

CONFERENCE COMMITTEE REPORTS

Conf. Com. Rep. 1 on H.B. No. 664

The major purposes of this bill are to:

- (1) Provide the developer of condominium units a choice of a chronological system or a public lottery system as the method for reserving owner-occupied units; and
- (2) Requiring that a person's intent to be an owner-occupant be reaffirmed by affidavit at the time of closing.

Your Committee has amended the bill to address the need for flexibility for those projects which are required by the government to provide units affordable: (1) to persons within certain income ranges; or (2) to persons to whom preferences have been granted to meet certain housing needs. Your Committee was informed that, for example, some privately developed projects may involve agreements between the county and developer to set aside units according to government eligibility requirements or preferences. It is appropriate, in those instances, for the lottery number to be combined with applicable eligibility requirements and preferences to form the final dwelling unit selection number for priority selection of units.

The amended bill creates a process whereby developers of government-sponsored or government-required affordable housing units may contact the Real Estate Commission and elect to waive specific provisions which conflict with their agreement with the government agency. Often developers of government-sponsored or government-required affordable housing projects are required to verify information which takes longer than the timelines provided in the bill provisions, and the waiver provided herein will solve that problem. As amended, the bill allows government-involved projects to have the option to utilize the provisions regarding sales to owner-occupants prior to the issuance of the public report.

In addition, your Committee made non-substantive changes for the purpose of consistency with other provisions of chapter 514A, Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 664, H.D. 2, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 664, H.D. 2, S.D. 1, C.D. 2.

Representatives Hirono, Isbell, Arakaki, Bainum, Chun, Shon and Thielen,
Managers on the part of the House.

Senators Crozier, Aki and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 2 on S.B. No. 1440

The purpose of this bill is to propose a constitutional amendment to reserve the oath of loyalty for the Governor, the Lieutenant Governor, members of the Legislature, members of the Board of Education, and all those whose appointment requires the consent of the Senate.

Your Committee on Conference amended the bill to include members of the National Guard, State or county employees who possess police powers and district court judges.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1440, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1440, S.D. 1, H.D. 1, C.D. 1.

Representatives Metcalf, Amaral, Hagino, Hirono and Ward,
Managers on the part of the House.

Senators Blair, McMurdo and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 3 on H.B. No. 2322

The purpose of this bill is to propose a constitutional amendment to change the date for constituting a Reapportionment Commission.

After consideration, your Committee on Conference finds that changing the date for constituting the Reapportionment Commission from March 1 to May 1 will assist the Reapportionment Commission in performing its duties. Therefore, your Committee on Conference agrees to restore amendments made to this bill, as passed by the House, by changing the date for constituting the Reapportionment Commission from March 1 to May 1.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2322, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2322, H.D. 1, S.D. 1, C.D. 1.

Representatives Metcalf, Amaral, Oshiro, Takamine and Ward,

Managers on the part of the House.

Senators Blair, Holt and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 4 on H.B. No. 2123

The purpose of this bill is twofold: (1) to assess current aspects of public education and (2) to more clearly define the roles and responsibilities of all entities involved in the governance of public education.

Your Committee would like to emphasize that the education of Hawaii's children is one of this Legislature's greatest priorities. The responsibility for our children's education lies with everyone: parents, teachers, school administrators and management, legislators, and the students.

Under the current system, the Superintendent of Education is elected by the Board of Education and has limited powers as an administrator, while the Board of Education has control over the school system. Your Committee feels that the control of the school system should lie with the Superintendent of Education.

With the implementation of school/community based management and Project Ke Au Hou, your Committee feels that now is the right time for major changes. Change must come at all levels and must include changes at the executive and legislative levels as well.

Your Committee has made the following amendments to the bill:

1. Section 1 of the bill was amended to reflect and give insight into the historical aspects of educational reform and to recognize the Berman Report and the work of the Task Force on Educational Governance;
2. Provision has been made for two questions to be submitted to the electorate at the 1992 primary election with instructions that each voter select one of the two following questions relating to proposals for constitutional amendments:
 - a. The first proposal would allow the Governor to appoint the Superintendent of Education; and
 - b. The second proposal would allow the Governor to appoint the Superintendent and the Board of Education.

Under both proposals, the Board of Education's role would be to establish policy, guidelines, and standards. The Superintendent of Education would control the school system.

The question receiving the most votes cast shall be placed on the ballot at the 1992 general election for ratification by the electorate pursuant to Article XVII, section 3 of the Constitution of the State of Hawaii;

3. The pilot project to support school/community-based management through modified lump-sum budgeting was deleted and language was inserted which would require the Department of Education to develop a modified lump-sum budgeting plan only for direct student/school allocations;
4. The section authorizing the Board of Education to appoint members of each school district advisory council was deleted;
5. The new chapter on public education governance and the review by the Legislative Auditor of laws relating to education and entities involved with education was deleted;
6. Amendments to Act 334, Session Laws of Hawaii 1991, were deleted;
7. The section establishing the council on educational and school assessment was deleted;
8. The section requiring the Board of Education to include school repair and maintenance in its budget was deleted; and
9. Other technical, nonsubstantive amendments for purposes of style and clarity were made.

Your Committee believes that submitting the two questions at the 1992 primary election enhances public participation in the process of determining a vital community decision relating to public education within the constitutional framework.

This bill would be in line with the report by the Task Force on Educational Governance which recommended that the Superintendent of Education be appointed by the Governor. Your Committee agrees with the Task Force and wants to recognize that the Task Force has provided a spark of enthusiasm toward educational reforms.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2123, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2123, H.D. 1, S.D. 1, C.D. 1.

Representatives Taniguchi, Bunda, Kawakami, Metcalf, Souki, Takamine, Tam and Marumoto,
Managers on the part of the House.

Senators Yamasaki, Blair, Hagino, Holt, Iwase, B. Kobayashi, McCartney, Mizuguchi and George,
Managers on the part of the Senate.

Conf. Com. Rep. 5 on H.B. No. 1180

The purpose of this bill is to increase the statutory amounts that towing companies are allowed to charge for towing and storing trespass and abandoned vehicles removed primarily from private property.

Your Committee finds that the amounts towing companies are currently permitted to charge for their services are inadequate and unfair. Rates for these services have remained virtually unchanged since 1976 while the costs associated with providing these services have increased considerably. Your Committee believes that it is in the public interest for private companies to continue to provide towing services by removing trespass and abandoned vehicles from private property.

Your Committee has included a provision allowing the towing company to charge an "unhooking" fee of not more than \$40 if the owner of the vehicle appears on the scene to claim the vehicle before the towing company has removed the vehicle.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1180, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1180, H.D. 2, S.D. 1, C.D. 1.

Representatives Baker, Metcalf, Amaral, Ihara, Yonamine and Ward,
Managers on the part of the House.

Senators Fernandes Salling, Cobb and George,
Managers on the part of the Senate.

Conf. Com. Rep. 6 on H.B. No. 2500

The purpose of this bill is to amend the definition of "thrill craft" by:

- (1) Deleting the definition limiting provision that "thrill craft" have the carrying capacity of not more than the operator and one other person; and
- (2) Including the term "thrill craft" within the category of "personal watercraft" as provided for by the Personal Watercraft Industry Association.

Your Committee finds that the present statute's limiting definition of this type of watercraft will eventually render the law ineffective as technological changes in the industry produce new types of vessels. The law must be clear and unambiguous with respect to definitions.

Additionally, there is no assurance that the Personal Watercraft Industry Association's meaning of "thrill craft" would always be applicable to the State's needs. Considering the foregoing, your Committee has amended this bill by deleting the references to the Personal Watercraft Industry Association's definition of "personal watercraft," and provided language which outlines the type of motive propulsion for "thrillcraft," and which does not limit the passenger carrying capacity of the vehicle.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2500, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2500, S.D. 1, C.D. 1.

Representatives Stegmaier, Baker, Metcalf, Morihara and Thielen,
Managers on the part of the House.

Senators Nakasato, A. Kobayashi and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 7 on H.B. No. 1715

The purpose of this bill is to direct the Legislative Reference Bureau (LRB) to conduct a comprehensive feasibility study of establishing a separate institution of higher education in Hilo that incorporates the University of Hawaii-Hilo (UH-Hilo) and is independent of the University of Hawaii (UH) at Manoa.

Your Committee recognizes the concerns raised by a portion of the Big Island community regarding the current condition, status, and overall quality of education of the UH-Hilo campus. While these community concerns do not appear to be representative of the island-wide population, it is your Committee's belief that any efforts to address these concerns will be an added benefit for higher education on the Big Island and throughout the State.

In order to derive the most effective solution to enrich the quality of education at UH-Hilo, your Committee believes that it is both imperative and prudent to take a comprehensive and balanced look at the extensive range of proposals that have been suggested by the public at-large. However, there are two proposals in particular that merit greater scrutiny. These two proposals represent two vastly different approaches in addressing the future of UH-Hilo.

One proposal is to retain UH-Hilo as part of the UH system. This proposal suggests that increased effort be made to improve the status, condition, and quality of education of UH-Hilo within the existing UH system. The other proposal is to establish a separate board of regents and president for a new institution of higher education that incorporates UH-Hilo.

