a local broker for the manufacturers of liquor-flavored and liquor-filled candies.

While we are in agreement with the intent of this bill, your Committee has amended the measure for purposes of style and clarity. As amended, the new statutory language prohibiting the sale of liquor candies will read: "the sale to a person below the age of twenty-one years of any food which is a confectionery which contains alcohol in excess of one-half of one per cent by weight." Your Committee has also amended the bill to correct technical drafting errors.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 10, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 10, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1282 Judiciary on S.B. No. 6

The purpose of this bill is to: (1) increase to \$25,000 the Attorney General's authority to settle cases without prior legislative approval; (2) provide the Comptroller with concurrent authority with the Attorney General to settle and pay informal tort claims against the State for \$10,000 or less; and (3) allow the Attorney General to settle cases for amounts over \$10,000 without the need to file a law suit and court approval.

Your Committee received testimony in support of this measure from the State Attorney General and the Department of Accounting and General Services.

Currently, the Attorney General may settle a claim without the necessity of court approval or the commencement of an action, but only where the amount is \$10,000 or less. This bill would allow the Attorney General to settle a claim over \$10,000 without prior court approval and without the need to commence legal actions, subject however to the condition that legislative review is required where the claim is for more than \$10,000.

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

- (1) Amending page 6, line 8, to replace "\$25,000" with "\$10,000" to reflect that the Comptroller should report to the Legislature regarding all claims settled for \$10,000 or less;
- (2) Amending page 7, lines 3 and 6, replacing the amount of "\$25,000" with "\$10,000" to reflect that the Attorney General's authority to settle claims ought to be concurrent with that of the Comptroller in that both should be able to settle a claim for amounts up to \$10,000 and that claims with amounts over \$10,000 ought to be reviewed by the Legislature before funds are appropriated to pay those claims; and
- (3) Adding a new section to the bill which unequivocally states that this bill does not and shall not be construed to change the extent of the State's sovereign immunity.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 6, S.D. 2, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 6, S.D. 2, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1283 Judiciary on S.B. No. 1144

The purpose of this bill is to require that seventy-five per cent of mandatory minimum terms of imprisonment be completed before a person can be released into the community for furlough, conditional release, residential treatment or other similar programs.

Your Committee has substantially amended this measure by incorporating instead a restructured property crime sentencing scheme to address the direct relationship between the commission of this type of crime and drugs.

It is well recognized that a significant number of property offenses can be traced to drug or alcohol abuse. Persons who are substance abusers have a high propensity for recidivism if the problem is left untreated. As amended, this bill would grant the court discretion to place a defendant found guilty of a property offense on probation but mandates, as a condition of probation, that the defendant undergo treatment for drugs or alcohol dependency until clinically discharged.

The failure to comply with all terms of probation thus imposed would result in the revocation of probation and the sentencing of the defendant.

Your Committee finds that this bill, as amended, would provide a realistic and workable long-range solution to prevent and address the problem of criminal offenses which are predicated upon drug and alcohol dependency.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1144, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1144, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 1284 Judiciary on S.B. No. 846 (Majority)

The purpose of this bill is to make clear that the rights of freedom of expression and freedom of speech, and the right to peaceably assemble shall not be abridged with respect to public school students.

In addition to protecting the foregoing rights, this bill provides that student expression and student publications will not be deemed to be expressions of school policy, and school officials will not be held responsible in any civil or criminal action for a student's lawful exercise of his or her rights.

Your Committee heard testimony in support of this measure from the Department of Education and a teacher of a private school on Oahu. This testimony indicated that currently, the Department of Education's internal policy provisions recognize the rights of students in public schools to have the personal and academic freedom guaranteed to them as citizens. The intent of this bill is to statutorily express State policy relating to the rights of public school students to freedom of expression.

Your Committee notes that this bill is not a carte blanche grant of an absolute right of public school students to say whatever they wish where such expressions may be characterized as slanderous or libelous. Your Committee further notes that parents of unmarried minor children are jointly and severally liable in damages for the tortious acts committed by their children pursuant to section 577-3, Hawaii Revised Statutes. The privileges of freedom must always be tempered by an inherent sense of obligation and responsibility. Your Committee has confidence in the family's ability to instill in children these responsibilities as well as the precious values we enjoy in this Nation with regard to freedom of expression.

Your Committee has amended this bill for the sake of clarity and style.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 846, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 846, S.D. 1, 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. 1285 Judiciary on S.B. No. 740

The purpose of this bill is to clarify when a conviction has occurred by adding a definition of "conviction" to Section 706-625, Hawaii Revised Statutes.

Section 706-625, Hawaii Revised Statutes, deals with revocation and modification of probation conditions. The bill provides that for the purposes of this section, "conviction" means that a judgment has been pronounced upon the verdict. The wording of the statutory definition incorporates language used by the Hawaii Supreme Court in State v. Rodrigues, 68 Hawaii 125 (1985).

A representative from the Judiciary submitted testimony in support of this bill. Testimony indicated that the present practice in the First Circuit Court is to use the definition as found in State v. Rodrigues, 68 Hawaii 125 (1985).

Your Committee also heard testimony that the language contained in S.B. No. 1061, S.D. 1, which relates to bail sureties, be added to this bill.

Your Committee has amended this bill to include the language of S.B. No. 1061, S.D. 1.

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

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 740, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 740, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1286 Judiciary on S.B. No. 700

The purpose of this bill is to provide an exemption from the law prohibiting excessive noise for recognized school activities.

As received by your Committee, this measure would define "school activity" and provide an exemption where noise is generated by such activities when they are approved by school authorities.

Your Committee has amended the bill to specify that "school activity" means a school function for students up through the twelfth grade which is approved by school authorities, and which takes place between the hours of 7:00 A.M. and 10:00 P.M.

Your Committee received testimony in support of the measure from the Superintendent of Education and the Department of Health, and finds that the exemption provided by this bill, as amended, will promote greater participation in school activities, which will solidify the bond between schools, students, parents, and faculty.

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

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 700, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 700, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1287 Judiciary on S.B. No. 311

The purpose of this bill is to provide guidelines for the disposition of financial disclosure statements on file with the State Ethics Commission.

Your Committee received testimony in favor of this bill from a representative of the Commission. This testimony indicated that at the present time, statements dating back over twenty years are maintained by the Commission. This testimony also indicated that old statements are of little value.

State ethics laws pertaining to former state officials and employees are currently applicable for only up to two years after the termination of service. Accordingly, this bill provides that statements be maintained during the filer's term of office and for three years thereafter. This bill also provides that statements will cease to be public records after the three-year period has expired and that the Commission shall afford filers a reasonable opportunity to request the return of statements after the three-year period has expired. The three year limit would not apply to statements which are part of a charge case, advisory opinion request, or ongoing investigation.

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

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 311, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 311, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1288 Judiciary on S.B. No. 1799

The purpose of this bill is to modify the Uniform Information Practices Act (Modified), to ensure its smooth implementation when it takes effect on July 1, 1989.

Your Committee finds that the measure as received, is too restrictive and limited in its scope. Therefore, the bill has been amended in furtherance of the intent and purpose of this measure.

As amended, this bill would provide for substantive and procedural changes to the new Uniform Information Practices Act (Modified), Chapter 92F, Hawaii Revised Statutes, to better reflect the legislative intent and to ensure the smooth implementation of the Act, which took effect on June 9, 1988.

The amended bill would describe that a person aggrieved by a denial of access to a government record or an individual aggrieved by denial of access to the individual's personal record, may appeal to the Office of Information Practices or directly and immediately to court. This clarification reflects the legislative intent in Conference Committee Report No. 235 on H.B. No. 2002, Fourteenth Legislature. The amended bill makes more consistent with each other the appeal procedures for access denied to individuals as to their own personal records, under part III of Chapter 92F and for access denied as to government records about others, under part II of Chapter 92F. The bill emphasizes that an exhaustion of administrative remedies is not required before appealing to Circuit Court a denial of access to government records.

The amended bill also provides that administrative review by the Office of Information Practices on an agency denial of access to information or records, or an agency's granting of access, is not a contested case under Chapter 91, Hawaii Revised Statutes. This provision is necessary to comply with the legislative intent behind Chapter 92F, that review by the Office of Information Practices be expeditious, informal, and at no cost to the public. The review is optional in nature and anyone aggrieved by a denial of access to a government record, under either part II or III of Chapter 92F, may appeal immediately to court for a full evidentiary hearing. An explicit statutory exemption from the contested case will serve to avoid future challenges to the administrative procedures of the Office of Information Practices for failure to have contested case hearings.

The amended bill also sets a time limitation of ninety days within which a person can bring a civil action to compel disclosure of a government record after denial of a request for disclosure. For consistency, the bill also sets a ninety-day limitation for civil actions by individuals denied access to their own personal records, in place of the two-year limitation previously designated. A ninety-day time limitation also applies to the filing of an appeal to the Office of Information Practices concerning denial of access to a government record.

Furthermore, the amended bill clarifies the rule making authority of the Office of Information Practices and also instructs the Office of Information Practices to adopt rules pertaining to the disclosure of records for research purposes. The bill also clarifies that the placement of the Office of Information Practices within the Department of the Attorney General is strictly for administrative purposes. This is to emphasize the legislature's intent that the Office shall operate independently. The bill also authorizes the Office of Information Practices to recommend criminal prosecution.

Your Committee has amended the bill to codify a schedule for the progressive completion by all agencies of their respective public records reports required under Chapter 92F. The bill had provided that the agencies file their public record reports on or before July 1, 1991, in accordance with a schedule developed by the Office of Information Practices. However, your Committee believes that a statutory schedule may more strongly encourage agencies to complete their records report in a timely manner in order to meet the July 1, 1991 deadline.

In passing, your Committee wishes to state explicitly that the intent of this bill is to expedite and make uniform the process relating to disclosure of government records. As such, we emphasize that while a person has a right to appeal to the courts from a denial of access to records, a government agency dissatisfied with a ruling by the Office of Information Practice does not have the right to appeal to the courts. The legislative intent for expediency and uniformity would be frustrated by agencies suing each other. Secondly, your Committee wishes to stress that this measure, as amended, would empower the OIP to adopt rules, which the various agencies shall adhere to, in order to ensure uniformity among all the agencies. Your Committee intends by this amendment to have uniform standards promulgated by the OIP and which would obviate the need for all agencies to hold separate administrative hearings on rule adoption. Lastly, the measure as

received had required each agency to supplement its public reports biennially. The amended bill would require an annual report.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1799, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1799, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 1289 Judiciary on S.B. No. 751

The purpose of this bill is to amend Section 84-17, Hawaii Revised Statutes, to (1) add the State Librarian, Deputy State Librarian, the Administrator and Assistant Administrator of the Office of Hawaiian Affairs, and the Assistant Vice President of the University of Hawaii to the list of persons who must file public financial disclosure statements; (2) require that the disclosure statements filed by the foregoing persons as well as the disclosure statements filed by the Administrative Director and the Deputy Director of the courts be public records; and (3) require that those disclosure statements which are public records under Section 84-17(d) be made available for duplication in addition to inspection.

Your Committee received testimony in support of this bill from Common Cause Hawaii, the University of Hawaii, the State Ethics Commission, and the Administrative Director of the Courts.

Upon further consideration, your Committee has amended the bill to add the provosts of the University of Hawaii to the list of persons whose financial statements shall be public records under Section 84-17(d).

The bill has also been amended to correct drafting and other non-substantive errors.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 751, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 751, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 1290 Judiciary on S.B. No. 1788

The purpose of this bill is to allow the Director of Health, through administrative rules, to establish fees to be collected by marriage license agents.

Your Committee received testimony in favor of this measure from numerous Marriage License Agents and finds from the testimony that there is a need to increase the fee charged for issuance of marriage licenses. It appears that at a 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 a fee increase should be allowed.

Your Committee has amended this measure in order to accomplish the stated purpose. Instead of requiring the Director of Health to resort to administrative rules to set a fee schedule, your Committee has simply doubled the statutory amount from \$8 to \$16, and provided in the bill that of the \$16 the agents shall retain not \$4, but \$8 per marriage license and remit the remainder to the Director of Finance.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1788, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1788, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 1291 Judiciary on S.B. No. 914

The purpose of this bill is to add quality assurance committees to the protection against discovery provided by Section 624-25.5, Hawaii Revised Statutes.

Your Committee received testimony in support of the bill from physicians, clinics, hospitals, and members of quality assurance committees. On the other hand, your Committee was advised by persons representing the plaintiffs' bar that this section has been abused to keep injured persons from discovering the extent to which a hospital or clinic was aware of the problem which caused the injury.

The reason for granting some protection from discovery for hospital and clinic quality assurance committees is to allow these committees to conduct meaningful evaluation of health care provided by the institutions. But it is equally important not to grant a blanket prohibition against discovery.

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 his or her 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. Complete elimination of quality assurance materials from discovery would severely curtail the rights of injured parties.

The amended language in this bill is the result of discussions among all interested parties. The parties believe that the proposed language addresses objections to protections from discovery for incident reports and factual information and determinations, as opposed to opinions, while still granting protection for the activities of these committees.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 914, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 914, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 1292 Judiciary on S.B. No. 1476

The purpose of this bill is to provide incentives for effective medical peer review by enabling 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 place the Hawaii Health Care Quality Act of 1989, which protects peer review committees from discovery.

Your Committee finds that this bill will promote a more effective peer review process. The immunity provision will encourage greater candor and cooperation by participants who might not otherwise come forward without this protection.

The bill has been amended to express the intent of the Legislature that federal antitrust protection will not be lost by opting out of the federal legislation and enacting the Hawaii Health Care Quality Improvement Act. This amendment is not intended to cause the loss of immunity to damages from federal antitrust suits since the State is opting out of subsection (a), and not part A, of the federal law.

This amendment is warranted in view of the benefits the State will receive by having its own Health Care Quality Improvement Act, which would be subject to state control rather than federal control issuing from Washington, D.C.

Your Committee received favorable testimony from the Department of Commerce and Consumer Affairs, the Department of Health, the Legislative Center, the Coalition for Tort Reform, and other interested parties.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1476, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1476, S.D. 2, H.D. 2.

Signed by all members of the Committee.

SCRep. 1293 Judiciary on S.B. No. 1842

The purpose of this bill is to amend Section 831-3.1, Hawaii Revised Statutes, to change the hearing procedure presently required when making a determination of whether a person may be denied public employment based on his or her criminal conviction record.

Section 831-3.1, Hawaii Revised Statutes, currently states that an applicant may be denied employment based on conviction for particular types of penal offenses only after a determination has been made, in accordance with the provisions of chapter 91, that the applicant has not been sufficiently rehabilitated to warrant public trust. This bill amends section 831-3.1 to allow the State to deny civil service employment to such an applicant after an appropriate investigation and hearing that need not comply with the requirements of chapter 91.

Your Committee received testimony in support of this measure from the Director of Personnel Services, the Department of Health, and the Administrative Director of the Courts. This testimony indicated that no risk of violation of due process rights would arise from the deletion of the chapter 91 conformance requirement because all denials of civil service employment are appealable to the Civil Service Commission which provides a hearing in full conformance with the provisions of chapter 91.

Your Committee concurs that the requirement of a chapter 91 investigation and hearing is unnecessary for civil service applicants since denial of civil service employment is appealable to the Civil Service Commission.

Additionally, this bill amends section 831-3.1 by providing that evidence of discharge from probation, or parole, or release from prison for two years without a subsequent conviction is merely one of the many factors to be considered in determining whether rehabilitation to warrant public trust has in fact occurred.

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

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1842, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1842, S.D. 1, H.D. 1.

Signed by all members of the Committee.

SCRep. 1294 Judiciary on S.B. No. 647

The purpose of this bill is to allow the Department of Corrections to conduct criminal history record checks for staff members or prospective staff members who are currently or are to be involved with the treatment and care of persons committed to the facility, and deny employment to those prospective employees convicted of a crime other than a minor traffic violation and whose record indicates that they pose a risk to inmates or other staff. The bill also specifies the circumstances under which staff members may be subject to termination based on their criminal records.

Your Committee heard testimony in support of this measure from the Office of the State Attorney General and the Department of Corrections. Your Committee finds that situations could arise where employees with criminal convictions who are in continual contact with inmates and wards could compromise the health, safety, security, and well-being of staff, inmates and wards.

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

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 647, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 647, H.D. 2.

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

SCRep. 1295 Judiciary on S.B. No. 1430

The purpose of this bill is to prohibit fishing with or possessing drift gill nets, which are large, monofilament gill nets (often forty feet or deeper and up to thirty miles in length), by any person within the State's Exclusive Economic Zone (EEZ).

As received by your Committee, this measure would:

- 1) Provide for a civil fine of \$50,000 on any person possessing a drift gill net on any vessel within the State's EEZ;
- 2) Provide for a civil fine of \$250,000 on any person fishing with a drift gill net within the State's EEZ;
- 3) Deny a vessel on which any violation of the fishing or possession prohibition described above has occurred and for which a conviction has been obtained, from access to or use of State harbor facilities or from fishing within the EEZ waters for a period of five years;
- 4) Prohibit anyone from accepting drift gill netted albacore at canneries or cold facilities within the State; and
- 5) Define "exclusive economic zone" to mean the same as in Section 228-3, Hawaii Revised Statutes.

Your Committee finds that Hawaii fishers do not use ocean drift gill nets; the principle abusers are fishers from Asia. The landing of fish and fish products by foreign fishing vessels is banned by the Federal Jones Act. Moreover, your Committee is cognizant that the Pelagic Fishery Management Plan of the Western Pacific Regional Fishery Management Council currently prohibits the use of drift gill nets by all fishing vessels in the Western Pacific EEZ including Hawaii. The Federal regulation is enforced by the National Marine Fisheries Service and the United States Coast Guard.

The proposed provisions regarding drift gill nets in this bill essentially overlap Federal regulations and extend State enforcement beyond territorial waters.

In chapter 228, relating to Ocean Resources Management, "exclusive economic zone" is defined as having "the meaning set forth in Presidential Proclamation 5030 issued March 10, 1983, whereby the United States proclaimed jurisdiction from the seaward boundary of the State out to two hundred nautical miles from the baseline from which the breadth of the territorial sea is measured."

Your Committee finds that within this EEZ, the State has concurrent jurisdiction with the Federal Government. For not only do the boundaries of our State include all those islands lying north of our main island chain, your Committee would note that Section 228-1(4), Hawaii Revised Statutes, provides that it is the policy of the State to "assert the interest of this State as a partner with federal agencies in the sound management of the ocean resources within the United States exclusive economic zone" (emphasis added).

Your Committee has amended this bill by inserting "drift gill nets" for "gill nets" wherever it appears in Section 1.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1430, S.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1430, S.D. 1, H.D. 1.

Signed by all members of the Committee.

SCRep. 1296 Judiciary on S.B. No. 1005

The purpose of this bill is to transfer the administration and enforcement of motor and other vehicle inspections from the Department of Transportation to the counties.

The bill, as received by your Committee, would amend Section 286-27, Hawaii Revised Statutes, pertaining to permits to operate official inspection stations, transferring that function to the Counties and requiring that the Counties be reimbursed for the costs incurred in providing these services.

Your Committee is cognizant that currently, the Department of Transportation lacks the necessary facilities and staff in each County to administer the Safety Inspection Programs. This measure would require the counties to discharge this responsibility with county personnel, facilities, and programs that are already in place.

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

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1005, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 1005, H.D. 2.

Signed by all members of the Committee.

SCRep. 1297 Judiciary and Planning, Energy and Environmental Protection 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.

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 heard testimony in favor of this bill from the State Department of Health, State Department of Transportation, the Hawaii Sugar Planters Association, Brewer Chemicals, and the Hawaii Transportation Association. Your Committee also received favorable testimony from the Construction Industry Legislative Organization which indicated that companies who transport explosives many times do not have more than 24 hours notice prior to the actual transport date, information relating to the quality and type of explosives being shipped.

Your Committees have amended the notice requirement by shortening the time period from 72 hours to 24 hours. Your Committees find that the heavy penalties imposed in this measure for violations of the advance notice provision are sufficient to discourage such violations.