In this regard, your Committee has amended the bill by:

- (1) Requiring the LRB to conduct a comprehensive study that evaluates and examines the two aforementioned proposals;
- (2) Directing the LRB to conduct a study that evaluates and examines the effects of retaining UH-Hilo as part of the UH system and exploring alternatives to improve the current status and condition of the existing UH-Hilo. The study shall include, but not be limited to:
 - (a) The problems and concerns currently faced by UH-Hilo that impede or hinder efforts to improve the educational quality of its institution under the existing UH system;
 - (b) The advantages and disadvantages of UH-Hilo remaining as part of the UH system;
 - (c) The perceived obstacles and drawbacks of UH-Hilo existing under the current Board of Regents of the UH system;
 - (d) A progress report of the obstacles faced to facilitate and achieve articulation among UH-Hilo, UH-Manoa, and the other institutions of the UH system;
 - (e) Actions and opportunities to improve communications, coordination, and the relationship between UH-Hilo and the existing UH system;
 - (f) Strategies to improve the quality of education, status, and condition of UH-Hilo within the existing UH system;
 - (g) A comparison of the funds allocated to UH-Hilo versus other campuses of the UH system;
 - (h) A review of issues related to whether structural changes within the existing UH system could achieve similar results as compared to creating a separate university; and
 - (i) Other matters deemed relevant;
- (3) Specifying that the study that evaluates and examines the feasibility and effects of establishing an independent UH-Hilo also include:
 - (a) A cost and impact analysis, and economic assessment of establishing a separate UH-Hilo;
 - (b) The advantages and disadvantages of an autonomous UH-Hilo from the UH system;
 - (c) A description of coordination and cooperation, if any, between an independent UH-Hilo and the UH system, to continue existing programs, resources, and activities between the two entities;
 - (d) The impact on existing programs, resources, and functions under a separate UH-Hilo;
 - (e) The effects on student enrollment, student admission, academic standards, and school administration and operation, under a separate UH-Hilo;
 - (f) An assessment of the progress and effects on student achievement and learning of other states with dual university systems;
 - (g) Student, faculty, and the overall campus-community response to the establishment of a separate UH-Hilo campus that is independent from the UH system; and
 - (h) An assessment of the impact a separate UH-Hilo campus would have on the Hawaii Community College and UH-West Hawaii;
- (4) Deleting the phrase "Whether structural changes within the UH system could achieve similar results as creating a totally separate university" from the description of the study that pertains to the establishment of UH-Hilo as an independent institution, and including the language under the study that pertains to retaining UH-Hilo as part of the UH system;
- (5) Making changes to the purpose section of the bill to reflect the changes of substantive material as compared to the S.D. 2 version of H.B. No. 1715; and
- (6) Making technical, nonsubstantive amendments for the purposes of clarity, consistency, and style.

Your Committee recognizes that there are areas of overlap in the specific elements of the studies. For example, the disadvantages of UH-Hilo remaining as part of the UH system will be reflected as advantages of an autonomous UH-Hilo. The duplication is intentional to emphasize that a balanced, comprehensive study of changes that would improve UH-Hilo is desired.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1715, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1715, H.D. 1, S.D. 2, C.D. 1.

Representatives D. Ige, Souki, Chang, Fukunaga, Horita, Okamura, Tajiri and O'Kieffe,
Managers on the part of the House.

Senators Yamasaki, B. Kobayashi, McCartney, Solomon and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 8 on H.B. No. 1346

The purpose of this bill is to require the Housing Finance and Development Corporation ("HFDC") to offer at least ten percent of the houselots in HFDC-sponsored single family developments consisting of fifty units or more to owners who agree to participate with nonprofit organizations which assist the owners in the construction of affordable units on the lots.

Your Committee has agreed to adopt the original version of H.B. 1346, with an amendment that the existing requirement contained in Section 201E-211, Hawaii Revised Statutes, requiring HFDC to offer at least ten percent of the units in HFDC-sponsored single family projects to owner-builders or nonprofit organizations assisting owner-builders in the construction of units, shall apply only to single family projects consisting of 50 units or more.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1346, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1346, H.D. 1, S.D. 1, C.D. 1.

Representatives Isbell, Amaral, Bainum, Chun and Tatibouet,
Managers on the part of the House.

Senators Crozier, Aki and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 9 on H.B. No. 1023

The purpose of this bill is to remove the repeal date of Act 342, Session Laws of Hawaii, 1986, to permanently raise the minimum drinking age to twenty-one.

Your Committee made technical, non-substantive amendments for the purpose of clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1023, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1023, H.D. 1, S.D. 1, C.D. 1.

Representatives Oshiro, Metcalf, Baker, Cachola, Hashimoto and Ward,
Managers on the part of the House.

Senators Fernandes Salling, Aki and George,
Managers on the part of the Senate.

Conf. Com. Rep. 10 on H.B. No. 2455

The purpose of this bill is to require that all motor vehicle certificates of inspection contain motor vehicle insurance information.

Your Committee finds that including motor vehicle insurance information on the certificate of inspection will document that the Safety Inspection Station has checked for motor vehicle insurance.

In addition, your Committee finds that currently, motorists who have their motor vehicle safety inspection stickers stolen or destroyed more than three months after the original date of inspection must obtain another safety inspection at their own expense.

Your Committee has amended this bill to require inspection stations to replace lost, stolen, or destroyed safety inspection stickers upon presentation of the motor vehicle's current certificate of inspection. Your Committee has further amended this bill by authorizing the Director of Transportation to adopt rules to determine a fee for the replacement of inspection stickers which have been lost, stolen, or destroyed.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2455, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2455, H.D. 2, S.D. 1, C.D. 1.

Representatives Oshiro, Metcalf, Amaral, Baker, Hashimoto and Ward,
Managers on the part of the House.

Senators Fernandes Salling, Cobb and George,
Managers on the part of the Senate.

Conf. Com. Rep. 11 on H.B. No. 3046

The purpose of this bill is to provide:

- (1) A five percent tolerance for portable axle scales;
- (2) A two percent tolerance for permanently installed axle load scales; and
- (3) A mandatory fine for violation of Section 291-37(a), Hawaii Revised Statutes.

Your Committee finds that a stricter application of vehicle weight limitations and penalties for violations may help to further reduce the damaging effects to Hawaii's roads and highways caused by overweight vehicles.

Your Committee has amended this bill by making it effective upon publication in a newspaper of general circulation published within the State, a notice of completion for Project BR-064-1(3) Sand Island Bascule Bridge Rehabilitation Phase II and Project 64A-01-92 Traffic Signal At Sand Island Bridge.

Your Committee has also amended this section to provide that this act shall be repealed should such notice of completion not be published by April 1, 1993.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3046, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3046, H.D. 2, S.D. 1, C.D. 1.

Representatives Oshiro, Metcalf, Amaral, Baker, Yonamine and Ward,
Managers on the part of the House.

Senators Fernandes Salling, Cobb and George,
Managers on the part of the Senate.

Conf. Com. Rep. 12 on H.B. No. 3963

The purpose of this bill is to amend the six-month inspection period for rental or U-drive motor vehicles to exempt automobiles that have been registered by the rental motor vehicle company for a period of one year or less.

Your Committee finds that the industry and the City and County of Honolulu are confident that exempting new rental motor vehicles from the first six-month inspection will perpetrate no harm on the general public. Your Committee agrees that rental and U-drive companies are generally conscientious about the upkeep of their vehicles, and finds that the first six-month inspection for new vehicles is not necessary to protect the public safety.

Your Committee has amended this bill to exempt rental or U-drive motor vehicles under one year of age from the six-month inspection period.

It is the intent of your Committee that upon initial registration of a new motor vehicle categorized as a rental or U-drive motor vehicle, a one-year certificate of inspection shall be issued. For every subsequent renewal, a six-month certificate of inspection shall be issued pursuant to Section 286-26(a), Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3963, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3963, H.D. 1, S.D. 1, C.D. 1.

Representatives Oshiro, Hirono, Baker, Horita, Morihara and Ward,
Managers on the part of the House.

Senators Fernandes Salling, Cobb and George,
Managers on the part of the Senate.

Conf. Com. Rep. 13 on H.B. No. 2409

Your Committee has amended the bill by making it reflect the original House version of the bill. This will allow the use of macrons and glottal stops when Hawaiian words or terms are used by or for state and county agencies or officials.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2409, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2409, S.D. 1, C.D. 1.

Representatives D. Ige, Metcalf, Amaral, Horita, Taniguchi and Tatibouet,
Managers on the part of the House.

Senators Crozier, Aki and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 14 on H.B. No. 3533

The purpose of this bill is to provide for contractors whose work has been substandard to be disqualified from receiving further state contracts for two years.

Your Committee has amended the bill to:

- (1) Authorize the director of any department or the chairperson of any board or commission which lets State contracts to ban a contractor if the director or chairperson determines that the contractor has performed substandard work;
- (2) Disqualify such contractors in advance as responsible bidders for state contracts; and
- (3) Make other non-substantive changes for the purposes of style and clarity including clarifying that determination would not be made without normal hearing process by the director or chairperson.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3533, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3533, H.D. 1, S.D. 1, C.D. 1.

Representatives Bellinger, Metcalf, Amaral, Kanoho, Oshiro and Anderson,
Managers on the part of the House.

Senators Mizuguchi, Yamasaki and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 15 on H.B. No. 2818

The purpose of this bill is to:

- (1) Delete the requirement that foreign nursing school graduates take the Commission on Graduates of Foreign Nursing Schools (CGSFNS) exam prior to sitting for the National Council for Licensure Exam for Registered Nurses (NCLEX-RN);
- (2) Change the renewal process by stipulating that licenses expire on June 30 of each odd-numbered year and requiring an applicant for renewal to apprise the board of any disciplinary action taken against the applicant during the preceding biennium;
- (2) Require that a registered nurse or licensed practical nurse serving on the Board of Nursing (Board) maintain a valid license in good standing;
- (3) Provide that graduates of Board-approved foreign nursing schools who are considered qualified by the Board and who have had their transcripts evaluated by professional evaluators designated by the Board are eligible to apply for a nursing license;
- (4) Exempt graduates of Board-approved foreign nursing schools from taking an English proficiency examination;
- (5) Provide that all credentials submitted by an applicant will be retained by the Board and will suffice as proof of graduation; and
- (6) Make various housekeeping revisions to Chapter 457, Hawaii Revised Statutes (HRS), for the purposes of clarity and style.

Your Committee finds that the State is experiencing a serious shortage of registered nurses in Hawaii's hospitals and nursing homes. According to recent statistics, over seven hundred fifty (seventeen percent) of the registered nursing positions at Hawaii's hospitals and residential care home facilities are vacant. Hospitals have had to cope with this shortage by closing bed space, working employees overtime, and recruiting nurses from the mainland or from other nations at a cost exceeding six million per year.

While the Legislature has attempted to address the nursing shortage by supporting an assortment of programs geared toward expanding the number of locally trained nurses in the State, there is a desperate need to satisfy the immediate demand for registered nurses at in-patient facilities. In light of this, your Committee believes that the provisions of this bill would immediately expand the supply of competent registered nurses in Hawaii by easing the licensing requirements for prospective nurses who have successfully graduated from a registered foreign nursing program.

Your Committee has amended the bill by including language from S.B. No. 2773, H.D. 2, S.D. 1, (1992) which amends Section 457-9(b), Hawaii Revised Statutes. This language, which is included in the afore-referenced Senate bill, was approved on Third Reading by both houses, essentially does the following:

- (1) Clarifies that a nurse who:
 - (A) Fails to renew a license as provided in Section 457-9(a), HRS; and

- (B) Does not engage in nursing in the State for one year after the license has been forfeited, shall not be required to pay the applicable renewal or penalty fee, provided that the nurse remains inactive for that year;
- (2) Requires a nurse wishing to resume nursing after failing to renew a license to notify the board and remit not only the renewal fee but the application form as provided in Section 457-9(a), HRS; and
- (3) Makes technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2818, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2818, H.D. 2, S.D. 1, C.D. 1.

Representatives Shon, Hirono, Metcalf, Amaral, Chun and Thielen,
Managers on the part of the House.

Senators Ikeda, Iwase, Matsuura and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 16 on H.B. No. 3034

The purpose of this bill is to clarify that the buyer in a consumer credit sale transaction may assert any defense that the buyer has against the seller and against the seller's assignee as well.

Your Committee has amended the bill by adding a new subsection which more clearly reflects the intent that the buyer may only assert defenses, and not affirmative actions, against the seller's assignee and that this situation arises only when the assignee requests payment from the buyer.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3034, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3034, H.D. 1, S.D. 1, C.D. 1.

Representatives Hirono, Bainum, Cachola, Morihara and Thielen,
Managers on the part of the House.

Senators Ikeda, Chang, Iwase and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 17 on H.B. No. 3028

The purpose of this bill is to:

- (1) Clarify standards for the submittal of documents and establish additional disclosures a subdivision developer must provide to the Department of Commerce and Consumer Affairs;
- (2) Repeal an exemption on the registration of subdivisions comprised of one-hundred or fewer units; and
- (3) Make various "housekeeping" revisions to the Uniform Land Sales Practices Act, Chapter 484, Hawaii Revised Statutes, for the purposes of clarity and style.

After much discussion and careful deliberation, your Committee agrees that the provisions of this bill, as received, would greatly clarify Hawaii's laws pertaining to the registration and sale of subdivided lands.

However, while your Committee is in accord with the intent of this bill, your Committee has been informed by the Professional and Vocational Licensing Division of the Department of Commerce and Consumer Affairs (DCCA) that certain technical, nonsubstantive amendments must be made in order to conform this bill with federal laws.

Your Committee has learned that the Hawaii Supreme Court has never had to issue interpretations of the terms "common promotion plan" and "material change". Because of this, by conforming these definitions with federal laws, DCCA administrators would be able to rely on federal court interpretations of the definitions should any conflicts arise, as well as make uniform with other states the laws relating to land sales practices.

Accordingly, your Committee has amended this bill by:

- (1) Conforming the definitions of "common promotional plan" and "material change" with federal laws; and
- (2) Making numerous technical, nonsubstantive revisions for the purposes of clarity, consistency, and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3028, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3028, S.D. 1, C.D. 1.

Representatives Hirono, Souki, Morihara, Tajiri and Thielen,
Managers on the part of the House.

Senators Ikeda, Chang, Iwase and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 18 on H.B. No. 2811

The purpose of this bill is to increase the dollar amount of claims under the jurisdiction of small claims court.

Specifically, this bill:

- (1) Raises the limit, in cases for the recovery of money only, from \$2,500 to \$5,000; and
- (2) Raises the value of the property at issue and amount claimed in cases for the return of leased or rented personal property, from \$1,500 to \$5,000, and from \$2,500 to \$5,000, respectively.

Your Committee on Conference has amended this bill by changing the amount from \$5,000 to \$3,500 regarding the maximum amount to be claimed in small claims court for the recovery of money and the return of leased or rented personal property.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2811, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2811, H.D. 1, S.D. 1, C.D. 1.

Representatives Metcalf, Amaral, Arakaki, Morihara and Ward,
Managers on the part of the House.

Senators Blair, Cobb and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 19 on H.B. No. 3006

The purpose of this bill is to facilitate the termination of child support payments when an adult child is no longer in school. Such payments shall be discontinued if the custodial parent, or adult child, does not present proof that the child is presently enrolled as a full time student, or has been accepted and plans to attend as a full time student for the next semester, prior to the child's nineteenth birthday.

Current statutes do not clearly specify that child support payments terminate when the child becomes eighteen years old unless the child is enrolled in an acceptable form of secondary education. This bill puts the responsibility for such notification on the custodial parent or child, and specifies acceptable forms of secondary education. The bill also clarifies that reimbursement for overpayment of child support from the child support enforcement agency may only be sought to the extent this overpayment was disbursed to the Department of Human Services.

Technical non-substantive amendments were made to conform to present statutes and for purposes of clarity, style, consistency, and to conform to the Ramseyering convention.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3006, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3006, H.D. 1, S.D. 1, C.D. 1.

Representatives Metcalf, Amaral, Arakaki, Bainum and Thielen,
Managers on the part of the House.

Senators Blair, Ikeda and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 20 on H.B. No. 3508

The purpose of this bill is to eliminate the harsh effects of the common law rule against perpetuities while maintaining the prohibition against perpetual nonvested future interests. This bill supersedes the common law rule by installing a workable "wait and see" element and other amendments.

Earlier, the Senate version of this bill removed the section that established exclusions from the statutory rule against perpetuities. This section, however, is in part declaratory of existing common law and should preserve all the exclusions recognized at common law and by state statute. Moreover, the restoration of this section should enable the bill to more closely resemble the Uniform Statutory Rule Against Perpetuities as promulgated by the National Conference of Commissioners on Uniform State Laws in 1986 and amended in 1990.

Your Committee on Conference, therefore, has amended this bill by restoring an amended list of exclusions from the statutory rule against perpetuities as found suitable by all members of your Committee on Conference.

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

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3508, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3508, S.D. 1, C.D. 1.

Representatives Metcalf, Amaral, Oshiro, Takamine and Ward,
Managers on the part of the House.

Senators Blair, Crozier and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 21 on H.B. No. 2131

The purpose of this bill is to amend Chapters 378 and 386 of the Hawaii Revised Statutes to enable employees to file civil actions premised on sexual harassment or sexual assault arising out of and in the course of employment.

Section 386-5, Hawaii Revised Statutes, now provides that the rights and remedies granted thereunder to an employee "shall exclude all other liability of the employer to the employee." The provision has been interpreted as barring a civil action premised on sexual harassment or sexual assault in an employment context. This bill would permit the filing of such an action as an exception to the foregoing "exclusive remedy" provision.

Under this bill an employee who has been subjected to sexual harassment or sexual assault and injured thereby would be entitled to workers' compensation benefits and may still be able to recover damages for the harassment or assault and the related infliction of emotional distress or invasion of privacy. Your Committee finds that someone who has been subjected to sexual harassment or sexual assault may not be adequately compensated if recovery for the injury were limited to the schedule of benefits delineated in the Workers' Compensation Law.

Upon further consideration, your Committee has made the following amendments to the bill:

- (1) Language in Section 2 of the bill granting the Hawaii Civil Rights Commission primary jurisdiction over a sexual harassment or sexual assault complaint for the first one hundred eighty days after the alleged injury has been deleted and replaced by language allowing the Commission to issue a right to sue letter on a complaint which recites the same facts as those alleged in a civil action. This would eliminate the possibility of two ongoing proceedings related to the same fact situation.
- (2) A new section amending Section 386-8.5, Hawaii Revised Statutes, has been added which would prevent labor organizations from being joined as defendants in civil actions for failing to negotiate or enforce provisions relating to sexual harassment or sexual assault in collective bargaining agreements. Section 386-8.5 now provides that labor organizations are not subject to liability for failing to negotiate or enforce safety and health provisions. This protection from liability logically should be extended to cover liability for failing to negotiate or enforce a sexual harassment or sexual assault provision.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2131, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2131, S.D. 1, C.D. 1.

Representatives Takamine, Metcalf, Amaral, Hirono, Yonamine and Ward,
Managers on the part of the House.