Your Committees on Judiciary and Planning, Energy, and Environmental Protection are in accord with the intent and purpose of S.B. No. 1917, S.D. 1, H.D. 1, as amended herein, and recommend that it pass Third Reading in the form attached hereto as S.B. No. 1917, S.D. 1, H.D. 2.

Signed by all members of the Committees except Representatives Apo, Bunda, Cachola, Hashimoto, Honda, D. Ige, Kanoho, Lee, Peters, Anderson and O'Kieffe.

SCRep. 1298 Consumer Protection and Commerce on S.B. No. 1433

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.

Section 269-16.6, Hawaii Revised Statutes, requires the Public Utilities Commission ("PUC") to implement a program to achieve twenty-four-hour operator-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 would amend Section 269-16.6 as follows:

- (1) By deleting the rate filing directive;
- (2) By authorizing the PUC to investigate the availability of experienced providers of relay services for the deaf and hearing impaired;
- (3) By authorizing the PUC to enter into a contract or require telephone public utilities to contract with the provider under terms approved by the PUC, if it determines that the relay service can be provided in a cost effective manner by an experienced service provider. The bill also authorizes the PUC to consider any relay service offered by any telephone public utility providing local telephone service;
- (4) By deleting the disclaimer that Section 269-16.6 does not preclude the PUC from changing any rate established pursuant to subsection (a) thereof;
- (5) By requiring the PUC to establish a special needs advisory committee to advise it on the special communications needs of the deaf and hearing impaired, and to make related recommendations;
- (6) By authorizing the PUC to approve a surcharge on all telephone subscriber lines or equivalent to fund costs incurred to implement a relay system, to be separately identified on customer's bills as "special needs communications funds"; and
- (7) By extending the implementation date to September 1, 1989.

The Chairman of the Public Utilities Commission noted that a major difference between this bill and H.B. No. 1536, H.D. 1, is that the latter would require that the investigation of alternative and experienced providers be undertaken for implementation after an initial three-year period, during which time GTE Hawaiian Tel would provide relay services. The PUC noted that the House approach addresses the concern that equal access to telephone service be readily available to the deaf and hearing impaired without any delay, such as may be encountered under a competitive bidding process. The PUC Chairman advised your Committee that the PUC was prepared to implement the final decision of the Legislature.

A representative of the Department of Health testified in support of the intent of S.B. No. 1433, S.D. 1, to the extent it enhances the ability of the PUC to implement effective, statewide relay services. The Department prefers the July 1, 1989 implementation date contained in the House version of the bill.

AT&T submitted testimony in support of the bill, stating that it could economically implement high quality relay service to Hawaii by July 1, 1989, by utilizing its existing California relay service.

Testimony in opposition to this bill was received from representatives of the Commission on the Handicapped, the Hawaii Center for Independent Living, Hawaii Services on Deafness, the State Coordinating Council on Deafness, the Gallaudet University Center on Deafness, and a hearing-impaired Oahu resident. Objections included that the bill would delay implementation of service, that it treats relay services as a supplemental service rather than as a matter of equal access, and that bidding may result in inconsistent service.

The Hawaii State Association of Electrical Workers urged that both the providers of the relay service and the jobs created should remain in Hawaii. It supported the House version of the bill, which would allow GTE Hawaiian Tel to provide the relay service for three years.

A representative of GTE Hawaiian Tel testified concerning the preparation which the company has made to meet the Legislature's July 1, 1989 relay service implementation deadline.

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 generally conform it to the provisions of H.B. No. 1536, H.D. 1. The provider of relay services for the period beginning July 1, 1989 and ending June 30, 1992 has been changed from "GTE Hawaiian Tel", to "every telephone public utility providing local service", to overcome possible constitutional objections. Future contracts for relay service are to 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 S.B. No. 1433, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1433, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 1299 Consumer Protection and Commerce on S.B. No. 2038

The purpose of this bill is to amend the laws of the State relating to the issuance and renewal of motor vehicle industry licenses and the bonding of licensees.

Specifically, the bill proposes to:

- 1) Include motor vehicle auctioneers under the provisions regulating motor vehicle salespersons and dealers;
- 2) Require applicants for the issuance of a license to submit audited reports or a financial review, rather than financial statements, to the Motor Vehicle Industry Licensing Boards;
- 3) Repeal Section 437-17, Hawaii Revised Statutes, relating to the bonding of dealers;
- 4) Require applicants for a dealer's or auction's license to establish an inventory or flooring a line of credit from a financial institution in the amount of \$500,000 for new motor vehicle dealers and auctions, \$100,000 for used motor vehicle dealers, \$50,000 for new motorcycle and motor scooter dealers, and \$25,000 for used motorcycle and motor scooter dealers as a condition of licensing;
- 5) Require the applicant to provide the Board with a photocopy of the financing statement filed with the Bureau of Conveyances securing the flooring or inventory line of credit;
- 6) Require applicants for an auction license to provide a written proof of its customer trust account for the auction;
- 7) Require a dealer to provide the Motor Vehicle Industry Licensing Board with a copy of the lease or rental agreement for the business site, which lease or rental agreement shall run for a minimum of one year; and

- 8) Repeal the authority of the Motor Vehicle Industry Licensing Board to waive building requirements for used motor vehicle dealers.

Your Committee heard testimony in support of this bill from the Motor Vehicle Industry Licensing Board. The Board noted that it had recommended in its December 1988 report to the Legislature, that almost all bond requirements within the Board's jurisdiction be eliminated.

A representative of a local bonding company testified against this bill, submitting that the present statute requiring bonding is working well. It was added that bonds for licensees are in fact available, whereas many used car and motorcycle dealers will not qualify for the lines of credit contemplated by this bill.

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

- (1) Changed the inventory or flooring line of credit required of used motor vehicle dealer applicants from \$100,000 to \$50,000;
- (2) Added provisions concerning terms and conditions of the required bonds, the Board's discretion to reduce the amount of the bond, actions to recover on the bond;
- (3) Repealed Section 437-21, Hawaii Revised Statutes, relating to bonds of salesmen;
- (4) Repealed Section 437-21.1, Hawaii Revised Statutes, relating to bonds of a manufacturer, factory branch, factory representative, distributor branch, distributor representative, auction, and auctioneer;
- (5) Repealed Section 437-27.5, Hawaii Revised Statutes, relating to requirements to maintain licenses; and
- (6) Added a provision allowing licensees licensed prior to July 1, 1989, until January 1, 1992 to submit to the Board proof of compliance with the line of credit and the year-long lease requirements, as applicable.

Your Committee finds that this bill, as amended, establishes realistic licensing requirements for motor vehicle industry licensees which provide adequate protection for the consumer.

Your Committee has also made technical, nonsubstantive amendments to the bill to correct typographical errors, and to insert inadvertently deleted statutory material.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 2038, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 2038, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 1300 Consumer Protection and Commerce on S.B. No. 59 (Majority)

The purpose of this bill is to strengthen and clarify the provisions against discrimination in Chapter 515, Hawaii Revised Statutes, and to bring the law into conformity with recently enacted federal law.

This bill would amend Chapter 515, Hawaii Revised Statutes as follows:

- (1) Add to the definitions in Section 515-2, the new term, "familial relationship", which would be defined as "the existence or nonexistence of the state of being married by blood, marriage, or adoption;
- (2) Add familial relationship to the list of statuses which Section 515-3 protects against discriminatory real estate transactions;
- (3) Delete the provision that Section 515-3 does not apply to certain condominium and cooperative restrictions based on parental status, existing prior to April 19, 1984;
- (4) Clarify standards for a "reasonable restrictions" relating to housing for persons dependent upon guide and signal dogs;
- (5) Add marital status, parental status, HIV infection, and familial relationship to the list of statuses which Section 515-5 protects against discriminatory real estate financing assistance transactions; and
- (6) Add marital status, parental status, HIV infection, and familial relationship to the list of statuses which Section 515-6 protects against restrictive real property covenants and conditions.

The Department of Commerce and Consumer Affairs ("DCCA") testified in support of this bill. It stated that the amendments to Sections 515-5 and 515-6, Hawaii Revised Statutes, are for the purpose of conforming the protected statuses in those sections with the rest of Chapter 515 Hawaii Revised Statutes. DCCA testified that the bill's proposed deletion of the condominium and cooperative exemption from the prohibition against parental status based discrimination, would bring State law into conformity with recently enacted federal legislation. The clarification of "reasonable restrictions" relating to housing for persons dependent upon guide dogs and signal dogs would eliminate absolute prohibitions against such animals. DCCA also suggested that the purpose section of the bill be amended for completeness and accuracy.

Favorable testimony was also presented by the American Civil Liberties Union ("ACLU"), which noted that given the State's tight housing market, it is inappropriate to allow restrictions that place certain real property outside of the reach of many home buyers for factors unrelated to their financial ability to acquire the property. The ACLU suggested that rather than adding the additional protected category of "familial relationship" the definition of "marital status" could be amended.

The Commission on the Handicapped suggested that the term "physical handicap" used in the bill, be changed to "handicapped status" to conform with recent federal legislation. The Commission also suggested that the term for persons dependent upon guide and signal dogs be clarified, and that examples of the same be listed.

The Hawaii Association of Realtors also testified in support of this bill, which it submitted would bring the law into compliance with the Fair Housing Amendment Act of 1988 ("FHAA"). An officer and director of the the Diamond Head Apartments, Ltd., and a representative of the Sun Village - Kauai retirement community noted that this bill still does not conform to the FHAA and urged that the bill be conformed in order to exempt housing for the elderly.

The Association of Apartment Owners of Pacific Village opposed this bill on the grounds that it would bar the single family residential requirement which the Village currently enforces to maintain a family atmosphere.

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

- (1) Amended the purpose section of the bill for accuracy and completeness;
- (2) Conformed Section 515-3 to the FHAA by exempting "housing for older persons", as defined by the FHAA, from the prohibition against discrimination based on parental status;
- (3) Changed the chapter's references to the term "physical handicap", to "handicapped status";
- (4) Deleted the bill's references to "familial relationship", and inserted the definition of "marital status" as "the existence or nonexistence of the state of being related by blood, marriage, or adoption";
- (5) Added a nonexhaustive list of examples of reasonable restrictions relating to housing for persons dependent upon guide and signal dogs.

Your Committee believes that this bill, as amended, will help prevent certain discriminatory practices in the real estate market, and will bring the provision relating to housing for older persons into conformity with the FHAA. Your Committee intends for the provisions of this bill to apply to all real estate transactions specified by the bill, including transactions involving condominiums and property subject to Chapter 514A, not withstanding language in condominium bylaws forbidding pets.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 59, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 59, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 1301 Consumer Protection and Commerce on S.B. No. 417

The purpose of this bill is to require that residential leasehold property leases clearly state pertinent facts regarding the major provisions of the lease, such as the length of the lease, lease rent terms, lease rent renegotiation dates, how renegotiated lease rents will be calculated, and surrender clause provisions.

Your Committee received testimony from the Housing Finance and Development Corporation, the Real Estate Commission, the Hawaii Association of Realtors, and a number of lessor and lessees. This bill, as amended, is a result of a consensus of the above stated parties.

Your Committee has amended this bill as follows:

- Section 1: Section 467-14(13) has been amended so that violating any provisions of Chapter 516 and the new chapter relating to residential leasehold condominiums and cooperatives would constitute grounds for revocation and license suspension.
- Section 2: Section 514A-61, relating to disclosure requirements for condominium property regimes, has been amended to reflect that the disclosure requirements set forth in the new chapter shall also apply to this section.
- Section 3: A new section has been added to Chapter 516, relating to the disclosure of residential leases. This section requires that for any sale of residential leasehold property, the deposit, receipt, offer, and acceptance contract (DROA) or other similar contract must state that within five calendar days from offer and acceptance, the seller must provide to the buyer a recorded copy of the original lease and any amendments for the buyer's approval and acceptance. The buyer then has five calendar days to review and accept the terms of the lease. The buyer is required to acknowledge receipt through a signed receipt, a signed DROA or other contract, which shall include at least the following information: (i) a standardized summary of major provisions of the lease in plain language, such as the length of the lease, lease rent terms, lease rent renegotiation dates, how renegotiated lease rents

will be calculated, and surrender clause provisions; (ii) a standardized glossary of commonly used lease terms in plain language; and (iii); a statement that the buyer has read and understands the provisions of the lease document.

Section 4: A new chapter entitled "Residential Leasehold Condominiums and Cooperatives" has been added. This chapter applies to all lands on which are situated either residential condominium property regimes as created by 514A, Hawaii Revised Statutes, or cooperative housing corporations. (A) The residential lease disclosure must state that within five calendar days from offer and acceptance, the seller must provide to the buyer for the buyer's approval and acceptance a lease document which shall include the major provisions of the lease such as: (i) the length of the lease; (ii) lease rent terms; (iii) lease rent renegotiation dates; (iv) how renegotiated lease rents will be calculated; and (v) surrender clause provisions. The buyer then has five calendar days to review and accept the terms of the lease. (B) The buyer, upon resale of the unit, shall acknowledge receipt of lease documents through a signed receipt or a signed DROA or other contract which shall include: (i) a standardized summary of the major provisions of the lease in plain language; (ii) a standardized glossary of commonly used lease terms in plain language; (iii) a statement that there are currently no statutory provisions for mandatory conversion of leasehold condominiums and cooperatives, and that there are no assurances that such measures will be enacted in the future; and (iv) a statement that the buyer has read and understands the provisions of the lease document.

A new section relating to mandatory arbitration of renegotiated lease rents for condominiums has been added under this chapter. This section also states the arbitration procedures which apply no mandatory arbitration provision is contained in the residential lease.

Section 5: The effective date of the Act has been changed to January 1, 1990.

Your Committee finds that disclosing major provisions in leases is important and necessary to ensure that people make informed decisions when entering into lease contracts.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 417, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 417, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 1302 Consumer Protection and Commerce on S.B. No. 56

The purpose of this bill is to add a new section to the insurance laws, concerning the handling of premium waiver claims in the event of total disability of the named insured.

The subject of premium waiver claims was previously addressed by Act 250, SLH 1987.

This bill would permit the insured's "medical condition" to be diagnosed by a physician who is "acceptable to the insured." Once the insurer obtains the physician's report, the insurer will assess whether the insured's condition meets the policy definition of "total disability". In the event the insurer does not accept the initial physician's diagnosis or estimate of the period that the condition will last, the insurer may request that the insured be examined by an insurer-selected physician at the insurer's expense. It was represented to your Committee that insurers would not, as a matter of routine practice, require second opinions in every instance.

This bill also permits the insurer to require additional medical certification during the stated period of disability, at the insurer's expense and not more frequently than once every three years.

The Department of Commerce and Consumer Affairs, Insurance Division advised your Committee that it has no objections to this bill. Although this bill differs from Act 250, SLH 1987, the Insurance Division noted that it appears to clarify the waiver certification process and adequately protects the insured against insurer abuse of the process.

The Hawaii Association of Domestic Life Insurers suggested that a number of amendments be made to this bill. The Insurance Division stated that it has no objection to the amendments, which your Committee has adopted, as follows:

- (1) Changed the initial certifying physician from one who is "acceptable to the insured", to one who is "selected by the insured";
- (2) Required that the insured be examined by a second physician, if the insurer disputes the insured's physician's conclusions;
- (3) Added a provision that the insurer will accept the second physician's diagnosis and estimate of the period that the condition will last in order to determine total disability and waiver of premium benefits to be provided;
- (4) Added a provision allowing the insured to appeal to the Insurance Commissioner the insurer's decision regarding the total disability under the contract and the expected period it will last;
- (5) Clarified the provision for refund of premiums paid after the filing of an untimely claim; and

- (6) Changed the effective date of the Act to July 1, 1989 only if H.B. No. 1894 (which makes Act 250, Session Laws of Hawaii 1987, as part of the insurance code) in any form passed by the legislature, Regular Session of 1989, becomes an Act.

Your Committee has also deleted Section 1 of the bill, because of the questionable accuracy of its representation that Act 250, SLH 1987 has been repealed. Remaining sections of the bill have been renumbered.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 56, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 56, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 1303 Consumer Protection and Commerce on S.B. No. 1871

The purpose of this bill is to make numerous technical changes to the Insurance Code, including section reference and punctuation corrections, and the addition of sections or phrases inadvertently omitted during its recodification. The bill also amends several provisions pertaining to Medicare Supplement policies, which amendments are made pursuant to federal legislation.

Your Committee heard testimony on support of this bill from the Department of Commerce and Consumer Affairs, Insurance Division. The Division testified that a reporting requirement was originally part of the Patient Compensation Fund legislation which has since been repealed.

Your Committee finds that this bill is a housekeeping measure, and concurs with the recommendations for amendment to the Insurance Code set forth in S.B. No. 869, S.D. 1.

Your Committee has amended page one, line 11 to change "of" to "or" between the words "contract" and "membership" and on line 17 to replace "nor" with "or". Section 9 of the bill was amended by amending "Chapter 431" to "Chapter 432". Also, section references to "431" were changed to "432".

Section 24 of the bill was amended to replace language which was inadvertently left out.

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

Signed by all members of the Committee except Representatives Andrews, Cachola, Hayes, Peters, Yoshimura and Anderson.

SCRep. 1304 Consumer Protection and Commerce on S.B. No. 1374

The purpose of this bill is to propose various amendments to Chapter 514A, Hawaii Revised Statutes, relating to condominium property regimes, which amendments are summarized in Senate Standing Committee Report No. 574.

Your Committee heard testimony on this bill from the Real Estate Commission, the Housing Finance and Development Corporation, the Hawaii Association of Realtors, and various lessor and lessees groups as well as various financial associations.

Your Committee finds that several of the provisions in S.B. No. 1374, S.D. 1, reflect the substance of bills passed by the House and, accordingly, your Committee has amended S.B. No. 1374, S.D. 1, to reflect those House bills. Your Committee has amended S.B. 1374, S.D. 1, substantially to include the following provisions:

- Section 1: States that the director owes the association of apartment owners a fiduciary duty in the performance of the director's responsibility;
- Section 2: Permits 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 ordinances, rules, and regulations enacted by governmental authority;
- Section 3: Provides 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 and will also protect the rights of the owners of the abandoned articles;
- Section 4: Makes the prohibition against charging a fee for ingress and egress through common elements retroactive to May 18, 1984, except as to lobby areas or walkways which are limited to common elements or individually owned;
- Section 5: Amends Section 514A-82, Hawaii Revised Statutes, "Contents of Bylaws," (A) prohibit owners from acting as both an officer of the association and an employee of the managing agent; (B) prohibit association employees from selling or renting nonassociation owned apartments in their projects without association approval; (C) provide that a board must meet at least once a year; and (D) prohibit directors from spending association funds for travel, directors' fees, or per diem unless approved by the owners;

- Section 6: Provides that the association's most current financial statement, minutes of the board meeting, and other documents shall be available to any apartment owner;
- Section 7: Provides that the minutes of the board of directors meetings and the association of apartment owner meetings must include the recorded vote of each board member on all motions except motions voted on in executive session;
- Section 8: Provides that the manager or board of directors shall keep detailed, accurate records of the receipts and expenditures affecting the common elements of the condominium, as well as the total current delinquent dollar amount of any unpaid assessments for common expenses; and
- Section 9: Provides 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.

Your Committee has appropriately renumbered the sections of the bill and has also made other technical amendments without substantially changing the intent or purpose of the bill.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1374, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1374, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 1305 Consumer Protection and Commerce on S.B. No. 1376

The purpose of this bill is to provide a means by which a mortgagor may choose to continue a mortgage life insurance policy at a specific fee or opt to discontinue the coverage when the initial period of free coverage ends, if such coverage is not a condition for obtaining the mortgage.

This bill would require savings and loan associations, industrial loan companies, credit unions, and casualty insurance companies to send to a mortgagor, four weeks prior to the expiration of the period during which the life insurance is provided for free, a form by which the mortgagor may indicate whether he or she wishes to continue the coverage at a specified fee. Failure to provide the form would result in automatic termination of the mortgage life insurance policy after the free offer period expires.