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

Conf. Com. Rep. 22 on H.B. No. 3466

The purpose of this bill is to:

- (1) Make it unlawful for an employer to discriminate against an employee or prospective employee because the person engages in a legal activity off the employer's premises during nonworking hours; and
- (2) Amend the definition of "handicapped status" under discriminatory practices to include human immunodeficiency virus (HIV) seropositivity.

This legislation is not intended to effect the broad discretion of religious organizations as it applies to discrimination practices regarding hiring and termination of employees.

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

- (1) Specifying that the measure shall not be construed to protect any legal activity that while not incompatible with the requirements of the position, is incompatible with the collective bargaining agreement;
- (2) Modifying the effective date provision to allow section 1 of this Act to take effect on January 1, 1993 and section 2 of this Act to take effect upon approval, thereby allowing the Civil Rights Commission additional time to establish an enforcement mechanism and promulgate rules and regulations; and
- (3) Making other technical, nonsubstantive amendments for the purpose of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3466, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3466, H.D. 2, S.D. 1, C.D. 1.

Representatives Takamine, Hirono, Metcalf, Yonamine and Ward,
Managers on the part of the House.

Senators Mizuguchi, A. Kobayashi and Blair,
Managers on the part of the Senate.

Conf. Com. Rep. 23 on H.B. No. 3157

The purpose of bill is to:

- (1) Disallow a deduction from gross income on an individual's income tax return for an amount paid into an Individual Housing Account (IHA) which is distributed within three hundred sixty-five days from the date on which the contribution was made to the IHA;
- (2) Clarify current statutory provisions that allow a husband and wife to deduct \$10,000 on a joint income tax return if \$5,000 was deposited by each spouse in a taxable year; and
- (3) Clarify that the ten percent penalty applies to a person who sells the residential property during the ten-year period subsequent to the purchase.

Your Committee finds that the intent of the IHA law is to allow taxpayers to build up savings toward the purchase of their first residence. Taxpayers have abused the IHA by making short term contributions strictly for the benefit of the deduction. Amendments to the law will help restore the Legislature's intent to encourage savings.

Your Committee has agreed to adopt the original version of H.B. 3157, with amendment to the following:

- (1) Inserting "A deduction not to exceed \$10,000 shall be allowed for a married couple filing a joint return" and "or \$10,000 for a joint return," to provide technical clarity for those married couples filing joint returns; and
- (2) Making technical, nonsubstantive amendments for purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3157, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3157, H.D. 2, S.D. 2, C.D. 1.

Representatives Isbell, Souki, Arakaki, Bainum, Duldulao, M. Ige, Kawakami and Tatibouet,
Managers on the part of the House.

Senators Yamasaki, Aki, Crozier, B. Kobayashi and George,
Managers on the part of the Senate.

Conf. Com. Rep. 24 on H.B. No. 2504

The purpose of this bill is to authorize the establishment of a mutual housing association that will assist Hawaii residents in the purchase, development, building, or rehabilitation of land and residential structures.

Your Committee upon further consideration has made the following amendments to H.B. No. 2504, H.D. 2, S.D. 2:

- (1) Omitted "Chapter 201E, Hawaii Revised Statutes, is amended to read as follows" and replaced it with "The Hawaii Revised Statutes, is amended by adding a new chapter to be appropriately designated and to read as follows" in Section 1;
- (2) Incorporated the provisions in Section 1 subsection (b) relating to the definition of mutual housing association into subsection (a);
- (3) Added a new provision in Section 1 subsection (b) to provide the elected Board of Directors of the mutual housing association governing powers set forth in its Bylaws and Articles of Incorporation;
- (4) Omitted "The election of board of directors shall require a majority of the association;" and replaced it with "The board of directors shall be elected by members of the association;" to provide the association with the responsibility of electing their board of directors;
- (5) Deleted all references to the adoption of rules to Chapter 91, Hawaii Revised Statutes, by the Housing Finance and Development Corporation;
- (6) Deleted all references to the use of Section 201E-217, Hawaii Revised Statutes, as funds to cover operations, planning, development, and initial costs by the mutual housing association;
- (7) Inserted that this Act shall expire on December 31, 1997; and

(8) Made technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2504, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2504, H.D. 2, S.D. 2, C.D. 1.

Representatives Isbell, Souki, Bainum, Chang, Chun, Kanoho and Tatibouet,
Managers on the part of the House.

Senators Yamasaki, Aki, Crozier, B. Kobayashi and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 25 on H.B. No. 3558

The purpose of this bill is to require that the Housing Finance and Development Corporation (HFDC) shall submit an annual report to the Legislature on all programs and funds established under the HFDC.

Your Committee has agreed to adopt the Senate version of H.B. 3558, amended to clarify that HFDC must report to the Legislature on all its program areas and all its funds and that the report will be organized by program area and by fund within each program area.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3558, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3558, H.D. 1, S.D. 1, C.D. 1.

Representatives Isbell, Souki, Alcon, Amaral, Bainum, Kawakami and Marumoto,
Managers on the part of the House.

Senators Yamasaki, Aki, Crozier, B. Kobayashi and George,
Managers on the part of the Senate.

Conf. Com. Rep. 26 on H.B. No. 2505

The purpose of this bill is to streamline the state and county land use development approval process for constructing housing.

Your Committee has made the following amendments to H.B. No. 2505, H.D. 2, S.D. 2:

- (1) Deleting Section 2 in its entirety to limit repetitiveness in Section 1;
- (2) Renumbering consecutively the remaining sections; and
- (3) Making a technical, nonsubstantive amendment for the purpose of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2505, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2505, H.D. 2, S.D. 2, C.D. 1.

Representatives Isbell, Ihara, Metcalf, Amaral, Bainum, Hashimoto and Tatibouet,
Managers on the part of the House.

Senators Yamasaki, Aki, Crozier, B. Kobayashi and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 27 on H.B. No. 3563

The purpose of this bill is to authorize the Hawaii Housing Authority (HHA) to certify vehicles abandoned on property owned, managed, or operated by the HHA to facilitate removal and disposal of these vehicles.

Your Committee has agreed to adopt H.B. No. 3563, H.D. 2, S.D. 1, which requires that a notice be conspicuously posted on the vehicle prior to its removal, with technical, nonsubstantive amendments made for the purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3563, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3563, H.D. 2, S.D. 1, C.D. 1.

Representatives Isbell, Baker, Metcalf, Amaral, Chun, M. Ige and Tatibouet,
Managers on the part of the House.

Senators Fernandes Salling, Cobb and George,
Managers on the part of the Senate.

Conf. Com. Rep. 28 on H.B. No. 3673

The purpose of this bill is to add cruise ships to the list of facilities that are required to provide a nonsmoking area in the dining area.

Your Committee finds that this bill would reduce the health hazards to non-smoking passengers dining aboard cruise ships.

Your Committee changed the bill by removing the provision amending the definition of restaurants in Section 328K-1, Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3673, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3673, S.D. 1, C.D. 1.

Representatives Cachola, Shon, Metcalf, Bainum, Lee and Marumoto,
Managers on the part of the House.

Senators McMurdo, B. Kobayashi, Levin and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 29 on H.B. No. 1237

The purpose of this bill is to expand the degree of protection afforded to individuals, businesses, and governmental agencies from tampering, interference, damage, and unauthorized access to lawfully created computer data and computer systems.

Your Committee on Conference finds that the growth in computer use has resulted in a similar growth in unauthorized access to computers, computer systems, software and data. Consequently, it is imperative that individuals, groups, organizations, financial institutions, businesses, and government agencies be protected from persons who tamper, interfere, damage, and gain unauthorized access to their computers, computer systems, software, and data. It is entirely appropriate, therefore, that this bill creates two new offenses called "computer fraud" and "unauthorized computer use", both of which are class C felonies.

Your Committee on Conference recognizes, however, that there are other people who gain unauthorized access to computer systems and do no damage to those systems. These people, whether they be harmless pranksters, students, or curious computer hackers, do not deserve to be charged with a class C felony. Yet a serious breach of privacy has occurred and this cannot be dismissed. Consequently, this bill is amended by creating an affirmative defense entitled "entry without disruption." The court may dismiss a prosecution if, having regard to the nature of the conduct alleged and nature of the attendant circumstances, it finds that the defendant's conduct did not actually cause harm or damage to any computer, computer system, computer network, or any of its parts. It shall be required of the court, however, that it not dismiss a prosecution brought under this Part without filing a written statement of its reasons.

Your Committee has made technical, nonsubstantive amendments for the purpose of style and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1237, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1237, H.D. 1, S.D. 2, C.D. 1.

Representatives Metcalf, Amaral, Hiraki, Morihara and Ward,
Managers on the part of the House.

Senators Blair, Crozier and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 30 on H.B. No. 2808

This bill implements the recommendations of the State Auditor and those recommendations set forth in Report No. 91-19 entitled "Sunset Evaluation Report: Auctions, Pawnbrokers, Secondhand Dealers and Scrap Dealers". Historically, counties had the authority to decide whether or not to license these businesses. In 1990, this power was removed from the counties. This bill would restore that power to each county.

The State Auditor (Auditor) testified that the matter of licensing should be left to the counties. The Auditor also testified that businesses under the sunset schedule appear to be required to pay the Department of Commerce and Consumer Affairs (DCCA) a compliance resolution fee. This fee is required of state licensees under the DCCA, but was probably not intended to cover a small group of county licensees. Accordingly, the Auditor recommends removing these businesses from the sunset schedule. In addition, the regulation of pawnbrokers is being removed to avoid conflict with proposed state regulation.