The Department of Commerce and Consumer Affairs advised your Committee that it perceived no regulatory issues presented by this measure, and therefore took no position on it. The Hawaii League of Savings Associations testified that as a matter of practice, customers are sent letters reminding them that they are receiving free insurance for six-months, and that premiums will be added to their mortgage payments thereafter. The reminder letters are typically sent at the beginning, and about a month before the end, of the free insurance period. The mortgage life insurance application form also states that the premium will be added into the mortgage payment after 180 days. The League submitted that numerous legal problems may be created by the bill's provisions for automatic policy termination.

Your Committee supports the bill's intent of furthering consumer awareness of their choice to continue or discontinue mortgage life insurance. While the check-off form described in this bill would promote this end, your Committee believes that a notice requirement should be more generally legislated. Therefore, your Committee has amended this bill as follows:

- (1) Changed the yes/no check-off form requirement, to a requirement that the financial institution send written notice to each insured mortgagor advising him or her of the right to cancel the mortgage life insurance, the requirements for effecting such cancellation, and that premiums will be charged for said insurance unless it is cancelled;
- (2) Changed the time for sending such notice from "four weeks" to "at least four weeks" prior to the expiration of the free insurance period;
- (3) Deleted the automatic termination provision;
- (4) Changed the section headings from "Mortgage insurance; opportunity to accept or decline", to "Mortgage insurance; notice of right to cancel";
- (5) Amended Section 403-92.5, Hawaii Revised Statutes, to conform notice requirements for banks with those contained in this bill; and
- (6) Continued to make the Act effective upon its approval, but provided that if the period during which the mortgage life insurance is provided without charge expires less than six weeks after the effective date of the Act, notice need not be sent. This will allow financial institutions a minimal amount of lead time to prepare for compliance.

Technical, nonsubstantive amendments have also been made to this bill for the purposes of style and clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 1376, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 1376, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 1306 Consumer Protection and Commerce on S.B. No. 507

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 has amended this bill by providing that the grant of an easement in or lease to those common elements originally intended for a special purpose but which are not actually used by any of the apartment owners on a frequent and regular basis for that purpose must be approved by seventy-five percent of the apartment owners in the association in order for the grant or lease to have a term exceeding five years.

Your Committee received testimony in support of this bill from the Hawaii Association of Realtors and the Hawaii Independent Condominium and Cooperative Owners.

Testimony opposed to this bill was received from the Hawaii Bar Association, Condominium Division, the Hawaii Council of Association of Apartment Owners, and the Blue Ribbon Panel.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 507, S.D. 1, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. No. 507, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 1307 Consumer Protection and Commerce on S.B. No. 567

The purpose of this bill is to amend Section 431:1-204, Hawaii Revised Statutes, to exempt charitable gift annuities donated to a nonprofit educational foundation of a public educational institution from the definition of insurance.

Your Committee heard testimony in favor of this bill from a representative of the University of Hawaii Foundation. The Foundation noted the suggestion of the Office of the Attorney General that nonprofit educational foundations be required to purchase the charitable gift annuity agreements from an insurer authorized by the State to offer life insurance.

The Department of Commerce and Consumer Affairs, Insurance Division, advised your Committee that it is not opposed to this bill, nor to the amendment proposed by the Foundation.

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. It believes that the degree of oversight by the Insurance Commissioner afforded by the Foundation's proposed amendment will be valuable. Your Committee has amended the bill accordingly.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 567, as amended herein, and recommends that it pass Second Reading in the form attached hereto as S.B. 567, H.D. 1, and be placed on the calendar for Third Reading.

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

SCRep. 1308 Consumer Protection and Commerce and Health on S.B. No. 55

The purpose of this bill is to provide for the regulation of long-term care insurance, which was previously addressed by Act 253, Session Laws of Hawaii 1987.

Specifically, the bill establishes standards to be regulated by the Insurance Commissioner for long-term care insurance policies covering medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services provided in any setting, including an insured individual's home or residence, other than an acute care unit of a hospital. The bill authorizes the Insurance Commissioner to adopt rules that establish standards for full and fair disclosure and loss ratio standards for insurance policies.

In order to protect the rights of subscribers and users, this bill:

- 1) Requires any policy advertised, marketed or offered as long-term care insurance to comply with the provisions of this bill;
- 2) Prohibits policies which provide benefits only for institutionalization from conditioning such benefits upon admission to a facility for the same or related conditions within a period of less than thirty days;
- 3) Prohibits the cancellation, nonrenewal, or termination of a policy on the basis of age or the deterioration of the mental or physical health of the insured;

- 4) Prohibits, with certain exceptions, the establishment of a new waiting period when coverage is converted to or replaced by a new or other form within the same company;
- 5) Prohibits the exclusion of coverage for a loss or confinement resulting from a "preexisting condition", as defined in the bill, if the loss or confinement occurs after a specified period following the effective date of coverage;
- 6) Requires insurers to provide applicants for insurance with an outline of coverage;
- 7) Provides a thirty day right to return an individual policy; and
- 5) Establishes requirements for group policy certificates.

Your Committees heard testimony in support of this bill from the Department of Commerce and Consumer Affairs, the State Executive Office on Aging, the Hawaii State Legislature Committee of the American Association of Retired Persons, and the Kokua Council for Senior Citizens. It is noted that the provisions of this bill are highly similar to those of Act 253, SLH 1987, relating to long-term care insurance. The status of that Act has been questioned because of technical problems connected with the recodification of the insurance laws. This bill would make the status of the law clear with respect to long-term care insurance.

Your Committees find that an acute need exists for specific regulations to protect and guide both insurers and subscribers in this relatively new focus of the insurance industry. Upon further consideration, your Committees have amended this bill as follows:

- 1) Deleted from the definition of long-term care insurance, the phrase, "an insured individual's home or residence", in order to encourage the availability of this type of insurance;
- 2) Clarified the prohibition clause on pages 4 and 5; and
- 3) Codified the severability clause, which was formerly Section 4 of the Act. Other Sections have been renumbered accordingly.
- 4) Changed the effective date of the Act to July 1, 1989 only if H.B. No. 1894 (which makes Act 253, Session Laws of Hawaii 1987, as part of the insurance code) in any form passed by the legislature, Regular Session of 1989, becomes an Act.

Your Committees on Consumer Protection and Commerce and Health are in accord with the intent and purpose of S.B. No. 55, S.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as S.B. No. 55, S.D. 1, H.D. 1, and be placed on the calendar for Third Reading.

Signed by all members of the Committees except Representatives Andrews, Arakaki, Cachola, Duldulao, Hayes, M. Ige, Kawakami, Leong, Tam, Liu and Cavasso.

SCRep. 1309 Consumer Protection and Commerce on S.B. No. 509

The purpose of this bill is to allow an exemption from the requirement that an applicant for licensure as a nursing home administrator hold a baccalaureate degree. This bill would allow an applicant with eight years of experience as an assistant administrator in a nursing home within the past twelve years, and with peer support, to be eligible to take the examination for licensure. This bill would also allow the Board of Examiners of Nursing Home Administrators to issue limited and temporary licenses, which would not be renewable.

Your Committee heard extensive testimony in support of this measure from the Board of Examiners of Nursing Home Administrators, the Department of Health, the Department of Human Services, the Chief Executive Officer of Kahuku Hospital, the Hawaii Long Term Care Association, the Kokua Council for Senior Citizens of Hawaii, several nursing home operators and officials, a nursing home consultant, a retired public health nurse and the director of a retirement residence, an attorney with a local law firm active in the health care field, and a pharmacist.

Your Committee is in agreement with the recommendation of the Board of Examiners of Nursing Home Administrators and the Department of Health that an applicant seeking an exemption from the baccalaureate degree requirement should have had eight years of experience within the past ten years, rather than in the past twelve years. An individual who has not worked as an assistant administrator in a nursing home in the past four years would not have sufficiently recent experience to qualify for the exemption. The bill has been amended accordingly. This bill, as amended, should provide an opportunity for more high level management employees to qualify to take the licensure examination, and to continue in their service to the ill and disabled in the State.

Technical, nonsubstantive amendments have been made to this bill for the purposes of style and clarity.

Your Committee on Consumer Protection and Commerce is in accord with the intent and purpose of S.B. No. 509, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as S.B. No. 509, S.D. 1, H.D. 2.

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

SCRep. 1310 Judiciary on S.B. No. 18

The purpose of this bill is to allow for a special license valid for two years to individuals who are between fifteen and seventeen years of age. This bill also changes the license renewal period for persons over sixty-four years of age from two to four years.

Your Committee finds that currently, persons between the age of fifteen and twenty-four, or sixty-five or older, are issued a two-year driver's license. However, there seems to be no correlation between this more frequent license renewal requirement and lower accident rates, with respect to persons eighteen to twenty-four years of age and persons sixty-five or older.

Your Committee received testimony in support of this measure from the Department of Transportation and Department of Health.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 18, H.D. 1 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1311 Judiciary on S.B. No. 379

The purpose of this bill is to promote traffic safety by setting statutory restrictions on persons riding in pickup trucks.

As received by your Committee, this bill would prohibit persons from standing in the bed or load-carrying area of any motor vehicle commonly known as a pickup truck while the vehicle is in operation. This bill also would prohibit operators of pickup trucks from operating the vehicles, and owners of pickup trucks from permitting the vehicles to be operated, with a passenger seated in the bed or load-carrying area of the pickup truck unless: 1) there is no seating available in the cab; 2) the side racks are securely attached and the tailboard is securely closed; 3) the passengers are seated on the floor of the bed; and 4) there is no unlash cargo in the bed. Your Committee does not intend for the statutory restrictions to apply to trucks operated for business purposes.

Your Committee received testimony in support of this bill from the Department of Health, the Department of Transportation, and a Council member from the Honolulu City Council.

Your Committee finds that according to statistics from the National Transportation Safety Board, approximately 28 per cent of occupants in cabs were killed, while 34 per cent of the occupants in the back of pickups were killed. In Hawaii, from 1977 to August 1988, 39 per cent of fatalities involving pickups were due to an occupant falling from the back of the pickup truck. This bill is intended to minimize the number of needless, avoidable accidents and deaths.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 379, S.D. 1, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1312 Judiciary on S.B. No. 107

The purpose of this bill is to amend the law relating to national emergencies so as to replace the obsolete military titles of "commanding general of the United States Army, Pacific, and the commandant of the 14th Naval District and Hawaiian Sea Frontier" with a generic designation of "senior United States Military Commander headquartered in the State."

Your Committee finds that the old titles in the statute have been obsolete since the 1970's. This housekeeping measure is intended to preclude the necessity for future changes to this statute should the military effectuate organizational or military title changes.

Testimony in support of this measure was received by your Committee from the Schofield Rod and Gun Club and from the State Adjutant General. Your Committee finds that this measure will ensure that the National Emergency determination process will remain within the chain of command of National Authority.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 107, S.D. 1, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1313 Judiciary on S.B. No. 1995

The purpose of this bill is to clarify the law on motor vehicle sun screening by requiring that screening film materials must not encroach beyond four inches below the top of the windshield, when measured from the middle point of the bottom edge of the top windshield moulding. The bill would also change the tolerance for sun screening light transmittancy from the current thirty-five percent plus or minus three percent to thirty-five percent plus or minus six percent.

Your Committee finds that there is an ambiguity in using the "AS-1" marking when determining how far from the top of the windshield screening film materials are allowed to descend. The AS-1 marking is the manufacturer's method of indicating where the factory tint ends and where the clear portion of the windshield begins. Most AS-1 markings have a line and arrow pointing down to indicate where the clear portion of the windshield begins. However, automobiles that have not been factory tinted will have the AS-1 markings at the very bottom of the windshield but no line or arrow. This bill remedies the above-described ambiguity.

Your Committee received favorable testimony from the Hawaii Business League and the Department of Transportation.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 1995, S.D. 1, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1314 Judiciary 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, the Handicapped Network, the Hawaii Mental Health Consumer Council and the State Planning Council on Developmental Disabilities.

Your Committee on Judiciary is in accord with the intent and purpose of S.B. No. 661, S.D. 1, H.D. 1, and recommends that it pass Third Reading.

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

SCRep. 1315 Finance 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.

This bill also specifies that along with the report, the Director of Corrections shall transmit the total amount of funds awarded during the prior fiscal year and an estimated amount for the next fiscal year.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1907, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1316 Finance on S.B. No. 1401

The purpose of this bill is to prevent the impoverishment of a person because of payments for medical care for their spouse.

Specifically, this bill will allow the spouse of a person who is institutionalized and receiving Medicaid to retain at least \$60,000 in assets and \$1500 in monthly income without jeopardizing receipt of Medicaid benefits. Provision has been made for increasing these amounts when necessary.

Without such allowance, the person whose spouse is institutionalized would have to spend all available resources before the spouse could qualify for Medicaid. In instances where long-term care is required, the couple would face either impoverishment or the necessity to divorce as a means of separating their financial resources. Your Committee finds that this is an intolerable situation and that this measure will prevent destitution of families and dissolution of marriages.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1401, S.D. 1, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1317 Finance on S.B. No. 968

The purpose of this bill is to require the Department of Human Services to include protective child care payment as a special needs item in the financial assistance standard for families receiving public assistance.

The Department of Human Services (DHS) submitted testimony in support of the bill. According to DHS, the Child Protective Services Program currently provides protective child care using only State funds. This bill will enable the State

to secure 54.5 percent in federal funding to provide protective child care, when needed, for children from families participating in the Aid For Dependent Children program.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 968, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1318 Finance 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.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1812, S.D. 2, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1319 Finance 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 and the Department of Finance of the City and County of Honolulu in support of this measure.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1851, H.D. 2, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1320 Finance on S.B. No. 1990

The purpose of this bill is to increase the membership of the Board of Trustees of the Employees' Retirement System (Board) from seven to fourteen.

Under this bill, six of the fourteen members will be appointed by each exclusive representative of one or more collective bargaining units under Chapter 89, Hawaii Revised Statutes. Seven of the fourteen will be appointed by each employer as defined under Section 89-2, Hawaii Revised Statutes. One member will be a retiree to be appointed by the Governor from a list of not more than six nominees, selected by the exclusive bargaining representatives.

The bill also provides for staggered terms for the members. Eight concurring votes are necessary for a decision by the Board.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1990, S.D. 1, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1321 Finance on S.B. No. 2016

The purpose of this bill is to increase 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 recognizes the need to insure at least an adequate standard of living for all workers. This bill will help correct inequities that have plagued the worker for a number of years.

Raising the minimum wage is an economic option that bears little cost to society, but provides tremendous benefits. A minimum wage increase will reduce poverty, raise living standards, increase the tax base, reduce welfare expenditures, boost consumer demands, and lead a more rapid economic growth.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 2016, S.D. 1, H.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1322 Transportation on H.R. No. 145

The purpose of this resolution is to request that the Legislative Reference Bureau conduct a study on the progress of the State government in promoting ridesharing in both the public and private sectors, and of the private sector in offering ridesharing alternatives to employees.

Your Committee received favorable testimony on this resolution from the State Department of Transportation, the Office of the Lieutenant Governor, SMART, The Cab, Trans Hawaiian Services, and Mililani Paratransit Services.

Your Committee finds that current efforts to promote ridesharing programs have been greeted with less than an enthusiastic response from the commuting public. Your Committee further finds that for ridesharing programs to be accepted by the commuting public as a whole, State government has to more actively promote ridesharing concepts among State workers.

Your Committee has amended this resolution to request that the Legislative Reference Bureau also include an assessment of the liability of promoters of ridesharing programs.

Your Committee on Transportation concurs with the intent and purpose of H.R. No. 145, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as H.R. No. 145, H.D. 1.

Signed by all members of the Committee.

SCRep. 1323 Transportation on H.C.R. No. 122

The purpose of this concurrent resolution is to request that the Legislative Reference Bureau conduct a study on the progress of the State government in promoting ridesharing in both the public and private sectors, and of the private sector in offering ridesharing alternatives to employees.

Your Committee received favorable testimony on this concurrent resolution from the State Department of Transportation, the Office of the Lieutenant Governor, SMART, The Cab, Trans Hawaiian Services, and Mililani Paratransit Services.

Your Committee finds that current efforts to promote ridesharing programs have been greeted with less than an enthusiastic response from the commuting public. Your Committee further finds that for ridesharing programs to be accepted by the commuting public as a whole, State government has to more actively promote ridesharing concepts among State workers.

Your Committee has amended this concurrent resolution to request that the Legislative Reference Bureau also include an assessment of the liability of promoters of ridesharing programs.

Your Committee on Transportation concurs with the intent and purpose of H.C.R. No. 122, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as H.C.R. No. 122, H.D. 1.

Signed by all members of the Committee.

SCRep. 1324 Transportation on H.R. No. 155

The purpose of this resolution is to request that the Legislative Reference Bureau study the feasibility of developing a State Office of Motor Vehicles.

Your Committee received favorable testimony from the State Department of Transportation, the Department of Finance of the City and County of Honolulu, and the Car and Truck Renting and Leasing Association.

Your Committee finds that Hawaii is the only state that administers certain motor vehicle safety functions at the county level, often resulting in differing interpretations, administration, and enforcement policies of State laws and rules.

Your Committee further finds that the various duties and responsibilities relating to motor vehicle safety, motor vehicle registration, and driver licensing currently administered by the different counties and the State Department of Transportation may be consolidated under a single state agency to facilitate control, standardize procedures, modes of enforcement, and the implementation of State rules.

Your Committee on Transportation concurs with the intent and purpose of H.R. No. 155 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1325 Transportation on H.C.R. No. 130

The purpose of this concurrent resolution is to request that the Legislative Reference Bureau study the feasibility of developing a State Office of Motor Vehicles.

Your Committee received favorable testimony from the State Department of Transportation, the Department of Finance of the City and County of Honolulu, and the Car and Truck Renting and Leasing Association.

Your Committee finds that Hawaii is the only state that administers certain motor vehicle safety functions at the county level, often resulting in differing interpretations, administration, and enforcement policies of State laws and rules.

Your Committee further finds that the various duties and responsibilities relating to motor vehicle safety, motor vehicle registration, and driver licensing currently administered by the different counties and the State Department of Transportation may be consolidated under a single state agency to facilitate control, standardize procedures, modes of enforcement, and the implementation of State rules.

Your Committee on Transportation concurs with the intent and purpose of H.C.R. No. 130 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1326 Ocean and Marine Resources and Transportation on H.R. No. 102

The purpose of this resolution is to encourage the appointment of volunteer marine patrol officers.

Your Committees received testimony in support of this resolution from the Department of Transportation.

Your Committees find that in recent years, there has been a tremendous growth in the ocean recreation industry in Hawaii as residents as well as tourists have discovered the adventure of thrill crafts. The commingling of thrill craft with other ocean recreation activities such as swimming, surfing, sailing, and fishing has resulted in serious accidents and many near misses.

Recognizing the need for ensuring a safe ocean environment for recreation, the Legislature enacted a law to regulate the operation of thrill craft.

Additionally, your Committees find that while the laws and rules for the regulation of thrill craft are in place, the marine patrol program of the Harbors Division of the Department of Transportation, which is charged with the enforcement responsibility, lacks sufficient staff to meet the statewide enforcement requirements.

Your Committees on Ocean and Marine Resources and Transportation concur with the intent and purpose of H.R. No. 102 and recommend its adoption.

Signed by all members of the Committees except Representative Hashimoto.

SCRep. 1327 Water and Land Use on S.B. No. 688

The purpose of this bill is to assure the State continued eligibility for federal funds by conforming the State land acquisition law for Federally Assisted Programs with the recently amended Uniform Relocation Assistance and Real Property Acquisition Policies Act.

This bill amends the policy provision of Section 113-5, Hawaii Revised Statutes, regarding the acquisition of real property for any project or program in which federal or federal-aid funds are used. Specifically, this bill would:

- (1) Allow the State to acquire property without the need for appraisal in cases involving the donation of property or the voluntary conveyance of property for nominal value or where the property has a fair market value of \$2,500 or less;
- (2) Permit the State to accept donation of property after owners are informed of their rights; and
- (3) Clarify the terms "uneconomic remnant", "State", and "appraisal".

The Department of Land and Natural Resources and the Department of Transportation both supported passage of this bill.