Your Committee on Conference has accordingly agreed to return to H.B. No. 2808, H.D. 2, with certain amendments deleting pawnbrokers as discussed above, which implements the foregoing recommendations of the Auditor.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2808, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2808, H.D. 2, S.D. 1, C.D. 1.

Representatives Ihara, Hirono, Amaral, Horita, Metcalf, Morihara and Ward,
Managers on the part of the House.

Senators Yamasaki, Cobb, Ikeda, Iwase and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 31 on H.B. No. 2724

The purposes of this bill are to:

- (1) Provide additional conditions and administrative mechanisms to the public reporting requirement exemption for two-apartment condominium projects; and
- (2) Authorize the Real Estate Commission to commence investigations, issue cease and desist orders, and initiate civil and criminal actions for violations of the laws pertaining to the payment and collection of fees to the Condominium Management Education Fund and the regulation of condominium property regimes.

After much discussion and careful deliberation, your Committee agrees that the provisions of this bill, as received, would greatly clarify Hawaii's laws pertaining to the public reporting requirements of real estate condominium project developers, as well as enhance the ability of the Real Estate Commission to effectively enforce the provisions of Chapter 514A, Hawaii Revised Statutes (Condominium Property Regimes).

However, while your Committee is in accord with the intent of this bill, as received, your Committee notes that the language pertaining to the elimination of the final report's expiration date would inevitably preclude developers who have been granted an extension on the report's effective date from receiving this exemption.

In addition, it has come to your Committee's attention that this provision, as worded, would also exclude a developer or beneficiary of a developer's irrevocable trust from receiving this exemption if the developer or beneficiary has submitted satisfactory evidence of retainment or conveyance for one apartment and has sold the apartment.

Your Committee believes that the aforementioned situations conflict with the intent of this bill and thus assert that clarification is needed to rectify these problems. Accordingly, your Committee has amended this bill by:

- (1) Specifying that the Real Estate Commission may eliminate the expiration date of the final public report for two-apartment condominium projects, provided, inter alia, that developers submit the following to the Real Estate Commission:
 - (A) A written request not later than thirty days prior to the next expiration date of the final public report; and
 - (B) Satisfactory evidence that one or both apartments are either retained by the developer or conveyed to an irrevocable trust to benefit a spouse or family member of the developer; and
- (2) Making technical, nonsubstantive revisions for the purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2724, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2724, H.D. 1, S.D. 1, C.D. 1.

Representatives Hirono, Amaral, Hiraki, Morihara and Thielen,
Managers on the part of the House.

Senators Crozier, Aki and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 32 on H.B. No. 2391

The purpose of this bill is to strengthen the State's environmental impact statement system by amending Chapter 343, Hawaii Revised Statutes, to require a detailed justification of a chosen alternative that is not the least environmentally destructive alternative.

Your Committee finds that strengthening Chapters 341 and 343 is essential if Hawaii's environmental impact statement system is to become a truly effective tool for providing public participation and information in the land use planning process. Ultimately, the purpose of these statutes should be to ensure appropriate and well-managed development in the State.

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

- (1) Amending section 343-2 to add two new definitions of "cumulative impact" and "preparation notice;"

- (2) Amending the definition of "environmental impact statement" or "statement" to require consideration of cumulative impacts caused by an action;
- (3) Amending section 341-4 to require the director of environmental quality control to participate in the review of environmental impact statements to, among other things, flag issues to be reviewed by the agencies and monitor the participation of the agencies in the review process;
- (4) Amending section 343-5 to include the special management area and critical habitats as triggers which require the preparation of an environmental assessment;
- (5) Amending subsections (b) and (c) of 343-5 by providing for appeal of a determination through dispute resolution, provided that use or failure to use this procedure will not preclude access to court pursuant to section 343-7;
- (6) Deleting proposed amendments to subsections (b) and (c) of 343-5 that would require that a statement proposing to use an alternative other than the least environmentally destructive alternative only be accepted if it discusses in equal detail the reasons for not selecting the least environmentally destructive alternative;
- (7) Amending section 343-6 to develop procedures for dispute resolution, to publish and update a guidebook for use by environmental impact statement preparers and reviewers, and to increase public participation in the environmental impact statement process; and
- (8) Making technical, nonsubstantive amendments for purposes of clarity, style and consistency, and conformity to the Ramseyering convention.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2391, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2391, H.D. 1, S.D. 1, C.D. 1.

Representatives Hiraki, Morihara, Santiago, Young and Thielen,
Managers on the part of the House.

Senators Chang, Levin and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 33 on H.B. No. 3946

The purpose of this bill is to provide for a twenty day public review and comment period for draft environmental assessments for which a negative declaration is anticipated.

Your Committee finds that the public review and comment period is essential to upholding the integrity of the overall environmental impact statement process. As such, it is appropriate to allow for a longer review and comment period for draft environmental assessments.

Your Committee has amended this bill by allowing for a thirty day review and comment period for draft environmental assessments. Your Committee has also made technical, nonsubstantive amendments for the purpose of accuracy and to conform to the Ramseyering convention.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3946, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3946, H.D. 2, S.D. 1, C.D. 1.

Representatives Hiraki, Metcalf, Amaral, Hagino, Santiago, Young and Thielen,
Managers on the part of the House.

Senators Chang, Levin and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 34 on H.B. No. 3843

The purposes of this Act are to prohibit the purchase, distribution, manufacture, importation or sale of any portable fire extinguisher that contains a halon or other ozone-depleting compound; and to require the use of an approved reclamation system in the repair or maintenance of any portable fire extinguishing system.

Your Committee on Conference finds that this measure would strengthen efforts to prevent the depletion of the Earth's stratospheric ozone layer and shield the Earth's surface from dangerous ultraviolet radiation.

The Senate amended the House measure by extending its provisions to Sections of Chapter 437 and 444, Hawaii Revised Statutes.

Your Committee on Conference has amended this bill by:

- (1) Adding a definition for "hydrochlorofluorocarbon";

- (2) Removing the requirement for a certificate from a state agency as evidence of training in the proper use of refrigerant recovery and recycling equipment, and the servicing of motor vehicle and mobile air conditioners;
- (3) Adding the requirement that service people must successfully complete an appropriate training course certified by Underwriter Laboratories, Incorporated;
- (4) Extending the provisions of the bill to include the motor vehicle and the contracting industries;
- (5) Providing an exemption from the provisions of this Act for purchasing agents of airline companies, and to private individuals upon presentation of a pilots license;
- (6) Deleting the necessity for approval of reclamation systems by the Director of Health; and
- (7) Making technical, nonsubstantive changes for purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3843, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3843, H.D. 2, S.D. 1, C.D. 1.

Representatives Hiraki, Metcalf, Amaral, Morihara, Santiago, Young and Thielen,
Managers on the part of the House.

Senators Chang, Levin and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 35 on H.B. No. 2336

The purpose of this Act is to encourage the development and application of environmentally-sound conservation practices in the use of timber by requiring the publishers of newspapers in Hawaii with a circulation of 25,000 or more per day to utilize newsprint containing a percentage of recycled materials.

Your Committee finds that the use of virgin materials for newsprint consumes large volumes of forest products, electrical energy, and water, as well as generates solid waste for disposal. Your Committee also finds that one method for decreasing the negative effects of the paper manufacturing process is to encourage the use of recycled paper for newsprint. Your Committee shares the concern of the newspaper industry that the cost of newsprint manufactured from recycled materials not exceed the cost of newsprint manufactured from virgin materials by a large amount, since such costs would be passed on to the consumer.

Your Committee on Conference has amended this bill by:

- (1) Including a purpose section;
- (2) Revising the definition of "consumer of newsprint" to read as follows: "Consumer of newsprint" means a person who uses newsprint in a commercial or government printing or publishing operation with a circulation of twenty-five thousand or more per day;
- (3) Deleting the goal for recycled content of newsprint for the year 2000;
- (4) Reducing the price differential between recycled-content newsprint and newsprint made from virgin materials to three percent of landed cost;
- (5) Deleting the reporting requirement for suppliers of newsprint; and
- (6) Permitting consumers of newsprint to satisfy the reporting requirement through publication in the newspaper.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2336, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2336, H.D. 1, S.D. 1, C.D. 1.

Representatives Hiraki, Morihara, Santiago, Young and Thielen,
Managers on the part of the House.

Senators Chang, Hagino and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 36 on H.B. No. 3233

The purpose of this Act is to create uses for recycled glass.

Your Committee finds that by using crushed glass as an aggregate in the mix used for roadways and other nonstructural applications, Hawaii could conserve limited landfill space, as well as save money.

Your Committee amended the bill by deleting any reference to speed limits on roadways when glassphalt is used, allowing this decision to be made by the Department of Transportation. Your Committee further amended the bill by making technical, nonsubstantive changes for purposes of clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3233, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3233, H.D. 1, S.D. 1, C.D. 1.

Representatives Hiraki, Oshiro, Morihara, Santiago, Young and Thielen,
Managers on the part of the House.

Senators Yamasaki, Chang, Hagino, Levin and George,
Managers on the part of the Senate.

Conf. Com. Rep. 37 on H.B. No. 1930

The purpose of this bill is to:

- (1) Authorize a durable power of attorney for health care decisions except decisions regarding sterilization, abortion, psychosurgery, or withdrawal of life-sustaining treatment;
- (2) Require that the durable power of attorney shall only become effective upon the incapacity of the principal as determined by the licensed physician;
- (3) Prohibit any person from serving as both the treating physician and attorney-in-fact for matters related to health care decisions; and
- (4) Require that a durable power of attorney for health care decisions executed in compliance with current law and prior to the effective date of this bill, if enacted, remains valid.

Your Committee is in agreement that all competent persons (principals) have a fundamental right to control the decisions relating to their own medical care. In order that this right be recognized and respected, it is necessary that the laws of this State grant the right to make a durable power of attorney allowing an agent to make health care decisions for the principal.

Your Committee, therefore, has amended this bill by:

- (1) Clarifying that a competent person who has attained the age of majority can execute a durable power of attorney;
- (2) Mandating that the durable power of attorney made pursuant to this section must meet certain mechanical requirements, i.e., be in writing, signed by the principal, etc.;
- (3) Specifying that the durable power of attorney shall not be presumed to grant authority to prolong the principal's life through certain medical procedures unless authority is explicitly stated;
- (4) Providing a durable power of attorney sample form to be copied or changed to add more individualized instructions but also allowing for an entirely different format to be used; and
- (5) Making technical, nonsubstantive revisions for purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1930, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1930, S.D. 2, C.D. 1.

Representatives Metcalf, Amaral, Bainum, Hiraki, Shon and Thielen,
Managers on the part of the House.

Senators Blair, Levin, McMurdo and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 38 on H.B. No. 599

The purpose of this bill, as received by your Committee on Conference, is to eliminate the requirements that jurors be assembled in panels of 18 by amending Sections 612-15, 612-17, and 612-18, Hawaii Revised Statutes.

After a full discussion on the issues regarding both versions of this bill, your Committee on Conference reached an understanding and agreed that there is no policy dispute between the House and the Senate. Each House agreed that there are merits to the elimination of all exemptions to serving on jury duty and eliminating the requirement that juries be assembled by panels. Consequently, this bill is amended by unreservedly incorporating the substantive material of both versions into this bill and making technical, nonsubstantive changes for the purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 599, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 599, H.D. 1, S.D. 1, C.D. 1.

Representatives Metcalf, Hagino, Hiraki, Hirono and Ward,
Managers on the part of the House.

Senators Blair, Cobb and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 39 on H.B. No. 3121

The purpose of this bill, as received by your Committee on Conference, is to:

- (1) Provide that any member of the Commission may sign an order for a subpoena or renumeration for mileage or witness fees in the absence of the Chairperson;
- (2) Provide that the Commission may delegate to the Administrator the authority to adjudicate any case if certain prerequisites are met;
- (3) Delete the requirement that one Commission member must be an attorney; and
- (4) Provide that an applicant aggrieved by an order or decision may request a reconsideration of the Commission's decision providing that the request is made within 30 days after service of a certified copy of the order or decision.

After examining all the issues surrounding this measure, your Committee on Conference has amended this bill by:

- (1) Clarifying that subpoenas and orders shall only be issued under the signature of the chairperson or by majority vote of the commission members;
- (2) Deleting proposed language which would allow the Administrator to determine cases;
- (3) Clarifying that the Commission may delegate to the administrator the authority to sign any order approved by the Commission; and
- (4) Making technical, nonsubstantive changes for the purposes of clarity, style, and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3121, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3121, H.D. 2, S.D. 1, C.D. 1.

Representatives Metcalf, Souki, Amaral, Cachola, Kawakami, Morihara, Tajiri and Ward,
Managers on the part of the House.

Senators Yamasaki, Iwase, A. Kobayashi, Mizuguchi and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 40 on H.B. No. 2323

The purpose of this bill is to specify that the population base used to draw congressional district lines be based on the population counted in the last preceding United States census.

The bill specifies changes regarding the Reapportionment Commission (Commission) as follows:

- (1) In the event of a successful court challenge of a reapportionment plan, the Commission is to continue in operation and assist the court in formulating a new plan;
- (2) The Commission is to be constituted June 1 of each reapportionment year;
- (3) The Commission can be terminated when a general election is held under a reapportionment plan of a court of competent jurisdiction;
- (4) The Commission shall reapportion in accordance with the United States Constitution, not based on basic island units; and
- (5) The Commission shall publish a plan not more than one hundred days from the date on which all members are certified. The Chief Election Officer shall publish the plan not more than fourteen days after receiving the final plan.

The bill was amended to require that the Commission:

- (1) Submit a written report to the Legislature twenty days prior to the next convening regular session; and
- (2) Be constituted May 1 of each reapportionment year.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2323, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2323, S.D. 1, C.D. 1.

Representatives Metcalf, Souki, Amaral, Kanoho, Oshiro, Tajiri, Takamine and Ward,
Managers on the part of the House.

Senators Blair, Holt and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 41 on H.B. No. 3726

The purpose of this bill is to require that legislators and employees file gift disclosure statements with the State Ethics Commission on June 30 of each year.

In order to promote public confidence in our government, it is important for the State Ethics Commission to monitor and prevent any abuse that may arise in situations involving election campaigns or the duties and services of a public official. Your Committee on Conference is in agreement that, despite a slight inconvenience, the filing of gift disclosure statements are necessary to further promote public confidence in our government as well as our public officials.

However, while your Committee on Conference is also concerned that the public has the right "to know" as well as a remedy to gain redress against acts of abuse committed by our public officials, to ensure fairness, there must also be a right for public officials to defend themselves against charges that are intentionally or knowingly false. Reasonable measures to prevent knowingly false charges from being filed must be taken to evenly balance all interests despite the possibility that penalties for knowingly filing false charges may have a chilling effect on legitimate charges being filed.

Your Committee on Conference, therefore, has amended this measure by restoring the language, as passed by the House, that created a new offense for intentionally or knowingly filing a false charge with the State Ethics Commission.

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

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3726, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3726, H.D. 1, S.D. 1, C.D. 1.

Representatives Metcalf, Amaral, Oshiro, Takamine and Ward,
Managers on the part of the House.

Senators Blair, McMurdo and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 42 on H.B. No. 3303

The purpose of this bill is to establish reasonable and consistent fees for the research and reproduction of records in response to investigative subpoenas issued by the Attorney General or the county prosecutors. The fees are set at the rate of \$15 per hour for research time and 50 cents per page for reproduction.

Currently the fees charged by financial institutions that comply with investigative subpoenas vary extensively and may be in excess of actual costs. The bill directs the Legislative Auditor to conduct a study to determine the actual costs of such services and to report its findings to the Legislature twenty days prior to the convening of the 1994 legislative session.

The bill was amended by removing the requirement that this Act be repealed on June 1, 1994. The purpose of this amendment is to make the act permanent.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3303, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3303, H.D. 1, S.D. 1, C.D. 1.

Representatives Metcalf, Amaral, Oshiro, Takamine and Ward,
Managers on the part of the House.

Senators Blair, Matsuura and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 43 on H.B. No. 2871

The purpose of this bill is to prohibit, except under limited conditions, the storing or keeping of a firearm on premises where a person under sixteen years old is likely to gain access without the permission of a parent or guardian.

Originally, the House version of this bill established a new section making it an offense if a person negligently stores a firearm and a minor subsequently obtains that firearm and uses it to cause injury or death to the minor's self or another. The Senate deleted this proposed section in their version of this measure believing that there existed the possibility of compounding a tragic and traumatic situation by having a family member incarcerated because of the inadvertent injury

or death involving a minor of that family. Your Committee, however, despite the differences on versions of this bill, is in agreement that there is no excuse for the placing of a firearm within the grasp of a minor. An instrument such as this must be handled with care and caution in the home to protect the young.

After much discussion on the merits of this bill, your Committee amended this measure by creating an offense entitled "Criminally Negligent Storage of a Firearm."

This section:

- (1) Establishes that a person commits the offense of criminally negligent storage of a firearm if the person violates the proper storage procedures of a firearm, as contained in Section 1 of this bill, and a minor obtains the firearm;
- (2) Establishes that for the purposes of this newly created offense, "minor" means anyone under the age of sixteen years of age;
- (3) Establishes that this section shall not apply if the minor obtains the firearm as a result of an unlawful entry to any premise by any person;
- (4) Establishes that a violation of this section is a misdemeanor; and
- (5) Makes technical, nonsubstantive changes for the purpose of clarity and style.

Your Committee wishes to clarify that to effectuate this offense, the minor must be in possession of the firearm off the residence of the registered firearm owner.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2871, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2871, H.D. 1, S.D. 1, C.D. 1.

Representatives Metcalf, Amaral, Bainum, Hagino and Ward,
Managers on the part of the House.

Senators Blair, Crozier and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 44 on H.B. No. 3424

The purpose of this bill is to include as public information the specific salaries of employees of the University of Hawaii unless they are in bargaining unit (8).

The intent of the bill, as currently drafted, is to exclude members of bargaining unit (8) or certain employees of the University of Hawaii, as well as its community college system, from reporting their specific salaries as public information. Your Committee, however, notes that the amended language manifesting this intent currently reads:

"... compensation (but only the salary range for employees... or included in chapters 76, 77, [297 or 304] 297 and bargaining unit (8))..."

This language, as previously drafted, may be interpreted to mean that salary ranges shall be reported as public information for the employee that is subject to the mandates of all chapters listed, as well as require that the employee be a member of bargaining unit (8). To clarify its legislative intent, your Committee has amended the bill by replacing the word "and" with the word "or".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3424, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3424, S.D. 1, C.D. 1.

Representatives Metcalf, Amaral, Arakaki, Hagino and Thielen,
Managers on the part of the House.