Your Committee on Water and Land Use is in accord with the intent and purpose of S.B. No. 688 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 1328 Water and Land Use on S.B. No. 1890

The purpose of this bill is to amend Section 171-36, Hawaii Revised Statutes, to provide that: (1) the Board of Land and Natural Resources may condition its consent to the assignment of a lease of public land on payment by the lessee of a premium based on the net amount of the consideration received by the lessee from the assignee; (2) the receipts of the sublessee shall be included as part of the lessee's gross receipts in the case where the lessee is required to pay rent based on a percentage of its gross receipts; and (3) the Board of Land and Natural Resources shall have the right to review and, if necessary, revise the rent of the demised premises based upon the rental rate charged to the sublessee including the percentage rent, if applicable.

Your Committee received testimony from the Department of Land and Natural Resources and the Department of Transportation in support of this measure.

Testimony of the Department of Land and Natural Resources indicated that the present law provides that the Board of Land and Natural Resources may revise the rental paid on State leases based upon the consideration paid on an assignment of lease. Thus, the burden of any increased rental falls on the assignee of the lease, rather than on the assignor who possibly would reap excess profits from the sale of a lease of State land. Testimony of the Department of Land and Natural Resources further indicated that, at the present time, the State is not entitled to any portion of the profit even though the consideration paid reflects an appreciation of the State land in the lease. Therefore, the proposed amendment would shift the burden away from the assignee and permit the State to share in the appreciation of its lands.

Testimony of the Department of Land and Natural Resources also indicated that in percentage leases, the lessee only reports the rental it receives from the sublessees. Thus, the proposed amendment would require the revenues of the sublessee to be included as part of the lessee's gross revenues for the purpose of calculating percentage rentals.

Testimony of the Department of Transportation indicated that this bill would enable the State to share in the profit to be made by a State lessee when it assigns its lease, whereas the present statute permits the State to share in the selling price by increasing the assignee's rent. Testimony of the Department of Transportation further indicated that the bill would insure that in the case of a percentage lease, the gross sales of a sublessee are included in the gross receipts of the lessee, whereas in some current leases, only the rental paid by the sublessee is being reported by the lessee, which results in the State not receiving its fair share of the rental.

Your Committee on Water and Land Use is in accord with the intent and purpose of S.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 except Representative Hashimoto.

SCRep. 1329 Water and Land Use on S.B. No. 1253

The purpose of this bill is to re-authorize the negotiation of long-term residential leases between the Department of Land and Natural Resources and the displaced Milolii-Hoopulua residents by amending Act 362, Session Laws of Hawaii 1987, to reenact the provisions of Act 62, Session Laws of Hawaii 1982, as amended by Act 83, Session Laws of Hawaii 1984 and Act 362, Session Laws of Hawaii 1987.

Your Committee received testimony from the Department of Land and Natural Resources in support of this measure. The testimony of the Department of Land and Natural Resources indicated that since the enactment of Act 62, Session Laws of Hawaii 1982, a total of thirty-one long-term residential leases have been issued to qualified displaced Milolii-Hoopulua residents. The testimony of the Department of Land and Natural Resources further indicated that there are a number of qualified residents who, for bona fide reasons, did not apply or could not determine if they qualified before the deadline imposed under Act 62, Session Laws of Hawaii 1982, or subsequent extensions.

The testimony of the Department of Land and Natural Resources also indicated that a public notice made in December of 1988 seeking additional applicants resulted in twelve applications as of March 13, 1989. This bill would allow for the processing of these applications.

Your Committee on Water and Land Use is in accord with the intent and purpose of S.B. No. 1253 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 Hashimoto.

SCRep. 1330 Water and Land Use on S.B. No. 1919

The purpose of this bill is to amend Section 171-35, Hawaii Revised Statutes, by allowing the Board of Land and Natural Resources the option to establish lease rental payment on a monthly basis, in addition to the present quarterly, semiannual or annual payment options.

Your Committee heard testimony from the Department of Land and Natural Resources and the Department of Transportation supporting this bill.

Your Committee finds that the payment of lease rent on a quarterly, semiannual or annual basis, in certain cases, may cause hardship on the lessees and that the option of a monthly payment schedule may help alleviate the hardship.

Your Committee on Water and Land Use is in accord with the intent and purpose of S.B. No. 1919, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 1331 Education on S.B. No. 1977

The purpose of this bill is to exempt from civil service laws the public high school student selected by the Hawaii State Student Council as a non-voting member of the Board of Education as authorized by the State Constitution.

The Department of Education (Department) submitted testimony in support of the bill. According to the Department, currently elected members of the Board of Education are exempt from the civil service under Section 76-16, Hawaii Revised Statutes, which allows for the exemption of positions filled by popular vote. Since the student Board of Education member is not selected by popular vote, this Act is needed to provide for civil service exemption of the student position.

Your Committee on Education is in accord with the intent and purpose of S.B. No. 1977, S.D. 1, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 1332 Housing on S.B. No. 1811

The purpose of this bill is to effect a minor housekeeping amendment to Section 201E-21, Hawaii Revised Statutes, by replacing the word "authority" with the word "corporation."

Your Committee received testimony from the Housing Finance and Development Corporation (HFDC) in support of this measure and finds that the proposed amendment effectively remedies the language error in section 201E-21.

Your Committee on Housing is in accord with the intent and purpose of S.B. No. 1811, and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1333 Housing on S.B. No. 1808

The purpose of this bill is to limit the Housing Finance and Development Corporation's (Corporation) shared appreciation in a rental housing project to the pro rata share of units receiving rental assistance.

Section 201E-134, Hawaii Revised Statutes, currently entitles the Corporation with a shared appreciation on one hundred percent of any project that benefits from the State's rental assistance program even if less than one hundred percent of the units in the project do not receive rent subsidies. The Corporation testified that the present law may serve as a deterrent to developers who may want to utilize the rental assistance program for some of the units in a qualified rental project but who are reluctant to do so, as they will be required to share the appreciation on the entire project with the Corporation. Your Committee finds that this bill rectifies this deterrent effect by allowing shared appreciation only on those units participating in the rental subsidy program.

Your Committee on Housing is in accord with the intent and purpose of S.B. No. 1808 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1334 Planning, Energy and Environmental Protection on S.B. No. 1880

The purpose of this bill is to amend section 328-8 (c), Hawaii Revised Statutes, to bring it in accordance with a recodification of federal regulations.

This bill is a housekeeping measure. At present, Chapter 328, Hawaii Revised Statutes, authorizes the Department of Health to enforce the federal regulations pertaining to tolerances for pesticide residue in food. Recently, the federal government recodified its regulations for pesticide tolerances in processed food. This bill reflects this recodification.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of S.B. No. 1880 and recommends that it pass Third Reading.

Signed by all members of the Committee except Representatives Apo, Bunda, Hagino, Hashimoto, Hiraki, Lee and Hemmings.

SCRep. 1335 Labor and Public Employment on S.B. No. 1508

The purpose of this bill is to provide that each workers' compensation policy purchased by an employer in this State shall contain an optional deductible ranging from \$100 to \$2,500 for medical benefits (the range in the existing law is from \$100 to \$500), and that the optional deductibles shall be fully disclosed to prospective purchasers in writing.

Your Committee received favorable testimony on this bill from the State Department of Labor and Industrial Relations and from organizations representing small businesses in Hawaii.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of S.B. No. 1508, 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. 1336 Labor and Public Employment on S.B. No. 1843

The purpose of this bill is to allow the Director of the Department of Personnel Services to pay any claims against the State as required by Hawaii's Workers' Compensation Law, Chapter 386, Hawaii Revised Statutes.

The workers' compensation central funds were transferred to the Department of Personnel Services subsequent to the Supplemental Appropriations Act of 1986. Statutory authority to dispense the funds, however, has not been vested in the Director of the Department of Personnel Services. This bill allows the Director of the Department of Personnel Services to make direct payments.

Your Committee heard favorable testimony from the Department of Personnel Services.

Your Committee on Labor and Public Employment is in accord with the intent and purpose of S.B. No. 1843 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1337 Transportation on S.B. No. 691

The purpose of this bill is to establish the basis for assessing a business transfer fee for the sale of a corporation or other business entity holding a commercial permit for use of a state boating facility.

Your Committee received favorable testimony on this bill from the Department of Transportation.

Your Committee finds that Act 231, Session Laws of Hawaii 1988, amended Section 266-21.1, Hawaii Revised Statutes, to reduce speculation in mooring permits. Your Committee further finds that Act 231, Session Laws of Hawaii 1988, did not establish a basis for assessing a business transfer fee, which this bill attempts to accomplish.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 691 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1338 Transportation on S.B. No. 1893

The purpose of this bill is to change the name of the State airport facility located at Hilo, Hawaii, from General Lyman Field to Hilo International Airport.

Your Committee received favorable testimony on this bill from the Department of Transportation.

Your Committee finds that naming airports according to the geographic location of the airport makes identifying the facility easier.

Your Committee on Transportation is in accord with the intent and purpose of S.B. No. 1893 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1339 Health on S.B. No. 662

The purpose of this bill is to amend the tuberculosis reporting law, Section 325-71, Hawaii Revised Statutes, so that specifics of reporting will be contained in the Department of Health's administrative rules. The effective date of the bill is set at January 1, 1990 so that the Department shall have promulgated rules prior to that time.

Your Committee finds that the Department of Health's administrative rules will be a complete and concise communicable disease control reference for the specifics of the State's requirements in this area. Your Committee received testimony in support of this measure from the Department of Health and the Hawaii Federation of Physicians and Dentists.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 662, 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. 1340 Health on S.B. No. 663

The purpose of this bill is to add language to Chapter 325, Hawaii Revised Statutes, to set forth the purpose of the chapter.

Your Committee finds that since the rule-making ability of the Director of the Department of Health is tied to the "purpose of carrying out this chapter," it is important to define the purpose of the chapter. The Department of Health testified in support of this measure.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 663 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1341 Health on S.B. No. 658

The purpose of this bill is to repeal the sunset date of June 30, 1989, for mandatory premarital screening for rubella immunity, and to provide exceptions to the requirement for this premarital examination upon the presentation of laboratory evidence of rubella immunity.

Section 572-7, Hawaii Revised Statutes, currently provides that an application for a marriage license shall be accompanied by a physician's statement that the female applicant has been given a serological test for immunity against rubella and has been informed of the adverse effects of rubella on a fetus. The section currently provides exceptions if the female applicant provides proof of immunization with live rubella virus vaccine, or if the applicant is not and will never be physically able to conceive a child. This bill would provide another exception, the presentation of laboratory evidence of rubella immunity, and would eliminate the sunset date of the current statute.

Your Committee heard supporting testimony from the Department of Health and the Commission on the Handicapped. Your Committee finds that the continuation of the rubella screening program is still needed, and concurs with the proposed modification to allow presentation of laboratory evidence of rubella immunity as a method of compliance with the statute.

Your Committee on Health is in accord with the intent and purpose of S.B. No. 658 and recommends that it pass Second Reading and be placed on the calendar for Third Reading.

Signed by all members of the Committee.

SCRep. 1342 Finance 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 that 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 Finance is in accord with the intent and purpose of S.B. No. 1001, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1343 Finance 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 performs 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 workers' compensation coverage for work injuries.

Your Committee received testimony from the Department of Labor and Industrial Relations, the Department of Education, the Department of Human Services, the State Planning Council on Developmental Disabilities, the Commission on the Handicapped, and the parent of a handicapped child supporting the intent of this bill.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 1938, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1344 Finance on S.B. No. 849

The purpose of this bill is to allow a person other than qualified Kalaupapa resident patients to be employed 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 noting that the availability of qualified patients interested in serving in this capacity is steadily diminishing with time.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 849 and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1345 Finance on S.B. No. 840 (Majority)

The purpose of this bill is to include judges of the District Courts and judges of the District Family Courts within the definition of "judges" under the State Employees' Retirement System.

Your Committee finds that this bill would provide District Court judges and District Family Court judges the same retirement benefits presently enjoyed by Circuit and Appellate Court judges. Currently, Circuit and Appellate judges earn retirement credit equal to 3.5 percent for each year of service, while District and District Family judges earn only 1.25 percent.

Your Committee on Finance is in accord with the intent and purpose of S.B. No. 840, S.D. 1, and recommends that it pass Third Reading.

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

SCRep. 1346 Finance 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 these 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.

Your Committee finds 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 Finance is in accord with the intent and purpose of S.B. No. 1806, S.D. 1, and recommends that it pass Third Reading.

Signed by all members of the Committee.

SCRep. 1347 Consumer Protection and Commerce and Health on H.C.R. No. 44

The purpose of this concurrent resolution is to request the Legislative Auditor to conduct an analysis to assess the health and social benefits and financial impact of mandatory insurance coverage for mammography.

Your Committees received testimony from the Department of Health, Executive Office on Aging, American Cancer Society, Kapiolani Medical Center for Women and Children and several other organizations in support of this resolution.

Your Committees have amended the resolution to request that the analysis include a review of previous studies regarding the health and social benefits of mammography screening, and an assessment of coverage for mammography screening provided by fraternal benefit societies, mutual benefit societies, and health maintenance organizations. The resolution has also been amended to specifically require that in conducting the analysis, the impact of the provisions of H.B. No. 594, relating to insuring mammogram screening, as though enacted.

Technical, nonsubstantive amendments have also been made for the purposes of style and clarity.

The resolution continues to request that the report be submitted by the Legislative Auditor to the Legislature at least twenty days prior to the convening of the Regular Session of 1990.

Your Committees believe that this resolution will advance the public interest by determining the health and social benefits, as well as the financial ramifications of requiring the inclusion of insurance programs in the State of Hawaii.

Your Committees on Consumer Protection and Commerce and Health concur with the intent and purpose of H.C.R. No. 44, as amended herein, and recommend that it be referred to the Committee on Legislative Management in the form attached hereto as H.C.R. No. 44, H.D. 1.

Signed by all members of the Committees except Representative Liu.

SCRep. 1348 Higher Education and the Arts on H.R. No. 120

The purpose of this resolution is to direct the Legislative Reference Bureau to study the issue of financing higher education and to recommend specific financial means that would enable more Hawaii students to obtain a higher education in Hawaii or elsewhere.

Your Committee finds that the cost of higher education has been rising steadily in recent years, and with cuts in federal financial aid, more families are having a difficult time sending their children to college. Many states have implemented various college savings programs to help families save for their children's education. Your Committee feels a study would help identify the nature of the problem and recommend the best way for the State to proceed in this area.

Your Committee received favorable testimony from the University of Hawaii policy and program officer.

Your Committee on Higher Education and the Arts concurs with the intent and purpose of H.R. No. 120 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1349 Higher Education and the Arts on H.C.R. No. 98

The purpose of this concurrent resolution is to direct the Legislative Reference Bureau to study the issue of financing higher education and to recommend specific financial means that would enable more Hawaii students to obtain a higher education in Hawaii or elsewhere.

Your Committee finds that the cost of higher education has been rising steadily in recent years, and with cuts in federal financial aid, more families are having a difficult time sending their children to college. Many states have implemented various college savings programs to help families save for their children's education. Your Committee feels a study would help identify the nature of the problem and recommend the best way for the State to proceed in this area.

Your Committee received favorable testimony from the University of Hawaii policy and program officer.

Your Committee on Higher Education and the Arts concurs with the intent and purpose of H.C.R. No. 98 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee.

SCRep. 1350 Transportation on H.R. No. 87

The purpose of this resolution is to request that the Legislative Reference Bureau study the feasibility of extending the immunity from parking violation citations to those citizens who receive citations while conducting legitimate business with governmental agencies.

Your Committee received testimony on this resolution from a concerned private citizen.

Your Committee finds that due to the lack of available public parking, many individuals with official business to conduct with the State Legislature are severely inconvenienced or are discouraged from participating in the governmental process. Furthermore, your Committee finds that the metered parking stalls adjoining the State Capitol have a time limit of two hours, thus limiting the time which individuals appearing before the Legislature may expend. Your Committee further finds that in accordance with Section 612-8 and Section 621-8, Hawaii Revised Statutes, jurors and witnesses are exempt from any prosecution, penalty, or fine as a result of a parking violation committed in connection with the conducting of official court business.

Your Committee has amended this resolution to address the feasibility of exempting individuals with official business with the State Legislature from any prosecution, penalty, or fine as a result of a parking violation committed in conjunction with the conducting of official business before the State Legislature. Your Committee has further amended this resolution by amending its title.

Your Committee on Transportation concurs with the intent and purpose of H.R. No. 87, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as H.R. No. 87, H.D. 1.

Signed by all members of the Committee.

SCRep. 1351 Transportation on H.C.R. No. 71

The purpose of this concurrent resolution is to request that the Legislative Reference Bureau study the feasibility of extending the immunity from parking violation citations to those citizens who receive citations while conducting legitimate business with governmental agencies.

Your Committee received testimony on this concurrent resolution from a concerned private citizen.

Your Committee finds that due to the lack of available public parking, many individuals with official business to conduct with the State Legislature are severely inconvenienced or are discouraged from participating in the governmental process. Furthermore, your Committee finds that the metered parking stalls adjoining the State Capitol have a time limit of two hours, thus limiting the time which individuals appearing before the Legislature may expend. Your Committee further finds that in accordance with Section 612-8 and Section 621-8, Hawaii Revised Statutes, jurors and witnesses are exempt from any prosecution, penalty, or fine as a result of a parking violation committed in connection with the conducting of official court business.

Your Committee has amended this concurrent resolution to address the feasibility of exempting individuals with official business with the State Legislature from any prosecution, penalty, or fine as a result of a parking violation committed in conjunction with the conducting of official business before the State Legislature. Your Committee has further amended this concurrent resolution by amending its title.

Your Committee on Transportation concurs with the intent and purpose of H.C.R. No. 71, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as H.C.R. No. 71, H.D. 1.

Signed by all members of the Committee.

SCRep. 1352 Intergovernmental Relations and International Affairs on H.R. No. 113

The purpose of this resolution is to request the Governor to seek to establish a sister-state agreement with the Soviet Territory of Primor'ye.

Primor'ye is the easternmost territory of the Soviet Union, bordering on the Pacific Ocean. As Hawaii seeks to become more involved in Pacific Basin affairs, the reestablishment of Hawaii's historical ties with this territory is a natural step.

Your Committee received testimony in support of this resolution from the Acting Director of the Soviet Union in the Pacific and Asia Region (SUPAR) program at the University of Hawaii-Manoa and the Chairperson of Hawaii Society For American-Soviet Friendship.

Your Committee on Intergovernmental Relations and International Affairs concurs with the intent and purpose of H.R. No. 113 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1353 Intergovernmental Relations and International Affairs on H.C.R. No. 93

The purpose of this concurrent resolution is to request the Governor to seek to establish a sister-state agreement with the Soviet Territory of Primor'ye.

Primor'ye is the easternmost territory of the Soviet Union, bordering on the Pacific Ocean. As Hawaii seeks to become more involved in Pacific Basin affairs, the reestablishment of Hawaii's historical ties with this territory is a natural step.

Your Committee received testimony in support of this resolution from the Acting Director of the Soviet Union in the Pacific and Asia Region (SUPAR) program at the University of Hawaii-Manoa and the Chairperson of Hawaii Society For American-Soviet Friendship.

Your Committee on Intergovernmental Relations and International Affairs concurs with the intent and purpose of H.C.R. No. 93 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1354 Intergovernmental Relations and International Affairs on H.R. No. 61

The purpose of this resolution is to urge the President of the United States to fully fund reparations for Japanese-American Citizens interned during World War II.

In 1988 Congress authorized the payment of reparations to the internees in the amount of \$1.25 billion, with up to \$500 million to be appropriated in each fiscal year. Yet former President Reagan, in his final budget, proposed only a \$20 million appropriation in fiscal year 1990 and only \$170 million in fiscal year 1991. At that rate, many internees may pass away before they can receive their reparations.

Your Committee received testimony in support of this resolution from the American Civil Liberties Union of Hawaii and the Japanese American Citizens League. The victims of internment suffered irreparable damages, both physical and

mental. Many Japanese-Americans have found it hard to start a whole new life all over again, even forty-four years after this tragic event.