Senators Mizuguchi, Blair and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 45 on H.B. No. 2604

The purpose of this bill is to amend Section 604-10.5, Hawaii Revised Statutes, relating to violation of orders enjoining and temporarily restraining harassers by:

- (1) Specifying that violations of temporary restraining orders or injunctions are misdemeanors;
- (2) Mandating a minimum jail sentence of not less than 48 hours for a subsequent violation of the same injunction or restraining order after the first conviction; and
- (3) Mandating a minimum jail sentence of not less than 30 days for a subsequent violation of the same injunction or restraining order after the second conviction.

Often, situations may arise where the court would be required to impose mandatory jail sentences for relatively trivial matters that do not involve violence or the threat of violence. In order to avoid the enactment of overly onerous legislation but yet provide as much protection for victims of violence as intended, your Committee on Conference has amended this bill to allow a court of competent jurisdiction to suspend mandatory jail sentences where the violation of the injunction or restraining order does not involve violence or the threat of violence.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2604, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2604, H.D. 1, S.D. 1, C.D. 1.

Representatives Metcalf, Amaral, Arakaki, Hirono and Thielen,
Managers on the part of the House.

Senators Blair, Ikeda and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 46 on H.B. No. 2597

The purpose of this bill is to mandate prison terms and increase fines for people who are convicted of intentionally importing, possessing, or selling snakes or other prohibited animals, plants, and microorganisms in the State of Hawaii. More specifically, the bill:

- (1) Mandates the disclosure of agricultural goods for all crew members and passengers of vessels entering the State;
- (2) Deletes references to "lists" in Section 150A-7(b), Hawaii Revised Statutes (HRS), to clarify that prohibited organisms also include those that are not in any list; and
- (3) Increases the grades of offenses in Chapter 150, HRS, and changes the corresponding penalties.

This measure is amended by:

- (1) Adding a section to allow for any member of the Department of Agriculture to request that a district judge issue a warrant, directed to any police officer in the circuit, to seize, capture, confiscate or remove a prohibited or restricted creature when the protection of animal or public health is necessary;
- (2) Inserting a provision in Section 150A-14(a) and (b), HRS, for a minimum fine of \$500 for any person, organization, or company that commits a second offense within five years of a prior offense; and
- (3) Changing the minimum and maximum fines under Section 150A-14(c), HRS, to \$500 and \$25,000 for any offense;

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2597, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2597, H.D. 2, S.D. 2, C.D. 1.

Representatives Honda, Metcalf, Amaral, Chang and Marumoto,
Managers on the part of the House.

Senators Blair, Chang and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 47 on H.B. No. 3854

The purpose of this bill is to:

- (1) Make a knowing or intentional violation of a restraining order a misdemeanor;
- (2) Make a knowing or intentional violation of a temporary restraining order a misdemeanor;
- (3) Allow an order to be served by certified mail or to be served in person;
- (4) Make a knowing or intentional violation of a protection order a misdemeanor; and
- (5) Mandate a mandatory minimum jail sentence for a conviction of a violation of an injunction or a restraining order.

Your Committee on Conference notes that both the House and Senate versions of this bill agree that a knowing or intentional violation of a restraining order, temporary restraining order, protection order, or an injunction issued by a court is a serious matter especially when concerning the well-being of residents who seek protection through the judicial system. After discussing the issues associated with this matter, your Committee on Conference has amended this bill by:

- (1) Mandating that for a first conviction for violation of a restraining order a person shall serve a mandatory minimum jail sentence of 48 hours;
- (2) Mandating that for a second and any subsequent conviction for violation of a restraining order a person shall serve a minimum jail sentence of thirty days;
- (3) Requiring that a temporary restraining order state the acts a respondent or person to be enjoined is restrained from performing;
- (4) Establishing that the acts which a court may consider to enjoin a respondent for the purposes of issuing a temporary restraining order shall consist of:
 - (a) Contacting, threatening or physically abusing the petitioner(s);
 - (b) Contacting, threatening or physically abusing any person(s) residing at the petitioner(s)'s residence;
 - (c) Telephoning the petitioner(s);
 - (d) Entering or visiting the petitioner(s)'s residence; or
 - (e) Contacting, threatening or physically abusing the petitioner(s) at work;
- (5) Mandating that for a first conviction for violation of a temporary restraining order a person shall serve a mandatory minimum jail sentence of 48 hours;
- (6) Mandating that for a second and any subsequent conviction for violation of a temporary restraining order a person shall serve a minimum jail sentence of thirty days;
- (7) Establishing that if a temporary restraining order is granted orally in the presence of all the parties and the court determines that each of the parties understands the order and its conditions, then the order shall be effective as of the date it is orally stated on the record by the court until further order of the court;
- (8) Mandating that for a first conviction for violation of an injunction a violator shall be sentenced to a mandatory minimum jail sentence of not less than forty-eight hours;
- (9) Mandating that for the second and any subsequent for violation of the same injunction, the person shall be sentenced to a mandatory minimum jail sentence of not less than thirty days; and
- (10) Making technical, nonsubstantive changes for the purposes of clarity, style, and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3854, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3854, H.D. 1, S.D. 1, C.D. 1.

Representatives Metcalf, Amaral, Arakaki, Hirono and Thielen,
Managers on the part of the House.

Senators Blair, Ikeda and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 48 on H.B. No. 1926

The purpose of this bill is to:

- (1) Provide an injured party the right of civil action against any person who, under color of any law of the State or its political subdivisions, deprived the injured party of rights, privileges, or immunities secured by the Hawaii State Constitution or other law; and
- (2) Grant the Civil Rights Commission exclusive jurisdiction in discrimination actions for the first one hundred eighty days.

In many civil rights actions, the complainant is an individual of limited means and cannot afford attorneys' and expert witness fees. By providing an equitable remedy for a deprivation of rights plus a recovery for attorneys' and expert witness fees, your Committee hopes to preserve and protect the constitutional rights of all injured individuals.

Your Committee has amended this bill by:

- (1) Providing a purpose clause;
- (2) Limiting the remedy by clarifying that every person, including the State and its subdivisions, acting under the color of State law that deprives another person in this State any rights granted by the State constitution shall be subject to a suit for declaratory and injunctive relief by the party injured;
- (3) Allowing the prevailing party to be awarded reasonable attorneys' and expert witness fees; and

- (4) Making technical, nonsubstantive revisions for purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1926, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1926, S.D. 1, C.D. 1.

Representatives Metcalf, Amaral, Hagino, Takamine and Thielen,
Managers on the part of the House.

Senators Blair, Matsuura and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 49 on H.B. No. 2496

The purpose of this bill is to conform real estate transactions law to the Federal Fair Housing Amendments Act of 1988, which protects the disabled and families with children from housing discrimination. The bill also contains a provision which would prohibit steering persons toward or away from a real estate transaction, and adds age as a protected group in a real estate transaction while still recognizing the special situation of housing designed for older persons.

Your Committee had concerns about several areas of the bill as follows:

- (1) A "hanai relationship" was not defined though it was added to the definition of "familial status". Therefore, your Committee has deleted this reference, but has retained the provision amending the definition to include children living with a person who have written or unwritten permission from the legal parent.
- (2) Your Committee also amended the bill to include a definition of "age" and clarified it to include people over the age of majority and emancipated minors and prohibited discrimination in real estate transactions based on age.
- (3) The definition of "handicapped status" excluded persons who engaged in "illegal" drug abuse which threatens the property or safety of others. Your Committee deleted the word "illegal" so that drug abuse which threatens the property or safety of others would not place the person within the protected category of "handicapped status."
- (4) Section 8 of the bill, which refers to religious institutions, was revised to indicate that a religious institution may not discriminate in a real property transaction if membership in the religion is restricted on the basis of race, color, or ancestry. Federal law imposes these requirements upon religious organizations, and this section will now comply with federal requirements.

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

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2496, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2496, H.D. 1, S.D. 1, C.D. 1.

Representatives Hirono, Metcalf, Morihara, Takamine and Thielen,
Managers on the part of the House.

Senators Crozier, Aki and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 50 on H.B. No. 3032

The purpose of this bill is to amend Hawaii's Lemon Law in order to respond to certain concerns of consumers, manufacturers, and arbitrators who have participated in the lemon law arbitration process. Specifically the bill adds a new chapter to the Hawaii Revised Statutes, which will replace §490:2-313.1 and §490:2-313.2, Hawaii Revised Statutes.

Your Committee finds that the choice of business entity (corporation, partnership or sole proprietorship) should not be the sole basis for exclusion from the protection of the lemon law. Small business entities often face the same kinds of problems that the Lemon Law was intended to address for individual consumers. Accordingly, your Committee amended the definition of "motor vehicle" to include a vehicle owned or leased by the types of businesses listed above, if the entity has purchased or leased one vehicle per year, and it is used for household, individual, or personal use as well as business use.

Your Committee also addressed concerns regarding the written notice required pursuant to § -3(g), and who is best able to provide that information to the consumer. Because the consumer has direct contact with the dealer who sells the vehicle, and not the manufacturer, your Committee amended the bill by making the dealer, and not the manufacturer, directly responsible for providing the notice. In doing this, your Committee does not intend to shift any of the other responsibilities charged to manufacturers under this chapter. Dealers will serve merely as the conduit to provide the written notice to consumers.

Nineteen technical, nonsubstantive amendments were made for the sake of clarity and style. An unnecessary phrase was deleted from § -3(b), (d)(3), and (f), and grammatical corrections were made throughout the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3032, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3032, H.D. 1, S.D. 1, C.D. 1.

Representatives Hirono, Metcalf, Amaral, Arakaki, Morihara and Ward,
Managers on the part of the House.