Your Committee has amended this resolution to provide that a copy of the resolution be sent to the President, in addition to Hawaii's Hawaii Congressional delegation. A nonsubstantive amendment has been made for purposes of style and clarity.

Your Committee on Intergovernmental Relations and International Affairs concurs with the intent and purpose of H.R. No. 61, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 61, H.D. 1.

Signed by all members of the Committee.

SCRep. 1355 Intergovernmental Relations and International Affairs on H.C.R. No. 48

The purpose of this concurrent resolution is to urge the President of the United States to fully fund reparations for Japanese-American citizens interned during World War II.

In 1988 Congress authorized the payment of reparations to the internees in the amount of \$1.25 billion, with up to \$500 million to be appropriated in each fiscal year. Yet former President Reagan, in his final budget, proposed only a \$20 million appropriation in fiscal year 1990 and only \$170 million in fiscal year 1991. At that rate, many internees may pass away before they can receive their reparations.

Your Committee received testimony in support of this concurrent resolution from the American Civil Liberties Union of Hawaii and the Japanese American Citizens League. The victims of internment suffered irreparable damages, both physical and mental. Many Japanese-Americans have found it hard to start a whole new life all over again, even forty-four years after this tragic event.

Your Committee has amended this concurrent resolution to provide that a copy be sent to the President, in addition to Hawaii's Congressional delegation. A nonsubstantive amendment has also been made for purposes of style and clarity.

Your Committee on Intergovernmental Relations and International Affairs concurs with the intent and purpose of H.C.R. No. 48, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 48, H.D. 1.

Signed by all members of the Committee except Representatives Hirayama and Hirono.

SCRep. 1356 Intergovernmental Relations and International Affairs on H.R. No. 17

The purpose of this resolution is to express the Legislature's support for continuing the efforts toward improving coordination and cooperation between state and county governments.

Your Committee finds that the distinction between the jurisdictions of the county governments and the state are sometimes vague. In such cases county and state functions are unclear and may overlap. This inefficiency wastes resources and frustrates both citizens and government officials.

Your Committee finds that steps are being taken to streamline and clarify the functions of the various levels of government. It is the intent of your Committee that such efforts be continued, encouraged, and supported.

Your Committee on Intergovernmental Relations and International Affairs concurs with the intent and purpose of H.R. No. 17 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1357 Intergovernmental Relations and International Affairs on H.C.R. No. 15

The purpose of this concurrent resolution is to express the Legislature's support for continuing the efforts toward improving coordination and cooperation between state and county governments.

Your Committee finds that the distinction between the jurisdictions of the county governments and the state are sometimes vague. In such cases county and state functions are unclear and may overlap. This inefficiency wastes resources and frustrates both citizens and government officials.

Your Committee finds that steps are being taken to streamline and clarify the functions of the various levels of government. It is the intent of your Committee that such efforts be continued, encouraged, and supported.

Your Committee on Intergovernmental Relations and International Affairs concurs with the intent and purpose of H.C.R. No. 15 and recommends its adoption.

Signed by all members of the Committee except Representative Hirono.

SCRep. 1358 Intergovernmental Relations and International Affairs on H.R. No. 16

The purpose of this resolution is to have the Legislature formally recognize and endorse the pursuit of an expanded international role for Hawaii as the foundation for Hawaii's future. The Resolution also states the Legislature's commitment to immediate and determined action toward expanding Hawaii's international role, beginning with efforts to expand Hawaii's image from a vacation paradise to include recognition of the range of activities in Hawaii.

This Resolution is based on the findings and recommendations of the Governor's Congress on Hawaii's International Role, and is in accordance with the goals set forth by the Governor's Congress.

Your Committee received extensive testimony in favor of this resolution. Testifiers included the Office of State Planning, the Department of Business and Economic Development, the East-West Center, the National Federation of Independent Business, and representatives from the Governor's Congress on Hawaii's International Role.

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

Your Committee on Intergovernmental Relations and International Affairs concurs with the intent and purpose of H.R. No. 16, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 16, H.D. 1.

Signed by all members of the Committee.

SCRep. 1359 Intergovernmental Relations and International Affairs on H.C.R. No. 14

The purpose of this concurrent resolution is to have the Legislature formally recognize and endorse the pursuit of an expanded international role for Hawaii as the foundation for Hawaii's future. The Resolution also states the Legislature's commitment to immediate and determined action toward expanding Hawaii's international role, beginning with efforts to expand Hawaii's image from a vacation paradise to include recognition of the range of activities going on in Hawaii.

This Concurrent Resolution is based on the findings and recommendations of the Governor's Congress on Hawaii's International Role, and is in compliance with the goals set forth by the Governor's Congress.

Your Committee received extensive testimony in favor of this concurrent resolution, including testimony from the Office of State Planning, the Department of Business and Economic Development, the East-West Center, the National Federation of Independent Business, and representatives from the Governor's Congress.

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

Your Committee on Intergovernmental Relations and International Affairs concurs with the intent and purpose of H.C.R. No. 14, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 14, H.D. 1.

Signed by all members of the Committee except Representatives Hirayama and Hirono.

SCRep. 1360 Intergovernmental Relations and International Affairs on H.R. No. 80

The purpose of this resolution is to request the Government of Belgium to release the remains of Father Damien Deveuster for reinterment at St. Philomena's Catholic Church, Kalaupapa, Hawaii.

Your Committee finds that the people of Kalaupapa have a strong affinity for Father Damien, who they refer to as "Kamiano". Your Committee further finds that Father Damien demonstrated a deep commitment to the patients of Kalaupapa. In commemorating the 100th anniversary of his death, it is appropriate to have his remains returned to Kalaupapa where he can eternally be among those he loved and cared for.

Your Committee received testimony in support of this measure from a State Representative and a representative of the people of Kalaupapa. Both testifiers expressed a deep conviction that the remains of Father Damien should be returned to Kalaupapa, to rest in the place that he loved and among the people to whom he dedicated his life.

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

Your Committee on Intergovernmental Relations and International Affairs concurs with the intent and purpose of H.R. No. 80, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 80, H.D. 1.

Signed by all members of the Committee.

SCRep. 1361 Intergovernmental Relations and International Affairs on H.C.R. No. 63

The purpose of this concurrent resolution is to request the Government of Belgium to release the remains of Father Damien Deveuster for reinterment at St. Philomena's Catholic Church, Kalaupapa, Hawaii.

Your Committee finds that the people of Kalaupapa have a strong affinity for Father Damien, who they refer to as "Kamiano". Your Committee further finds that Father Damien demonstrated a deep commitment to the patients of Kalaupapa. In commemorating the 100th anniversary of his death, it is appropriate to have his remains returned to Kalaupapa where he can eternally be among those he loved and cared for.

Your Committee received testimony in support of this measure from a State Representative and a representative of the people of Kalaupapa. Both testifiers expressed a deep conviction that the remains of Father Damien belong in Kalaupapa, to rest in the place that he loved and among the people to whom he dedicated his life.

Your Committee has made technical, nonsubstantive amendments to the title and body of this concurrent resolution for purposes of style and clarity.

Your Committee on Intergovernmental Relations and International Affairs concurs with the intent and purpose of H.C.R. No. 63, as amended, and recommends its adoption in the form attached hereto as H.C.R. No. 63, H.D. 1.

Signed by all members of the Committee except Representative Okamura.

SCRep. 1362 Water and Land Use on H.C.R. No. 47

The purpose of this concurrent resolution is to encourage the Department of Land and Natural Resources (DLNR) to expand its efforts in the historic preservation program on the neighbor islands.

Your Committee finds that the DLNR's Historic Preservation Program does not maintain neighbor island offices, and as a result, residents on the neighbor islands are deprived of many archaeological services available on Oahu. Furthermore, many historic sites on the neighbor islands are in jeopardy because they are located in areas of direct conflict with planned urban development.

Your Committee heard testimony from DLNR in support of this concurrent resolution.

Your Committee finds that the historic and cultural heritage of the state is among its most important assets and should be preserved. The conservation and preservation of culturally significant and historic properties will be of great benefits to the state and its citizens.

Your Committee on Water and Land Use concurs with the intent and purpose of H.C.R. No. 47 and recommends its adoption.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 1363 Housing on H.R. No. 106

The purpose of this resolution is to request the Legislative Reference Bureau to study mechanisms through which the State could indefinitely maintain the affordability of state-subsidized housing.

Your Committee received testimony in support of this resolution from the Housing Finance and Development Corporation (HFDC), which indicated its willingness to assist in undertaking this study. The Affordable Housing Alliance testified that the money the State puts into affordable housing is lost after ten years. This study would explore ways in which the availability of affordable housing could be maintained.

The resolution, as requested by HFDC, has been amended by specifically requesting that the study examine the benefits and disadvantages of these mechanisms to the consumer, the State, and other parties. For purposes of clarity, technical and nonsubstantive changes have also been made.

Your Committee on Housing concurs with the intent and purpose of H.R. No. 106, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as H.R. No. 106, H.D. 1.

Signed by all members of the Committee.

SCRep. 1364 Housing on H.C.R. No. 86

The purpose of this concurrent resolution is to request the Legislative Reference Bureau study mechanisms through which the State could indefinitely maintain the affordability of state-subsidized housing.

Your Committee received testimony in support of this concurrent resolution from the Housing Finance and Development Corporation (HFDC), which indicated its willingness to assist in undertaking this study. The Affordable Housing Alliance testified that the money the State puts into affordable housing is lost after ten years. This study would explore ways in which the availability of affordable housing could be maintained.

The concurrent resolution, as requested by HFDC, has been amended by specifically requesting that the study examine the benefits and disadvantages of these mechanisms to the consumer, the State, and other parties. For purposes of clarity, technical and nonsubstantive changes have also been made.

Your Committee on Housing concurs with the intent and purpose of H.C.R. No. 86, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as H.C.R. No. 86, H.D. 1.

Signed by all members of the Committee.

SCRep. 1365 Health and Human Services on H.R. No. 150

The purpose of this resolution is to request the Program on Alternative Dispute Resolution of the Judiciary to conduct a series of policy roundtable discussions, including representatives from the Department of Health, consumers, families and advocates, to make recommendations for improving the treatment and services for mentally ill people in Hawaii.

Your Committees on Health and Human Services received testimony from the Department of Health, the Program on Alternative Dispute Resolution of the State Judiciary, the Department of Corrections, the Mental Health Association, the Hawaii Psychological Association, the Hawaii Mental Health Consumer Council and the Protection and Advocacy Agency of Hawaii, in support of the resolution and with a commitment to participate fully in the process. Hawaii Family and Friends of Schizophrenics did not support this measure; however, your Committees encouraged that organization to participate in the process to ensure its positive outcome for all who are effected by mental illness in Hawaii.

Your Committee accepted the suggestion by the Department of Health to broaden the participation at the roundtables to include representatives of the legal community, professional societies whose members are involved in the care of mentally ill individuals, the State Council on Mental Illness and Substance Abuse, the Mental Health area boards, the Legislature and the American Civil Liberties Union. Your Committees have thus amended the seventh WHEREAS clause and the first BE IT FURTHER RESOLVED clause to add these groups to the consumers, families and advocacy groups already listed.

Your Committees on Health and Human Services concur with the intent and purpose of H.R. No. 150, as amended herein, and recommend that it be referred to the Committee on Judiciary in the form attached hereto as H.R. No. 150, H.D. 1.

Signed by all members of the Committees.

SCRep. 1366 Health and Human Services on H.C.R. No. 127

The purpose of this concurrent resolution is to request the Program on Alternative Dispute Resolution of the Judiciary to conduct a series of policy roundtable discussions, including representatives from the Department of Health, consumers, families and advocates, to make recommendations for improving the treatment and services for mentally ill people in Hawaii.

Your Committees on Health and Human Services received testimony from the Department of Health, the Program on Alternative Dispute Resolution of the State Judiciary, the Department of Corrections, the Mental Health Association, the Hawaii Psychological Association, the Hawaii Mental Health Consumer Council and the Protection and Advocacy Agency of Hawaii, in support of the concurrent resolution and with a commitment to participate fully in the process. Hawaii Family and Friends of Schizophrenics did not support this measure; however, your Committees encouraged that organization to participate in the process to ensure its positive outcome for all who are effected by mental illness in Hawaii.

Your Committee accepted the suggestion by the Department of Health to broaden the participation at the roundtables to include representatives of the legal community, professional societies whose members are involved in the care of mentally ill individuals, the State Council on Mental Illness and Substance Abuse, the Mental Health area boards, the Legislature and the American Civil Liberties Union. Your Committees have thus amended the seventh WHEREAS clause and the first BE IT FURTHER RESOLVED clause to add these groups to the consumers, families and advocacy groups already listed.

Your Committees on Health and Human Services concur with the intent and purpose of H.C.R. No. 127, as amended herein, and recommend that it be referred to the Committee on Judiciary in the form attached hereto as H.C.R. No. 127, H.D. 1.

Signed by all members of the Committees.

SCRep. 1367 Health on H.C.R. No. 101

The purpose of this resolution is to request the Legislative Auditor to conduct a financial and management audit of the Mental Health Division of the Department of Health, to investigate how some of the recently highlighted deficiencies in the Division can best be improved.

Your Committee heard testimony in strong support of the resolution from the Hawaii Mental Health Consumer Council, Protection and Advocacy Agency of Hawaii, and Mental Health Association in Hawaii. The Department of Health testified against the resolution, stating that an audit at this time would be costly and unproductive since it would be evaluating a system that is in the midst of change.

Your Committee finds that an audit would be useful as part of the total review of the Department's progress in implementing needed changes, including an improvement in the process of selecting and monitoring purchase of service contracts, and the development of new fiscal mechanisms that provide incentives for center-based community mental health services.

Your Committee is amending the resolution to specify that the audit look into the adequacy of funds for the seriously ill, by adding three WHEREAS clauses and one BE IT FURTHER RESOLVED clause.

Your Committee on Health concurs with the intent and purpose of H.C.R. No. 101, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as H.C.R. No. 101, H.D. 1.

Signed by all members of the Committee except Representatives Chang, Hayes, M. Ige, Kawakami, Leong, Metcalf and Liu.

SCRep. 1368 Health on H.R. No. 254

To reflect the new intent of this resolution, your Committee has changed the title to:

"REQUESTING THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES TO WORK CLOSELY WITH THE COMMISSION ON THE HANDICAPPED IN DEVISING PLANS TO IMPROVE ACCESS TO THE STATE CAPITOL FOR PEOPLE WITH DISABILITIES AND TO REPORT TO THE LEGISLATURE ON THE STATUS OF THESE PLANS."

The purpose of this resolution, as received by your Committee, was to urge the Department of Budget and Finance to expedite the plans initiated and the expenditure of CIP funds allocated several years ago to construct the handicapped ramp on the makai side of the State Capitol building.

Your Committee received testimony from the Director of Finance, the Department of Accounting and General Services, and the Commission on the Handicapped, all of whom concurred that this matter was in the purview of the Department of Accounting and General Services. The Department of Accounting and General Services reported that initial plans for the ramp construction have been timed to coincide with the Capitol asbestos mitigation project scheduled from July 1991 to July 1992. Since the plans would require cutting the Capitol pool's waterproofing membrane, the ramp construction is also timed to coincide with another project to replace that waterproofing membrane.

While your Committee understands the reasons for the delay in the construction of a permanent ramp for people with physical disabilities, it remains concerned about their adequate access to the Capitol during the interim period prior to permanent construction. Your Committee is requesting a report back from the Department of Accounting and General Services and from the Commission on the Handicapped as to the feasibility, safety and cost of acquiring a temporary ramp for the interim period.

Your Committee is further amending this resolution to request the Department of Accounting and General Services to give the Legislature a full report on its current plans to provide more access to the Capitol for people with all disabilities, including limited mobility, hearing and sight; and to urge the Department to work closely with the Commission on the Handicapped in drafting and reviewing these plans.

Your Committee on Health concurs with the intent and purpose of H.R. No. 254, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 254, H.D. 1.

Signed by all members of the Committee except Representatives Amaral, M. Ige, Ihara, Kawakami, Tam and Liu.

SCRep. 1369 Health on H.C.R. No. 235

To reflect the new intent of this concurrent resolution, your Committee has changed the title to:

"REQUESTING THE DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES TO WORK CLOSELY WITH THE COMMISSION ON THE HANDICAPPED IN DEVISING PLANS TO IMPROVE ACCESS TO THE STATE CAPITOL FOR PEOPLE WITH DISABILITIES AND TO REPORT TO THE LEGISLATURE ON THE STATUS OF THESE PLANS."

The purpose of this concurrent resolution, as received by your Committee, was to urge the Department of Budget and Finance to expedite the plans initiated and the expenditure of CIP funds allocated several years ago to construct the handicapped ramp on the makai side of the State Capitol building.

Your Committee received testimony from the Director of Finance, the Department of Accounting and General Services, and the Commission on the Handicapped, all of whom concurred that this matter was in the purview of the Department of Accounting and General Services. The Department of Accounting and General Services reported that initial plans for the ramp construction have been timed to coincide with the Capitol asbestos mitigation project scheduled from July 1991 to July 1992. Since the plans would require cutting the Capitol pool's waterproofing membrane, the ramp construction is also timed to coincide with another project to replace that waterproofing membrane.

While your Committee understands the reasons for the delay in the construction of a permanent ramp for people with physical disabilities, it remains concerned about their adequate access to the Capitol during the interim period prior to permanent construction. Your Committee is requesting a report back from the Department of Accounting and General Services and from the Commission on the Handicapped as to the feasibility, safety and cost of acquiring a temporary ramp for the interim period.

Your Committee is further amending this concurrent resolution to request the Department of Accounting and General Services to give the Legislature a full report on its current plans to provide more access to the Capitol for people with all disabilities, including limited mobility, hearing and sight; and to urge the Department to work closely with the Commission on the Handicapped in drafting and reviewing these plans.

Your Committee on Health concurs with the intent and purpose of H.C.R. No. 235, as amended herein, and recommends that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 235, H.D. 1.

Signed by all members of the Committee except Representatives Amaral, M. Ige, Ihara, Kawakami, Tam and Liu.

SCRep. 1370 Health on S.C.R. No. 6

The purpose of the concurrent resolution is to request a study by the Legislative Auditor concerning the health, social and financial impacts of mandatory insurance coverage for mammography as required under section 23-51, Hawaii Revised Statutes.

Your Committee heard testimony from the Department of Health, the Executive Office on Aging, Hawaii Medical Services Association, the American Cancer Society, Kapiolani Medical Center, and Loretta Schuler, retired public health nurse -- all in support of this concurrent resolution. Your Committee believes that this concurrent resolution will advance the public interest by determining the health and social benefits as well as the financial ramifications of requiring mammograph screening for women in all health insurance programs in the State of Hawaii.

Your Committee finds that the study called for in this concurrent resolution is required by current State law before any mandatory insurance coverage legislation is enacted. Your Committee has amended this concurrent resolution to reflect the House Draft of the companion concurrent resolution, H.C.R. 44.

Specifically, we have amended the bill in the following way:

- (1) We have added the phrase "introduced during the Regular Session of 1989" to the Senate bill and House bill reference in the tenth "Whereas" paragraph.
- (2) We have specified that the mammograph screening referred to in the subsequent paragraph befor women "aged 40 to 65."
- (3) We have added a phrase to the end of the first "Be it resolved" paragraph, per suggestions in testimony, that the analysis shall include a review of previous studies regarding the health and social benefits of mammography screening.
- (4) We have added a subsequent "Be it further resolved" paragraph mandating the analysis to include assessment of coverage for screening provided by fraternal benefit societies, mutual benefit societies, and health maintenance organizations.
- (5) We have added a third "Be it further resolved" paragraph mandating that the analysis include assessment of coverage for 4 categories of women of differing ages and medical histories.
- (6) An additional "Be it further resolved" mandates that the auditor consider the impact of H.B. 594 and S.B. 1398 as though enacted.

Your Committee on Health is in accord with the intent and purpose of S.C.R. No. 6, S.D. 2, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as S.C.R. No. 6, S.D. 2, H.D. 1.

Signed by all members of the Committee.

SCRep. 1371 Health and Human Services on H.R. No. 336

The purpose of this resolution is to request the Legislative Reference Bureau to conduct a study to determine the feasibility of implementing a state-mandated discharge planning system.

Your Committees received testimony in support of this measure from the Department of Health and the Kokua Council for Senior Citizens. Testimony was also received from the Healthcare Association of Hawaii in opposition to this resolution, noting that a mandatory state discharge planning system would not allow different facilities to respond flexibly to the particular facts of individual cases. The Association also testified that in Massachusetts, where a state-mandated system is used, numerous problems have been encountered.

This measure has therefore been amended by restricting the study to the examination of questions about discharge planning services in Hawaii. This change in emphasis is reflected in the title of the resolution to: "Requesting a Study to Examine Discharge Planning in the State of Hawaii." Accordingly, all references to a mandatory discharge planning system have been eliminated, together with a suggestion that the Legislative Auditor evaluate the Massachusetts model.

In addition, your Committees have requested that the Legislative Auditor examine options for discharge planning for those patients who will be moving into the long term care service system and to recommend the most promising of these to the Legislature in its report prior to the convening of the Regular Session of 1990.

Your Committees on Health and Human Services concur with the intent and purpose of H.R. No. 336, as amended herein, and recommend that it be referred to the Committee on Legislative Management in the form attached hereto as H.R. No. 336, H.D. 1.

Signed by all members of the Committees except Representatives Amaral, M. Ige, Tam and Cavasso.

SCRep. 1372 Economic Development and Hawaiian Affairs on H.C.R. No. 337

The purpose of this concurrent resolution is to request the Legislative Auditor to conduct a financial and management audit of the Department of Business and Economic Development.

The Department of Business and Economic Development testified that it is audited annually by a private accounting firm selected by the Department of Accounting and General Services. It recommended that any audit be focused on specific areas of concern.

Your Committee has amended this concurrent resolution to request the Legislative Auditor to review the effectiveness and appropriateness of private sector contracts entered into by the Department of Business and Economic Development. An additional "Whereas" clause has been added to further specify the area of concern.

Your Committee on Economic Development and Hawaiian Affairs concurs with the intent and purpose of H.C.R. No. 337, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as H.C.R. No. 337, H.D. 1.

Signed by all members of the Committee except Representatives Apo and Bellinger.

SCRep. 1373 Human Services on H.R. No. 182

The purpose of this resolution was to ask the Family Courts to develop a foster care review system using volunteer citizens to monitor the status of abused or neglected children in foster care.

Your Committee heard testimony on the resolution from the Department of Human Services, the Office of Children and Youth, the Family Court and the Child and Family Service agency. The Department was concerned that many of the situations referred to in the "Whereas" clauses of the resolution were being addressed through new budget initiatives. The Department and the Office of Children and Youth felt that a more thorough study of the foster care system was needed before a review system was established.

The Family Court noted that review processes were currently in place for children under Chapter 587, Hawaii Revised Statutes, the Child Protective Act. The Court said cases that do not fall within the purview of that law would benefit from a review system.

Testimony from the Child and Family Service agency said that 22 other states in the country have implemented citizen review systems that have relieved courts with crowded dockets and limited financial resources. The agency said a foster care review system assured that each child in foster care would receive a timely, independent and quality case review.

Your Committee decided to amend the resolution to clarify that its intent was to ask the courts to look at different options for alternatives to judicial review of foster care cases, including those cases not mandated for review by law. Your Committee then amended the title of the resolution accordingly.

Your Committee on Human Services concurs with the intent and purpose of H.R. No. 182, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as H.R. No. 182, H.D. 1.

Signed by all members of the Committee except Representative Metcalf.

SCRep. 1374 Human Services on H.C.R. No. 162

The purpose of this concurrent resolution was to ask the Family Courts to develop a foster care review system using volunteer citizens to monitor the status of abused or neglected children in foster care.

Your Committee heard testimony on the concurrent resolution from the Department of Human Services, the office of Children and Youth, the Family Court and the Child and Family Service agency. The Department was concerned that many of the situations referred to in the "Whereas" clauses of the concurrent resolution were being addressed through new budget initiatives. The Department and the Office of Children and Youth felt that a more thorough study of the foster care system was needed before a review system was established.

The Family Court noted that review processes were currently in place for children under Chapter 587, Hawaii Revised Statutes, the Child Protective Act. The Court said cases that do not fall within the purview of that law would benefit from a review system.

Testimony from the Child and Family Service agency said that 22 other states in the country have implemented citizen review systems that have relieved courts with crowded dockets and limited financial resources. The agency said a foster care review system assured that each child in foster care would receive a timely, independent and quality case review.

Your Committee decided to amend the concurrent resolution to clarify that its intent was to ask the courts to look at different options for alternatives to judicial review of foster care cases, including those cases not mandated for review by law. Your Committee then amended the title of the concurrent resolution accordingly.

Your Committee on Human Services concurs with the intent and purpose of H.C.R. No. 162, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as H.C.R. No. 162, H.D. 1.

Signed by all members of the Committee except Representative Metcalf.

SCRep. 1375 Human Services on H.C.R. No. 175

The purpose of this concurrent resolution is to request the Legislative Auditor to study the causes of the social worker shortage among various State agencies including the Departments of Corrections, Education, Health, Human Services, and the Judiciary and to report its findings and recommendations to the 1990 legislature.

This concurrent resolution also requests the study to include:

- (1) The range of pay scales among the various levels of social workers and among the various departments;
- (2) The procedures and practices for hiring social workers;
- (3) The causes and effect of staff burnout;
- (4) The causes and effect of low personnel morale; and
- (5) Recommendations to improve and alleviate the current social worker shortage and working conditions.

Your Committee heard testimony in support of this concurrent resolution from the Departments of Corrections, Education, Health, Human Services, Personnel Services, and the Judiciary. In addition, testimony from numerous individuals and organizations representing social workers was also received in support of this concurrent resolution.

Your Committee believes that current practices employed by various state agencies to alleviate the problem of recruiting and retaining qualified social workers are not effective. The problem of staff shortages must be tackled at its roots beginning with an in-depth study of the causes of the current shortage situation.

Your Committee has amended this concurrent resolution by renumbering the specific items to be studied by the Legislative Auditor and has added the following two items:

- "(5) A review of social worker salaries paid by selected other states; and
- (6) A review of social worker salaries relative to other state government job categories in Hawaii."

Your Committee has also amended this concurrent resolution to request:

- (1) The cooperation of all State and county departments who hire social workers or are concerned with providing social services; and
- (2) The School of Social Work and other social work programs at the University of Hawaii to participate in the study and to make recommendations.

Finally, your Committee has also made one technical nonsubstantive amendment for the purpose of clarity.

Your Committee on Human Services is in accord with the intent and purpose of H.C.R. No. 175, as amended herein, and recommends that it be referred to the Committee on Legislative Management, in the form attached hereto as H.C.R. No. 175, H.D. 1.

Signed by all members of the Committee.

SCRep. 1376 Human Services on H.R. No. 233

The purpose of this resolution is to request that the Department of Human Services review the mandates dealing with child welfare issues and consider clarifying or consolidating the various laws regarding child abuse and neglect.

Your Committee heard supporting testimony from the Department of Human Services, the Family Court, the Office of Children and Youth, the Department of Education and the Hawaii Government Employees Association.

Your Committee decided to amend the resolution to add language requiring that public information briefings be conducted on the findings and recommendations of the Department of Human Services prior to the convening of the 1990 Regular Session.

Your Committee on Human Services concurs with the intent and purpose of H.R. No. 233, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as H.R. No. 233, H.D. 1.

Signed by all members of the Committee except Representative Metcalf.

SCRep. 1377 Human Services on H.C.R. No. 215

The purpose of this concurrent resolution is to request that the Department of Human Services review the mandates dealing with child welfare issues and consider clarifying or consolidating the various laws regarding child abuse and neglect.

Your Committee heard supporting testimony from the Department of Human Services, the Family Court, the Office of Children and Youth, the Department of Education and the Hawaii Government Employees Association.

Your Committee decided to amend the concurrent resolution to add language requiring that public information briefings be conducted on the findings and recommendations of the Department of Human Services prior to the convening of the 1990 Regular Session.

Your Committee on Human Services concurs with the intent and purpose of H.C.R. No. 215, as amended herein, and recommends that it be referred to the Committee on Judiciary in the form attached hereto as H.C.R. No. 215, H.D. 1.

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

SCRep. 1378 Human Services and Health on H.R. No. 183

The purpose of this resolution is to ask the Department of Budget and Finance to consider new ways to review applications for purchase of service, grants and subsidies, and to develop methods to audit programs funded through the process outlined in Chapter 42, Hawaii Revised Statutes.

Your Committees heard testimony from the departments of Budget and Finance, Human Services, Health, and Industrial Relations; and a number of human service organizations that provide services through the Chapter 42 process. All testimony was in support of the resolution as it would provide an opportunity for discussion of needed improvements in the process.

Your Committees decided that this resolution should be amended to reflect the great need for discussion by participants at all levels of the Chapter 42 process. New language now requests the Department of Budget and Finance to convene a conference of all participants and lists items to be discussed. Those items are:

- (1) The appropriate role for the Department of Budget and Finance in determining policy and program direction; and
- (2) Evaluation of the timing of the process, how it can be improved and how the timing relates to the executive budget process; and
- (3) The incorporation of the departments' planning and needs assessment process into the request for proposal process; and
- (4) The possibility of developing teams of evaluators including representatives of appropriate State departments and community organizations to review proposals and to monitor contracts; and
- (5) The optimum ratio of proposal evaluators and contract monitors to service providers; and
- (6) Development methods to audit programs funded through purchases of service and grants and to develop methods for service providers to evaluate their programs; and
- (7) Development of alternative funding and contract mechanisms for fee for service, undesignated fund, and sole source providers; and
- (8) Increased interagency coordination to improve the process.

Your Committees on Human Services and Health concur with the intent and purpose of H.R. No. 183, as amended herein, and recommend that it be referred to the Committee on Finance in the form attached hereto as H.R. No. 183, H.D. 1.

Signed by all members of the Committees except Representatives Duldulao and Metcalf.

SCRep. 1379 Human Services and Health on H.C.R. No. 163

The purpose of this concurrent resolution is to ask the Department of Budget and Finance to consider new ways to review applications for purchase of service, grants and subsidies, and to develop methods to audit programs funded through the process outlined in Chapter 42, Hawaii Revised Statutes.

Your Committees heard testimony from the departments of Budget and Finance, Human Services, Health, and Industrial Relations; and a number of human service organizations that provide services through the Chapter 42 process. All testimony was in support of the concurrent resolution as it would provide an opportunity for discussion of needed improvements in the process.

Your Committees decided that this concurrent resolution should be amended to reflect the great need for discussion by participants at all levels of the Chapter 42 process. New language now requests the Department of Budget and Finance to convene a conference of all participants and lists items to be discussed. Those items are:

- (1) The appropriate role for the Department of Budget and Finance in determining policy and program direction; and
- (2) Evaluation of the timing of the process, how it can be improved and how the timing relates to the executive budget process; and
- (3) The incorporation of the departments' planning and needs assessment process into the request for proposal process; and
- (4) The possibility of developing teams of evaluators including representatives of appropriate State departments and community organizations to review proposals and to monitor contracts; and
- (5) The optimum ratio of proposal evaluators and contract monitors to service providers; and
- (6) Development methods to audit programs funded through purchases of service and grants and to develop methods for service providers to evaluate their programs; and
- (7) Development of alternative funding and contract mechanisms for fee for service, undesignated fund, and sole source providers; and
- (8) Increased interagency coordination to improve the process.

Your Committees on Human Services and Health concur with the intent and purpose of H.C.R. No. 163, as amended herein, and recommend that it be referred to the Committee on Finance in the form attached hereto as H.C.R. No. 163, H.D. 1.

Signed by all members of the Committees except Representatives Duldulao and Metcalf.

SCRep. 1380 Planning, Energy and Environmental Protection on H.C.R. No. 158

The purpose of this concurrent resolution is to request a review of the substance and implementation of Chapter 195D, Hawaii Revised Statutes.

The native flora and fauna of the Hawaiian Islands includes thousands of species of plants, insects, snails, and over 100 species of birds. Many of these have become extinct because of human activity and the subsequent introduction of exotic flora and fauna, and many species are currently in such low numbers that they are considered either endangered or threatened to become endangered.

One of the criteria for the allocation of federal funds for state programs for endangered and threatened species is "readiness of a State to proceed with a conservation program consistent with the objectives and purposes of [the federal Endangered Species Act.]" 16 U.S.C. & 1535. Considering the various amendments to the federal Endangered Species Act in the past 15 years, a review of and subsequent amendments to Chapter 195D are appropriate.

Subsequently, your Committee finds that it is necessary to review Chapter 195D to determine its conformity to the current version of the federal endangered species act and also to conduct an analysis of the funding needed to adequately exercise authority pursuant to Chapter 195D. This would include any additional authority proposed as a result of the requested review.

It is the intent of this Committee that all affected parties and user groups be consulted in the review.

Your Committee on Planning, Energy and Environmental Protection concurs with the intent and purpose of H.C.R. No. 158 and recommends its adoption.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 1381 Planning, Energy and Environmental Protection and Transportation on H.C.R. No. 137

The purpose of this concurrent resolution is to direct the Department of Transportation (DOT) to prepare an Environmental Impact Statement (EIS) for the expansion of the Kahului Airport pursuant to Chapter 343, Hawaii Revised Statutes.

In enacting Chapter 343, the Legislature found that an environmental review process will integrate the review of environmental concerns with existing planning processes of the State and counties and alert decision-makers to significant environmental effects which result from the implementation of certain actions.

Your Committees are hesitant to use legislative directive with regards to the preparation of EIS's. However, responsibility for enforcement of EIS rules have been controversial ever since the 1983 revisions of Chapters 341 and 343. Legislative actions since 1983 have repeatedly expressed the intent to clarify these ambiguities by making it clear that the Environmental Council has the ability to issue Declaratory rulings with regard to the application of certain rules relative to Chapter 343. This issue also brings to light the need for an administrative appeal procedure of an agency's determination. While your Committees are concerned with the precedent of legislative initiation of specific EIS preparation, the particular issue now in question is too serious to suggest a delay for legislative clarification of the Council's authority.

Your Committees finds that the DOT has issued well over fifteen negative declaration since 1978 concerning various development and expansion projects at the Kahului Airport. Section 200-12, State Environmental Impact Statement Rules, explicitly directs agencies to consider every phase of a proposed action, the expected consequences, both primary and secondary, and the cumulative as well as short and long-term effects of the action. Various aspects of expanding Kahului Airport, individually and collectively, may have a significant effect on the environment; consequently the preparation of an EIS is required by law.

Your Committees on Planning, Energy and Environmental Protection and Transportation concur with the intent and purpose of H.C.R. No. 137 and recommend its adoption.

Signed by all members of the Committees except Representative Hashimoto.

SCRep. 1382 Planning, Energy and Environmental Protection on H.C.R. No. 159

The purpose of this concurrent resolution is to promote the propagation and use of native plants in landscaping by government and private agencies.

Native plants represent a valuable natural heritage. In addition, they constitute viable landscape option because of their ability to tolerate salt sprays and poor quality irrigation water.

Your Committee finds that some native plants are being utilized by the landscape profession in Hawaii, however, a lack of availability is a limiting factor for their use.

Your Committee received testimony expressing concern about the possibility of removal of native species from their natural habitat as a result of an increased demand for these species in landscape projects. Also, further testimony indicated that another limiting factor for the use of native plants was a lack of general knowledge on how to propagate and utilize their characteristics for landscape projects.

Your Committee has amended this concurrent resolution by clarifying that all native species used for landscaping be nursery propagated in order to discourage their removal from native habitats. This concurrent resolution has also been amended by requesting that the Department of Land and Natural Resources include in their report to the legislature an examination of future state landscaping plans to determine the feasibility of using native species for State projects, and include this information in their report to the Legislature.

Your Committee on Planning, Energy and Environmental Protection is in accord with the intent and purpose of H.C.R. No. 159, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 159, H.D. 1.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 1383 Planning, Energy and Environmental Protection on H.R. No. 9

The purpose of this resolution is to request that the U.S. Congress and the U.S. Environmental Protection Agency release appropriated funds for nonpoint source pollution control, pursuant to Section 319 of the Water Quality Act of 1987.

Section 319 funds would be used to better manage nonpoint source pollution, thereby protecting Hawaii's coastal water quality and nearshore marine life. Your Committee strongly supports the release of these funds.

Your Committee on Planning, Energy and Environmental Protection concurs with the intent and purpose of H.R. No. 9 and recommends its adoption.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 1384 Planning, Energy and Environmental Protection on H.C.R. No. 5

The purpose of this concurrent resolution is to request that the U.S. Congress and the U.S. Environmental Protection Agency release appropriated funds for nonpoint source pollution control, pursuant to Section 319 of the Water Quality Act of 1987.

Section 319 funds would be used to better manage nonpoint source pollution, thereby protecting Hawaii's coastal water quality and nearshore marine life. Your Committee strongly supports the release of these funds.

Your Committee on Planning, Energy and Environmental Protection concurs with the intent and purpose of H.C.R. No. 5 and recommends its adoption.

Signed by all members of the Committee except Representative Hashimoto.

SCRep. 1385 Tourism on H.R. No. 111

The purpose of this resolution is to support the local publishing industry by asking the Hawaii Visitors Bureau to allow local publishing firms to bid on the Bureau's guide to Hawaii when the current publishing contract with a mainland firm expires.

Your Committee received testimony in support of the intent of this resolution from the Hawaii Visitors Bureau, the Department of Business and Economic Development, the Hawaii Publishers Association, and the Film and Video Council.

Your Committee has amended the title and body of this resolution to express more clearly the intent that the Hawaii Visitors Bureau should support the local media industry by allowing them the opportunity to compete fairly for the advertising jobs initiated by the Bureau or its advertising contractors.

Your Committee on Tourism is in accord with the intent and purpose of H.R. No. 111, as amended herein, and recommends its adoption in the form attached hereto as H.R. 111, H.D. 1.

Signed by all members of the Committee.

SCRep. 1386 Tourism on H.C.R. No. 91

The purpose of this concurrent resolution is to support the local publishing industry by asking the Hawaii Visitors Bureau to allow local publishing firms to bid on the Bureau's guide to Hawaii when the current publishing contract with a mainland firm expires.

Your Committee received testimony in support of the intent of this concurrent resolution from the Hawaii Visitors Bureau, the Department of Business and Economic Development, the Hawaii Publishers Association, and the Film and Video Council.

Your Committee has amended the title and body of this concurrent resolution to express more clearly the intent that the Hawaii Visitors Bureau should support the local media industry by allowing them the opportunity to compete fairly for the advertising jobs initiated by the Bureau or its advertising contractors.

Your Committee on Tourism is in accord with the intent and purpose of H.C.R. No. 91, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 91, H.D. 1.

Signed by all members of the Committee.

SCRep. 1387 Tourism and Economic Development and Hawaiian Affairs on H.R. No. 169

The film industry in Hawaii has long been a valuable component of the economy, providing jobs that do not pollute the environment, entertaining citizens and non-citizens alike, and promoting Hawaii throughout the world. The prospect for growth in the film industry are promising. To support this growth, the State has a Film Industry Branch in the Department of Business and Economic Development, which works to attract film projects to Hawaii, in addition to a Film Industry Support Group.

The purpose of this resolution is to create a Governor's Advisory Council on the Film and Video Industry, composed of film and video professionals to advise the Department of Business and Economic Development in the development of the film and video industry in Hawaii.

Your Committees have received testimony from CineWorld Enterprise Corporation, the Film and Video Council, and the Department of Business and Economic Development in support of a Governor's Advisory Council.

Your Committees have amended the resolution title from the "Creation of a Film Commission" to the "Creation of a Governor's Film and Video Advisory Council."

Your Committees on Tourism and Economic Development and Hawaiian Affairs are in accord with the intent and purpose of H.R. No. 169, as amended herein, and recommend its adoption in the form attached hereto as H.R. No. 169, H.D. 1.

Signed by all members of the Committees.

SCRep. 1388 Tourism and Economic Development and Hawaiian Affairs on H.C.R. No. 145

The film industry in Hawaii has long been a valuable component of the economy, providing jobs that do not pollute the environment, entertaining citizens and non-citizens alike, and promoting Hawaii throughout the world. The prospect for growth in the film industry are promising. To support this growth, the State has a Film Industry Branch in the Department of Business and Economic Development, which works to attract film projects to Hawaii, in addition to a Film Industry Support Group.

The purpose of this concurrent resolution is to create a Governor's Advisory Council on the Film and Video Industry, composed of film and video professionals to advise the Department of Business and Economic Development in the development of the film and video industry in Hawaii.

Your Committees have received testimony from CineWorld Enterprise Corporation, the Film and Video Council, and the Department of Business and Economic Development in support of a Governor's Advisory Council.

Your Committees have amended the concurrent resolution title from the "Creation of a Film Commission" to the "Creation of a Governor's Film and Video Advisory Council."

Your Committees on Tourism and Economic Development and Hawaiian Affairs are in accord with the intent and purpose of H.C.R. No. 145, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 145, H.D. 1.

Signed by all members of the Committees.

SCRep. 1389 Legislative Management on H.R. No. 27

The purpose of this resolution is to adopt a recycling policy for the House of Representatives, thereby serving as a model for other state agencies.

Your Committee received testimony in support of this resolution from the Director of Health.

Your Committee finds that the capacities of existing landfills throughout the State are rapidly diminishing, and new landfills are difficult to site. The volume of solid waste generated each year is increasing. Recycling is one phase of an integrated solid waste management program which not only reduces the volume of waste deposited into existing landfills, but also reduces our dependency upon raw materials.

Your Committee on Legislative Management concurs with the intent and purpose of H.R. No. 27 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1390 Legislative Management on H.C.R. No. 9

The purpose of this concurrent resolution is to adopt a recycling policy for the State Capitol, thereby setting an example for other State agencies.

Your Committee received testimony in favor of this concurrent resolution from the Director of Health and the Recycling Association of Hawaii.

Your Committee finds that a recycling policy can serve as a model for state government. The potential for recycling efforts at the State Capitol is indicated by a paper recycling project in effect between 1983 and 1987. State Capitol occupants and other departments in the immediate vicinity generated over eight tons of paper. Your Committee is confident that a united recycling effort by State Capitol occupants will demonstrate to other State agencies, and to the public, workable strategies for recycling and the benefits which it can generate.

Your Committee on Legislative Management concurs with the intent and purpose of H.C.R. No. 9 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1391 Transportation on H.R. No. 174

The purpose of this resolution is to request that the Department of Transportation plan and construct traffic safety improvements along Farrington Highway between Nanakuli Surf Beach and Makaha Surf Beach.

Your Committee received favorable testimony on this resolution from the Department of Transportation and a concerned private citizen.

Your Committee finds that Farrington Highway is heavily utilized by both residents and visitors of this State. Your Committee further finds that due to the heavy flow of traffic along this highway, improvements are needed to increase safety along the portion of Farrington Highway from Nanakuli Beach to Makaha Beach.

Your Committee on Transportation concurs with the intent and purpose of H.R. No. 174 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1392 Transportation on H.C.R. No. 150

The purpose of this concurrent resolution is to request that the Department of Transportation plan and construct traffic safety improvements along Farrington Highway between Nanakuli Surf Beach and Makaha Surf Beach.

Your Committee received favorable testimony on this concurrent resolution from the Department of Transportation and a concerned private citizen.

Your Committee finds that Farrington Highway is heavily utilized by both residents and visitors of this State. Your Committee further finds that due to the heavy flow of traffic along this highway, improvements are needed to increase safety along the portion of Farrington Highway from Nanakuli Beach to Makaha Beach.

Your Committee on Transportation concurs with the intent and purpose of H.C.R. No. 150 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1393 Transportation on H.R. No. 116

The purpose of this resolution is to request that the Department of Transportation submit a report to the Legislature on its plans for improvements to Honokohau Harbor.

Your Committee received testimony in support of this resolution from the Department of Transportation, Kona Fuel and Marine, Inc., and numerous other harbor users.

Your Committee finds that the number of charter and pleasure vessels in West Hawaii has greatly increased over the past ten years. Your Committee further finds that present harbor facilities are inadequate to meet the needs of the harbor users. Your Committee also notes that Honokohau Harbor has been under development since 1968, with no completion date in sight.

Your Committee has amended this resolution by incorporating language specifying other improvements and considerations which the Department of Transportation is requested to submit plans for. Your Committee has further amended this resolution by requesting the department to submit its report twenty days prior to the convening of the 1990 legislative session. Other numerous, non-substantive amendments have been made to this resolution by your Committee.

Your Committee on Transportation concurs with the intent and purpose of H.R. No. 116, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 116, H.D. 1.

Signed by all members of the Committee.

SCRep. 1394 Transportation on H.C.R. No. 83

The purpose of this concurrent resolution is to request that the Department of Transportation submit a report to the Legislature on its plans for improvements to Honokohau Harbor.

Your Committee received testimony in support of this concurrent resolution from the Department of Transportation, Kona Fuel and Marine, Inc., and numerous other harbor users.

Your Committee finds that the number of charter and pleasure vessels in West Hawaii has greatly increased over the past ten years. Your Committee further finds that present harbor facilities are inadequate to meet the needs of the harbor users. Your Committee also notes that Honokohau Harbor has been under development since 1968, with no completion date in sight.

Your Committee has amended this resolution by incorporating language specifying other improvements and considerations which the Department of Transportation is requested to submit plans for. Your Committee has further amended this concurrent resolution by requesting the department to submit its report twenty days prior to the convening of the 1990 legislative session. Other numerous, non-substantive amendments have been made to this concurrent resolution by your Committee.

Your Committee on Transportation concurs with the intent and purpose of H.C.R. No. 83, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 83, H.D. 1.

Signed by all members of the Committee.

SCRep. 1395 Transportation on H.R. No. 164

The purpose of this resolution is to request that the Department of Transportation study the desirability and feasibility of a bypass road around Keaau, on the island of Hawaii.

Your Committee received favorable testimony on this resolution from the Department of Transportation and the Puna Community Council.

Your Committee finds that Keaau-Pahoa Highway 130 is the only highway into the Puna district, passing through the community of Keaau. Your Committee further finds that the increasing level of traffic passing through Keaau poses a safety hazard to the residents of the community.

Your Committee has amended this resolution to correct errors in spelling.

Your Committee on Transportation concurs with the intent and purpose of H.R. No. 164, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 164, H.D. 1.

Signed by all members of the Committee.

SCRep. 1396 Transportation on H.C.R. No. 141

The purpose of this concurrent resolution is to request that the Department of Transportation study the desirability and feasibility of a bypass road around Keaau, on the island of Hawaii.

Your Committee received favorable testimony on this concurrent resolution from the Department of Transportation and the Puna Community Council.

Your Committee finds that Keaau-Pahoa Highway 130 is the only highway into the Puna district, passing through the community of Keaau. Your Committee further finds that the increasing level of traffic passing through Keaau poses a safety hazard to the residents of the community.

Your Committee has amended this concurrent resolution to correct errors in spelling.

Your Committee on Transportation concurs with the intent and purpose of H.C.R. No. 141, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 141, H.D. 1.

Signed by all members of the Committee.

SCRep. 1397 Transportation on H.R. No. 73

The purpose of this resolution is to create a Harbor Advisory Commission within the Department of Transportation.

Your Committee received favorable testimony on this resolution from the Department of Transportation, the Ocean Recreation Council of Hawaii, the Kawaihae Boating Association, and a concerned private citizen.

Your Committee finds that commercial and recreational harbor users possess the practical experience and expertise to advise the Department of Transportation in matters pertaining to the State's harbors.

Your Committee has amended this resolution by calling the advisory body a "Board" to differentiate it from the Commission on Transportation. Your Committee has further amended this resolution by including a sunset date at which time the merits of the board can be reviewed.

Your Committee on Transportation concurs with the intent and purpose of H.R. No. 73, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 73, H.D. 1.

Signed by all members of the Committee.

SCRep. 1398 Transportation on H.C.R. No. 59

The purpose of this concurrent resolution is to create a Harbor Advisory Commission within the Department of Transportation.

Your Committee received favorable testimony on this concurrent resolution from the Department of Transportation, the Ocean Recreation Council of Hawaii, the Kawaihae Boating Association, and a concerned private citizen.

Your Committee finds that commercial and recreational harbor users possess the practical experience and expertise to advise the Department of Transportation in matters pertaining to the State's harbors.

Your Committee has amended this concurrent resolution by calling the advisory body a "Board" to differentiate it from the Commission on Transportation. Your Committee has further amended this concurrent resolution by including a sunset date at which time the merits of the board can be reviewed.

Your Committee on Transportation concurs with the intent and purpose of H.C.R. No. 59, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 59, H.D. 1.

Signed by all members of the Committee.

SCRep. 1399 Human Services and Health on H.R. No. 275

The purpose of this resolution is to request the Legislative Auditor to convene a task force consisting of representatives from the Department of Human Services, the Department of Health, the Department of Education, the University of Hawaii School of Public Health, the Hawaii Public Health Association, and other consumer and provider groups in Hawaii to conduct a study and develop a strategic plan ensuring the most efficient utilization of federal Medicaid funds available to the State.

Your Committees received testimony from the State Planning Council on Developmental Disabilities, the Commission on the Handicapped, the Office of Children and Youth, the Hawaii Public Health Association, the Hawaii Nurses Association, and the Kokua Council in support of this measure. Testimony was also received from the Departments of Human Services and Health supporting the intent of this resolution but expressing reservations.

The Department of Human Services noted that although the State is able to obtain federal matching funds in areas where it currently receives no funds, the decision to pursue these funds must be carefully weighed since the State's money

is limited and the federal contribution must be matched dollar for dollar. The Department of Health further noted that states receiving the most federal money for Medicaid programs on a per-capita basis, such as Minnesota, Colorado, and others, also make a much larger commitment to health services than does Hawaii. In addition, the Department of Health observed that these states had developed their programs in consultation with experts in the field of Medicaid allocations, and the Department of Health suggested it would be more effective and efficient if Hawaii were to utilize experts with proven records instead of trying to develop a Medicaid funding improvement plan locally.

Your Committees find the Departments' observations useful but does not believe that the Legislature should singlemindedly pursue a particular course that does not make use of valuable resources in the State. Accordingly, the measure has been amended by:

- (1) Specifying that, instead of convening a task force, the Legislative Auditor consult with specified organizations and agencies in Hawaii involved in the Medicaid network;
- (2) Adding the Commission of the Handicapped to the list of organizations with whom the Legislative Auditor shall confer; and
- (3) Instructing the Legislative Auditor to utilize consultants with expertise in Medicaid plan development, particularly those from states that have strategic plans for enhancing Medicaid funding allocations from the federal government, in developing a strategic plan for Hawaii.

Your Committees on Human Services and Health concur with the intent and purpose of H.R. No. 275, as amended herein, and recommend that it be referred to the Committee on Legislative Management in the form attached hereto as H.R. No. 275, H.D. 1.

Signed by all members of the Committees except Representatives Amaral, Hayes, Tam and Cavasso.

SCRep. 1400 Human Services and Health on H.C.R. No. 256

The purpose of this concurrent resolution is to request the Legislative Auditor to convene a task force consisting of representatives from the Department of Human Services, the Department of Health, the Department of Education, the University of Hawaii School of Public Health, the Hawaii Public Health Association, and other consumer and provider groups in Hawaii to conduct a study and develop a strategic plan ensuring the most efficient utilization of federal Medicaid funds available to the State.

Your Committees received testimony from the State Planning Council on Developmental Disabilities, the Commission on the Handicapped, the Office of Children and Youth, the Hawaii Public Health Association, the Hawaii Nurses Association, and the Kokua Council in support of this measure. Testimony was also received from the Departments of Human Services and Health supporting the intent of this concurrent resolution but expressing reservations.

The Department of Human Services noted that although the State is able to obtain federal matching funds in areas where it currently receives no funds, the decision to pursue these funds must be carefully weighed since the State's money is limited and the federal contribution must be matched dollar for dollar. The Department of Health further noted that states receiving the most federal money for Medicaid programs on a per-capita basis, such as Minnesota, Colorado, and others, also make a much larger commitment to health services than does Hawaii. In addition, the Department of Health observed that these states had developed their programs in consultation with experts in the field of Medicaid allocations, and the Department of Health suggested it would be more effective and efficient if Hawaii were to utilize experts with proven records instead of trying to develop a Medicaid funding improvement plan locally.

Your Committees find the Departments' observations useful but does not believe that the Legislature should singlemindedly pursue a particular course that does not make use of valuable resources in the State. Accordingly, the measure has been amended by:

- (1) Specifying that, instead of convening a task force, the Legislative Auditor consult with specified organizations and agencies in Hawaii involved in the Medicaid network;
- (2) Adding the Commission of the Handicapped to the list of organizations with whom the Legislative Auditor shall confer; and
- (3) Instructing the Legislative Auditor to utilize consultants with expertise in Medicaid plan development, particularly those from states that have strategic plans for enhancing Medicaid funding allocations from the federal government, in developing a strategic plan for Hawaii.

Your Committees on Human Services and Health concur with the intent and purpose of H.C.R. No. 256, as amended herein, and recommend that it be referred to the Committee on Legislative Management in the form attached hereto as H.C.R. No. 256, H.D. 1.

Signed by all members of the Committees except Representatives Amaral, Hayes, Tam and Cavasso.

SCRep. 1401 Water and Land Use and Tourism on H.C.R. No. 261

The purpose of this concurrent resolution is to designate up to sixty acres of State-owned land (TMK 1-5-41) as the "Sand Island Industrial Park." The date of designation is to be thirty days after the effective date of the administrative rules, if necessary, or November 15, 1989, whichever is later.

Your Committees received supportive testimony from the Department of Land and Natural Resources, Office of State Planning, Sand Island Businessman's Association, General Contractors's Association of Hawaii, Local 368 AFL-CIO, Operating Engineers Local 3, the Painters Union Local 1791, and the Painting Industry of Hawaii Market Recovery Fund.

At its meeting of March 23, 1989 the Board of Land and Natural Resources (BLNR) adopted a resolution designating the "Sand Island Industrial Park." Under Section 171-132, HRS, the development of industrial parks on State-owned lands is permitted with the Legislature's approval of the adopted BLNR resolution.

Your Committees find that the proposed designation and subsequent development of this land area as an industrial park are consistent with the Honolulu Waterfront Master Plan. Furthermore, it will provide existing qualified and eligible permittees an opportunity to obtain, through direct negotiation, long-term leases in the industrial park, help to stabilize the Sand Island business community, and secure long-term employment for many of its workers.

Your Committees on Water and Land Use and Tourism concur with the intent and purpose of H.C.R. No. 261 and recommend its adoption.

Signed by all members of the Committees except Representative Hashimoto.

SCRep. 1402 Agriculture on H.R. No. 198

The purpose of this resolution is to examine the feasibility of using plant materials in general, and the neem tree in particular, for biological pest control in Hawaii and the Asia-Pacific region, including the potential biological and economic impacts of importing and using such exotic plants in Hawaii. As proposed, the study would be conducted by the Legislative Reference Bureau, drawing upon the University of Hawaii, the East-West Center, and other community resources.

Your Committee received supporting testimony from the following agencies and individuals: the College of Tropical Agriculture and Human Resources, Department of Agriculture, Department of Health, Department of Land and Natural Resources (DLNR), Dr. Saleem Ahmed, Dr. C.S. Tang, and jointly by Jacquelin Miller, Clifford Smith, and Nancy Kanyuk.

The testimony indicated general agreement for the need to control use of synthetic pesticides and to reduce the adverse impacts on human health and the environment. Using plants with pesticidal properties, or chemical compounds extracted from such plants for pest control, would be a logical way to meet this objective.

Therefore, your Committee finds that it is in the public and legislative interests to: (1) investigate plants with pesticidal properties, and specifically the use of the neem tree as a low cost natural pesticide source, (2) learn about each plant's effectiveness as an alternative non-chemical method of pest control, and (3) identify each plant's negative characteristics, if any.

Your Committee concurs with the DLNR's recommendation by amending the resolution to address the possible adverse effects of establishing any new non-native plant species considered for its pesticidal attributes.

Your Committee has also made technical, non-substantive amendments to this resolution for purposes of style and clarity.

Your Committee on Agriculture concurs with the intent and purpose of H.R. No. 198, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as H.R. No. 198, H.D. 1.

Signed by all members of the Committee.

SCRep. 1403 Agriculture on H.C.R. No. 178

The purpose of this concurrent resolution is to examine the feasibility of using plant materials in general, and the neem tree in particular, for biological pest control in Hawaii and the Asia-Pacific region, including the potential biological and economic impacts of importing and using such exotic plants in Hawaii. As proposed, the study would be conducted by the Legislative Reference Bureau, drawing upon the University of Hawaii, the East-West Center, and other community resources.

Your Committee received supporting testimony from the following agencies and individuals: the College of Tropical Agriculture and Human Resources, Department of Agriculture, Department of Health, Department of Land and Natural Resources (DLNR), Dr. Saleem Ahmed, Dr. C.S. Tang, and jointly by Jacquelin Miller, Clifford Smith, and Nancy Kanyuk.

The testimony indicated general agreement for the need to control use of synthetic pesticides and to reduce the adverse impacts on human health and the environment. Using plants with pesticidal properties, or chemical compounds extracted from such plants for pest control, would be a logical way to meet this objective.

Therefore, your Committee finds that it is in the public and legislative interests to: (1) investigate plants with pesticidal properties, and specifically the use of the neem tree as a low cost natural pesticide source, (2) learn about each plant's effectiveness as an alternative non-chemical method of pest control, and (3) identify each plant's negative characteristics, if any.

Your Committee concurs with the DLNR's recommendation by amending the concurrent resolution to address the possible adverse effects of establishing any new non-native plant species considered for its pesticidal attributes.

Your Committee has also made technical, non-substantive amendments to this concurrent resolution for purposes of style and clarity.

Your Committee on Agriculture concurs with the intent and purpose of H.C.R. No. 178, as amended herein, and recommends that it be referred to the Committee on Legislative Management in the form attached hereto as H.C.R. No. 178, H.D. 1.

Signed by all members of the Committee.

SCRep. 1404 Planning, Energy and Environmental Protection on H.R. No. 259

The purpose of this resolution is to urge the United States Department of Interior to oppose developments in Haleakala National Park that could degrade or overburden the serenity of the park or threaten endangered species.

Your Committee finds that Haleakala National Park is world renown as a place of undisturbed natural beauty. Its biological and physical characteristics in combination with its tranquil nature makes it a valued treasure for the people of Hawaii and the rest of the world.

This resolution recognizes the fragility of Haleakala's natural environment and urges the Department of the Interior to protect the park from any forms of development which may have serious negative impacts.

Your Committee received testimony in support of this resolution from the United States Department of the Interior's National Park Service, University of Hawaii's Environmental Center, the Natural Resources Defense Council, the Vice-Chairman of the Hawaii Committee to Federal Civil Rights Commission, the Conservation Council for Hawaii, and various concerned citizens.

Your Committee has amended this resolution by adding Hawaii's Congressional delegation and the members of the Maui County Council to the parties who should receive copies of this resolution.

Your Committee on Planning, Energy and Environmental Protection concurs with the intent and purpose of H.R. No. 259, as amended herein, and recommends its adoption in the form attached hereto as H.R. No. 259, H.D. 1.

Signed by all members of the Committee.

SCRep. 1405 Planning, Energy and Environmental Protection on H.C.R. No. 240

The purpose of this concurrent resolution is to urge the United States Department of Interior to oppose developments in Haleakala National Park that could degrade or overburden the serenity of the park or threaten endangered species.

Your Committee finds that Haleakala National Park is world renown as a place of undisturbed natural beauty. Its biological and physical characteristics in combination with its tranquil nature makes it a valued treasure for the people of Hawaii and the rest of the world.

This concurrent resolution recognizes the fragility of Haleakala's natural environment and urges the Department of the Interior to protect the park from any forms of development which may have serious negative impacts.

Your Committee received testimony in support of this concurrent resolution from the United States Department of the Interior's National Park Service, University of Hawaii's Environmental Center, the Natural Resources Defense Council, the Vice-Chairman of the Hawaii Committee to Federal Civil Rights Commission, the Conservation Council for Hawaii, and various concerned citizens.

Your Committee has amended this concurrent resolution by adding Hawaii's Congressional delegation and the members of the Maui County Council to the parties who should receive copies of this concurrent resolution.

Your Committee on Planning, Energy and Environmental Protection concurs with the intent and purpose of H.C.R. No. 240 as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 240, H.D. 1.

Signed by all members of the Committee.

SCRep. 1406 Planning, Energy and Environmental Protection on H.R. No. 175

The purpose of this resolution is to request the Department of Health to develop a comprehensive program for the collection and recycling of used motor oil that would focus on do-it-yourself motor oil changers.

The Department of Health is to submit its proposed program and proposed budget to implement the program to the Legislature before the 1990 legislative session.

Your Committee received favorable testimony from the Department of Business and Economic Development that expressed the need to address the problems of liability, establishment of statewide collection sites, and an expanded public education effort through the State's used motor oil recycling program.

Your Committee on Planning, Energy and Environmental Protection concurs with the intent and purpose of H.R. No. 175 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1407 Planning, Energy and Environmental Protection on H.C.R. No. 152

The purpose of this concurrent resolution is to request the Department of Health to develop a comprehensive program for the collection and recycling of used motor oil that would focus on do-it-yourself motor oil changers.

The Department of Health is to submit its proposed program and proposed budget to implement the program to the Legislature before the 1990 legislative session.

Your Committee received favorable testimony from the Department of Business and Economic Development that expressed the need to address the problems of liability, establishment of statewide collection sites, and an expanded public education effort through the State's used motor oil recycling program.

Your Committee on Planning, Energy and Environmental Protection concurs with the intent and purpose of H.C.R. No. 152 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1408 Higher Education and the Arts on H.R. No. 107

The purpose of this resolution is to request the University of Hawaii to examine and recommend programs in native forest management, watershed management and forestry/resource management. The university is also requested to submit to the legislature budgetary requirements needed to implement such programs.

Your Committee realizes the need to preserve watershed forests in order to assure the quantity and quality of water necessary for Hawaii's future needs. The demands on the State's water supplies are increasing while watershed forest lands are decreasing. Additional training and research programs in this area is one way to help preserve Hawaii's water supply.

Your Committee hopes that the university will consult with appropriate agencies such as the Department of Land and Natural Resources and the Board of Water Supply when researching the development of programs.

Your Committee on Higher Education and the Arts concurs with the intent and purpose of H.R. No. 107 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1409 Higher Education and the Arts and Intergovernmental Relations and International Affairs on H.R. No. 119

The purpose of this resolution is to request the University of Hawaii to establish relations with universities in Hawaii's sister states and to report to the Legislature on the status of those relations including plans for future agreements and cost implications.

Your Committees received testimony in favor of the resolution from the University of Hawaii. Hawaii currently has sister-state relations with Guangdong Province in China, Okinawa and Fukuoka Prefectures in Japan, Che-ju Island Province in South Korea, Ilocos Sur Province in the Philippines, and the Azores of Portugal. The University currently has agreements or cooperative activities with those provinces and prefectures.

Your Committees made a technical, nonsubstantive amendment.

Your Committees on Higher Education and the Arts and Intergovernmental Relations and International Affairs concur with the intent and purpose of H.R. No. 119, as amended herein, and recommend its adoption in the form attached hereto as H.R. No. 119, H.D. 1.

Signed by all members of the Committees.

SCRep. 1410 Higher Education and the Arts and Intergovernmental Relations and International Affairs on H.C.R. No. 97

The purpose of this concurrent resolution is to request the University of Hawaii to establish relations with universities in Hawaii's sister states and to report to the Legislature on the status of those relations including plans for future agreements and cost implications.

Your Committees received testimony in favor of the concurrent resolution from the University of Hawaii. Hawaii currently has sister-state relations with Guangdong Province in China, Okinawa and Fukuoka Prefectures in Japan, Che-ju Island Province in South Korea, Ilocos Sur Province in the Philippines, and the Azores of Portugal. The University currently has agreements or cooperative activities with those provinces and prefectures.

Your Committees made a technical, nonsubstantive amendment.

Your Committees on Higher Education and the Arts and Intergovernmental Relations and International Affairs concur with the intent and purpose of H.C.R. No. 97, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 97, H.D. 1.

Signed by all members of the Committees.

SCRep. 1411 Higher Education and the Arts and Intergovernmental Relations and International Affairs on H.R. No. 171

The purpose of this resolution is to direct the University of Hawaii to investigate the possibility of establishing a program to train people for foreign service careers and to prepare them for the foreign service entrance examination.

Your Committees find that with Hawaii's increasing international role in Asian Pacific affairs and with the university's multi-ethnic, multi-cultural student body, a program to prepare students for the foreign service will be well received.

Your Committees heard testimony in support of the resolution from the President of the University of Hawaii.

Your Committees on Higher Education and the Arts and Intergovernmental Relations and International Affairs concur with the intent and purpose of H.R. No. 171 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 1412 Higher Education and the Arts and Intergovernmental Relations and International Affairs on H.C.R. No. 147

The purpose of this concurrent resolution is to direct the University of Hawaii to investigate the possibility of establishing a program to train people for foreign service careers and to prepare them for the foreign service entrance examination.

Your Committees find that with Hawaii's increasing international role in Asian Pacific affairs and with the university's multi-ethnic, multi-cultural student body, a program to prepare students for the foreign service will be well received.

Your Committees heard testimony in support of the concurrent resolution from the President of the University of Hawaii.

Your Committees on Higher Education and the Arts and Intergovernmental Relations and International Affairs concur with the intent and purpose of H.C.R. No. 147 and recommend its adoption.

Signed by all members of the Committees.

SCRep. 1413 Human Services on H.R. No. 231

The purpose of this resolution is to ask the Department of Human Services to develop a plan for the management of the caseloads given to social workers in the Child Protective Service Agency.

Your Committee heard testimony from the Department of Human Services, the Family Court, the Department of Personnel Services and the Hawaii Government Employees Association, all in support of the resolution.

After hearing the testimony, your Committee decided to amend the resolution requesting the Department to seek the active participation of a number of concerned parties in formulating the plan. Previously, the resolution called only for the Department to seek information from the groups. Your Committee feels with greater participation from those affected by a caseload management plan, the proposed plan will meet greater acceptance.

Your Committee on Human Services concurs with the intent and purpose of H.R. No. 231, as amended herein, and recommends that it be referred to the Committees on Judiciary and Labor and Public Employment in the form attached hereto as H.R. No. 231, H.D. 1.

Signed by all members of the Committee except Representative Metcalf.

SCRep. 1414 Human Services on H.C.R. No. 213

The purpose of this concurrent resolution is to ask the Department of Human Services to develop a plan for the management of the caseloads given to social workers in the Child Protective Service Agency.

Your Committee heard testimony from the Department of Human Services, the Family Court, the Department of Personnel Services and the Hawaii Government Employees Association, all in support of the resolution.

After hearing the testimony, your Committee decided to amend the concurrent resolution to request the Department to make an interim report and final report twenty day prior to the start of the 1990 Regular Session of the Legislature, and seek the active participation of a number of concerned parties in formulating the plan. Previously, the concurrent resolution called only for the Department to seek information from the groups. Your Committee feels with greater participation from those affected by a caseload management plan, the proposed plan will meet greater acceptance.

Your Committee on Human Services concurs with the intent and purpose of H.C.R. No. 213, as amended herein, and recommends that it be referred to the Committees on Judiciary and Labor and Public Employment in the form attached hereto as H.C.R. No. 213, H.D. 1.

Signed by all members of the Committee except Representative Metcalf.

SCRep. 1415 Transportation and Education on H.C.R. No. 233

The purpose of this concurrent resolution is to request the Legislative Auditor to review school bus safety criteria, maintenance programs, and driver training programs. This concurrent resolution further requests an investigation of the extent to which the Department of Transportation's rule of only chartering school buses for school-related activities is being adhered to.

Your Committee received favorable testimony on this concurrent resolution from the Department of Education, the Department of Transportation, and Save Money And Ride Together (SMART).

Your Committee finds that the most important criteria regarding school buses used to transport school children for any purpose should be safety.

Your Committee, upon consideration, has amended this concurrent resolution by expanding the review to include a comparison between school buses and tour buses, which would include a comparison of safety regulations governing each type of mass transit vehicle.

Your Committees on Transportation and Education concur with the intent and purpose of H.C.R. No. 233, as amended herein, and recommend that it be referred to the Committee on Legislative Management in the form attached hereto as H.C.R. No. 233, H.D. 1.

Signed by all members of the Committees except Representatives Hemmings and O'Kieffe.

SCRep. 1416 Human Services on H.C.R. No. 310

The purpose of this concurrent resolution is to request a study by the Legislative Reference Bureau of the level of pension and other employment benefits lost by individuals who choose to prematurely depart from the labor force in order to care for an elderly family member.

Your Committee heard that close to 85 percent of today's frail and disabled elderly are being cared for by relatives. The State of Hawaii has also adopted policies encouraging the in-home care of the elderly. Therefore the long term economic dilemma for today's caregivers when they reach retirement age is of great consequence to the State. Your Committee feels this study will be an important indicator of the future financial impact of family caregiving.

Your Committee on Human Services concurs with the intent and purpose of H.C.R. No. 310 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Representatives Peters and Cavasso.

SCRep. 1417 Human Services on H.R. No. 333

The purpose of this resolution is to request the Legislative Reference Bureau to conduct a study to examine the issues involved in home health quality of care assurances.

Your Committee believes this study will assist the State in beginning to address quality of care criteria, personnel issues in providing good care, and affordability of care. In the future such information will be vital in making good policy decisions that can assure the elderly safe care in their own homes.

Your Committee on Human Services concurs with the intent and purpose of H.R. No. 333 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Representatives Peters and Cavasso.

SCRep. 1418 Human Services and Health on H.C.R. No. 309

The purpose of this concurrent resolution is to request the Legislative Reference Bureau to conduct a study to examine the issues involved in home health quality of care assurances.

Your Committee believes this study will assist the State in beginning to address quality of care criteria, personnel issues in providing good care, and affordability of care. In the future such information will be vital in making good policy decisions that can assure the elderly safe care in their own homes.

Your Committee on Human Services concurs with the intent and purpose of H.C.R. No. 309 and recommends that it be referred to the Committee on Legislative Management.

Signed by all members of the Committee except Representatives Peters and Cavasso.

SCRep. 1419 Ocean and Marine Resources on H.C.R. No. 203

The purpose of this concurrent resolution is to request the Department of Transportation to monitor and evaluate the implementation of the State Ocean Recreation Management Rules.

Your Committee received testimony in support of this concurrent resolution from the Department of Transportation (DOT) and The Ocean Recreation Council of Hawaii (TORCH).

Your Committee finds that the increased use of the State's shores and ocean waters for commercial and recreational activity has resulted in a need for expanded and more effective enforcement programs to preserve and protect Hawaii's natural resources. The commingling of thrill craft with other ocean recreation activities has resulted in serious accidents and many near misses.

The State Ocean Recreation Management Rules that designate zones for jet skis and other "thrill craft", parasailing, windsurfing, boating, swimming, surfing, diving, and other activities in Hawaii's most crowded coastal waters took effect on October 1, 1988. In the process of formulating these rules, DOT promised to provide an ongoing evaluation of the effectiveness of the rules because of the many conflicts and issues involved.

Your Committee further finds that while the laws and rules for the regulation of thrill craft are in place, the marine patrol program of the Harbors Division of DOT, which is charged with the enforcement responsibility, appears to lack sufficient manpower and resources to meet the statewide enforcement requirements.

Your Committee on Ocean and Marine Resources concurs with the intent and purpose of H.C.R. No. 203 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1420 Ocean and Marine Resources on H.C.R. No. 204

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources to evaluate options for servicing and maintaining fish aggregating devices (FAD).

Your Committee received testimony in agreement with this concurrent resolution from the Department of Land and Natural Resources (DLNR) and The Ocean Recreation Council of Hawaii (TORCH).

Your Committee finds that since 1979, DLNR's Division of Aquatic Resources has established a system of FADs throughout the State of Hawaii. This project has improved fishing throughout the State. For instance, in 1988 alone, more than 1.5 million pounds of fish were caught around FADs.

FADs are frequently in need of servicing or replacing and DLNR has had difficulty securing the University of Hawaii research vessel to replace buoys and maintain the FAD system.

Your Committee further finds that small vessels such as independent fishing boats can be commissioned to service FADs.

Your Committee on Ocean and Marine Resources concurs with the intent and purpose of H.C.R. No. 204 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1421 Ocean and Marine Resources on H.C.R. No. 153

The purpose of this concurrent resolution is to request the Department of Land and Natural Resources to study the feasibility of requiring that fishing nets be made of biodegradable materials.

Your Committee received testimony in agreement with this concurrent resolution from the Department of Land and Natural Resources and the Department of Health.

Your Committee finds that due to most fishing nets' non-biodegradable character and longevity, monofilament fishing nets have extremely long "lives" in the ocean and are considered indestructible. It is common to lose or tear fishing nets while fishing. As a result, lost fishing nets or pieces thereof continue to "ghost fish" indiscriminately, entangling fish, seabirds, endangered and threatened sea turtles, and protected marine mammals. Additionally, lost fishing nets that float at or near the surface are also a hazard to navigation.

Due to the considerable damage that lost, discarded, or abandoned fishing nets can cause to living marine resources and boating equipment, Section 188-29.1, Hawaii Revised Statutes, prohibits the disposal of any fish net, trap, or gear with netting, or parts thereof, in the waters of the State.

Your Committee further finds that the potentially long-term problem of resource "waste" caused by lost fishing nets made of non-biodegradable material could be mitigated to a short-term problem if nets were required to be made with biodegradable materials.

Your Committee on Ocean and Marine Resources concurs with the intent and purpose of H.C.R. No. 153 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1422 Ocean and Marine Resources and Transportation on H.C.R. No. 81

The purpose of this concurrent resolution is to encourage the appointment of volunteer marine patrol officers.

Your Committees received testimony in support of this concurrent resolution from the Department of Transportation.

Your Committees find that in recent years, there has been a tremendous growth in the ocean recreation industry in Hawaii as residents as well as tourists have discovered the adventure of thrill crafts. The commingling of thrill craft with other ocean recreation activities such as swimming, surfing, sailing, and fishing has resulted in serious accidents and many near misses.

Recognizing the need for ensuring a safe ocean environment for recreation, the Legislature enacted a law to regulate the operation of thrill craft.

Additionally, your Committees find that while the laws and rules for the regulation of thrill craft are in place, the marine patrol program of the Harbors Division of the Department of Transportation, which is charged with the enforcement responsibility, lacks sufficient staff to meet the statewide enforcement requirements.

Your Committees on Ocean and Marine Resources and Transportation concur with the intent and purpose of H.C.R. No. 81 and recommend its adoption.

Signed by all members of the Committees except Representative Hashimoto.

SCRep. 1423 Economic Development and Hawaiian Affairs on H.C.R. No. 199

The purpose of this concurrent resolution is to request Congress and the President to provide just compensation to the Hawaiian people for losses related to the overthrow of the Hawaiian monarchy.

Your Committee finds that the Legislature should restate its commitment in insuring that the Hawaiian people are not denied justice relating to the overthrow of the Hawaiian monarchy by the American government in 1893.

It was suggested that language currently in the resolution may present an inaccurate or distorted description of what happened in 1893 and Hawaiian claims could be severely damaged by this language. Your Committee has amended the concurrent resolution to reflect this concern by inserting language suggested by the Office of Hawaiian Affairs.

Your Committee on Economic Development and Hawaiian Affairs concurs with the intent and purpose of H.C.R. No. 199, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 199, H.D. 1.

Signed by all members of the Committee.

SCRep. 1424 Economic Development and Hawaiian Affairs on H.C.R. No. 201

The purpose of this concurrent resolution is to urge Congress to pass legislation conferring standing to sue in the federal district courts upon the State of Hawaii and its native beneficiaries for breach of the native land trusts.

Your Committee finds that the United States government has neglected the implementation of the Hawaiian Homes Commission Act of 1920. As a result of this neglect, native Hawaiians have not been awarded their benefits entitled to them under this act.

Your Committee received testimony from the Office of Hawaiian Affairs, Department of Hawaiian Home Lands, and Alu Like in support of this measure.

Your Committee on Economic Development and Hawaiian Affairs concurs with the intent and purpose of H.C.R. No. 201 and recommends its adoption.

Signed by all members of the Committee.

SCRep. 1425 Economic Development and Hawaiian Affairs on H.C.R. No. 119

Your Committee finds that the drive to obtain federal assistance for native Hawaiians should be a concerted group effort by all native Hawaiians regardless of where they reside.

Your Committee received testimony in support of this concurrent resolution from the Office of Hawaiian Affairs, Alu Like, and native Hawaiians who reside abroad.

This concurrent resolution has been amended to include suggestions made by the Office of Hawaiian Affairs to delete the stated number of native Hawaiians residing abroad.

Your Committee on Economic Development and Hawaiian Affairs concurs with the intent and purpose of H.C.R. No. 119, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 119, H.D. 1.

Signed by all members of the Committee.

SCRep. 1426 Health on H.C.R. No. 229

The purpose of this resolution is to request the Department of Health to develop a plan for the upgrading and construction of medical facilities in Hawaii County, in conjunction with a task force appointed by the Director of Health.

Your Committee heard testimony in support of the resolution from the Department of Health, the Waimea-Kawaihae Community Association, and two citizens of North Hawaii County.

Your Committee finds that the rapid growth in population in Hawaii County is placing demands which cannot be currently met by the medical facilities. The State Health Planning and Development Agency and the Department of Health have been communicating about the plans as they develop, but they have not yet convened other parties in the discussion. Your Committee is amending the resolution to add "including a plan for an Emergency Medical Services system" to the BE IT RESOLVED clause.

Your Committee on Health concurs with the intent and purpose of H.C.R. No. 229, as amended herein, and recommends its adoption in the form attached hereto as H.C.R. No. 229, H.D. 1.

Signed by all members of the Committee except Representatives Amaral and Tam.

SCRep. 1427 Health and Labor and Public Employment on H.C.R. No. 177

The purpose of this resolution is to request the Department of Health to review the need for requiring sanitary facilities in food service establishments, and whether the need could be met by requiring that employee facilities be open for public use.

Your Committees heard testimony from the Department of Health, Hawaii Food and Beverage Association, and Stanley Y. Yascolt. The Department testified against the resolution on the basis of cost, while Mr. Yascolt felt that the cost is worth the better health that available facilities would promote.

Your Committees are amending the resolution to review the provision of facilities for use by "patrons" rather than the "public;" and to request that the Department hold public hearings to amend the administrative rules concerning sanitary facilities; and to recommend that the following topics be reviewed during the Department's process of amending the rules:

- (1) The appropriate circumstances under which food establishments could open up employee facilities to patron use; and
- (2) The circumstances under which landlords (versus renters) should bear the responsibility of providing facilities for patrons; and
- (3) How common facilities might be shared by a variety of small establishments; and
- (4) The possibility of incorporating the same standards for food establishments as for liquor dispensing establishments; and
- (5) How the rules can be sensitive to smaller establishments for whom the cost of providing facilities for patrons would be prohibitive; and
- (6) The distinction between rules for food establishments who will be grandfathered in versus new establishments; and
- (7) How other States deal with these topics in regulating their food establishment sanitary facilities.

Your Committees on Health and Labor and Public Employment concur with the intent and purpose of H.C.R. No. 177, as amended herein, and recommend its adoption in the form attached hereto as H.C.R. No. 177, H.D. 1.

Signed by all members of the Committees except Representatives Kotani and Souki.