Senators Ikeda, Crozier, Iwase and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 51 on S.B. No. 576

The purpose of this bill is to amend provisions in the Traffic Code relating to traffic accidents and injuries.

Under the current law, drivers who fail to stop and render aid in traffic accidents that involve death or personal injury can be fined up to \$1,000 or imprisoned up to ten years, or both, regardless of the degree or severity of the injury. This bill amends the current law by (1) delineating grades of the offense of failure to give information and render aid, based on the severity of the injury involved; and (2) defining the injury categories based on the definitions used in the Hawaii Penal Code.

Your Committee restructured and amended the bill by:

- (1) Establishing three separate offenses for failure to give information and render aid in accidents resulting in personal injury. Under these new provisions, a person will be charged with a misdemeanor in an accident involving bodily injury, a class C felony in an accident involving substantial bodily injury, and a class B felony in an accident involving death or serious bodily injury. In cases involving death or serious bodily injury, a convicted offender's license is automatically revoked. In cases involving less than serious bodily injury, license revocation is discretionary under section 286-15, Hawaii Revised Statutes.
- (2) Making other conforming amendments and other technical, nonsubstantive changes for purposes of consistency, clarity, and style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 576, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 576, S.D. 2, H.D. 2, C.D. 1.

Representatives Oshiro, Metcalf, Amaral, Baker, Yonamine and Ward,
Managers on the part of the House.

Senators Blair, Fernandes Salling and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 52 on S.B. No. 2592

The purpose of this bill is to upgrade the offense of theft of a firearm, dynamite or other explosive from a class C to a class B felony.

Your Committee finds that the serious and hazardous nature of firearm thefts and thefts of dynamite and other explosives justify the upgrade in the penalty and classification.

Your Committee made technical corrections to the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2592, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2592, S.D. 1, H.D. 1, C.D. 1.

Representatives Metcalf, Amaral, Morihara, Thompson and Thielen,
Managers on the part of the House.

Senators Blair, Cobb and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 53 on S.B. No. 3157

The purpose of this bill is to amend section 291-5, Hawaii Revised Statutes, to allow the admission of competent evidence of a person's blood alcohol content, even if it was obtained more than three hours after the alleged offense, provided that the evidence is offered in compliance with the Hawaii Rules of Evidence.

Section 291-5 establishes certain principles regarding the admissibility of blood alcohol tests. It is read in conjunction with section 321-161, Hawaii Revised Statutes, under which the director of health is mandated to establish a statewide program for blood alcohol testing including rules which establish minimum qualifications for testing personnel and test procedures.

Section 291-5(a) provides that a test result of .10, obtained pursuant to an approved test taken within three hours of the offense, is deemed to be competent evidence that the defendant was under the influence at the time of the incident. Evidence of a particular blood alcohol level obtained in compliance with these requirements is admissible per se, without having to adduce medical testimony of what the defendant's blood alcohol level was at the precise time of the incident and without having to lay a foundation as to all of the scientific principles on which the testing equipment operates so long as the analysis or technique has been approved pursuant to section 321-161.

Section 291-5(b) establishes certain evidentiary presumptions based upon particular blood alcohol results, and section 291-5(c) clarifies that subsection (b) does not preclude the introduction of other competent evidence bearing on whether or not the defendant was under the influence at the time of the incident.

This bill is intended to eliminate any negative inference in section 291-5(a) and make it clear that nothing in section 291-5 precludes the admission of the results of tests taken after the three-hour limit, provided that they are offered in compliance with the Hawaii Rules of Evidence.

Your Committee amended the bill by substituting the word "relevant" for the word "competent", to be consistent with terminology used in the Hawaii Rules of Evidence, and by making other nonsubstantive amendments.

Your Committee finds that this bill is consistent with the purpose of section 291-5, which is to streamline the presentation of evidence by eliminating certain foundational requirements in most cases, without precluding the introduction of foundational and extrapolation evidence where more than three hours passed between the time of the offense and the time the blood sample was obtained.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3157, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3157, S.D. 1, H.D. 2, C.D. 1.

Representatives Oshiro, Metcalf, Amaral, Baker, Yonamine and Ward,
Managers on the part of the House.

Senators Blair, Holt and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 54 on S.B. No. 1347

The purpose of this bill is to amend provisions in Chapters 346, 578 and 587, Hawaii Revised Statutes, relating to child protective and welfare services. More specifically, the bill:

- (1) Establishes an adoptive assistance program within the Department of Human Services (DHS) to provide assistance to facilitate the adoption of children with special needs;
- (2) Provides that when adoption is the goal of a permanent plan, DHS may petition for adoption on behalf of the proposed adoptive parents under Chapter 578;
- (3) Amends section 578-2, Hawaii Revised Statutes, so that in an adoption proceeding, the court may dispense with consent of a parent whose parental and custodial duties and rights have been divested pursuant to section 587-73;
- (4) Emphasizes the importance of helping affected families establish a safe home, taking into consideration the religious, cultural and ethnic values of the family in the formulation of a service plan, and the need for timely resolution of child protective cases;
- (5) Amends and updates definitions in Chapter 587;
- (6) Authorizes DHS to enlist the cooperation of the police in its investigations, including the sharing of criminal history background information, and to interview a child subject to a child protective investigation without the approval or presence of the family, without having to place the child in full protective custody.
- (7) Shortens the time for completion of a voluntary service plan and for resolution of cases;
- (8) Restates the safe home guidelines to make them more understandable and useful to the child welfare worker;
- (9) Fleshes out the details of service plans to give affected families more guidance in following the plans without confusing or overwhelming them;
- (10) Provides that a permanent plan should include a clear and convincing explanation why guardianship is preferable to adoption if adoption is not chosen, or why permanent custody is preferable to a guardianship if neither adoption or guardianship is chosen;
- (11) Clarifies what should be included in documents that are submitted to the family court in child protective proceedings;
- (12) Provides that a guardian ad litem will not be automatically terminated upon an award of permanent custody;

- (13) Repeals section 587-74, Hawaii Revised Statutes, relating to adoption proceedings, and amends provisions citing that section to refer appropriately to Chapter 578;
- (14) Defines which family members would be divested of parental or custodial rights under section 587-73, Hawaii Revised Statutes;
- (15) Includes guardianship along with adoption and permanent custody as a permanent plan for the child once it has been clearly determined that the child cannot return home; and
- (16) Makes other technical amendments for purposes of clarity, consistency and style.

Your Committee amended the bill by changing the effective date to January 1, 1993 to insure a smooth transition in the implementation of this Act. Your Committee also made a few minor technical, nonsubstantive amendments.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1347, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1347, S.D. 2, H.D. 1, C.D. 1.

Representatives Metcalf, Amaral, Hirono, Morihara and Ward,
Managers on the part of the House.

Senators Blair, Levin, McMurdo and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 55 on S.B. No. 3179

The purpose of this bill is to make it a misdemeanor for the owner of any animal, or any person with knowledge that an animal belongs to another person, to desert the animal.

Your Committee has amended the bill by replacing much of the existing language with terminology that is clearer, more definite, and therefore easier to apply and enforce. Specifically, the amendments clarify that leaving an animal without the intention of returning to it (rather than deserting it with the intent of abandoning it) is the gist of the offense, and that possession of the animal is an element applicable to a non-owner.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3179, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3179, S.D. 1, H.D. 2, C.D. 1.

Representatives Honda, Metcalf, Amaral, Chang, Kanoho and Marumoto,
Managers on the part of the House.

Senators Chang, Levin and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 56 on S.B. No. 3098

The purpose of this bill is to allow the installation of solar energy devices on rooftops of single family residential dwellings, notwithstanding any subdivision covenants or contract provisions to the contrary.

Upon further consideration, your Committee has amended the bill by including townhouses within its coverage, and by making nonsubstantive technical amendments for the purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3098, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3098, S.D. 1, H.D. 1, C.D. 1.

Representatives Hiraki, Hirono, Isbell and Thielen,
Managers on the part of the House.

Senators Crozier, Aki and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 57 on S.B. No. 3354

The purpose of this bill is to strengthen the laws against harassment. More specifically, the bill:

- (1) Creates a new offense of harassment by stalking. A person commits the offense of harassment by stalking if, with the intent to harass, annoy, or alarm another person, or in reckless disregard of the risk thereof, a person pursues or conducts surveillance upon another without legitimate purpose and under circumstances which would cause the other to reasonably believe that the actor intends to cause bodily injury or property damage;

- (2) Provides that harassment by stalking is a petty misdemeanor unless committed on more than one occasion for the same or similar purpose, in which case the penalty elevates to a misdemeanor;
- (3) Authorizes the court to require an offender convicted of harassment by stalking to undergo counseling;
- (4) Amends section 711-1106(1)(c), Hawaii Revised Statutes, to prohibit making a telephone call without a legitimate purpose which would cause the recipient to reasonably believe that the act or intends to cause bodily injury or property damage;
- (5) Amends section 711-1106(1)(d), Hawaii Revised Statutes, to prohibit making repeated communications anonymously, or at an extremely inconvenient hour, or in offensively coarse language, or by a facsimile transmission which would cause the recipient to reasonably believe that the actor intends to cause bodily injury or property damage; and
- (6) Makes technical, nonsubstantive changes for purposes of clarity, style and consistency.

Your Committee amended the bill by:

- (1) Amending the purpose section;
- (2) Including in paragraph (b) of section 711-1106 (1), insults, taunts, or challenges which would cause another person to reasonably believe that the actor intends to cause bodily injury or property damage. This provision is to address situations where, for example, given the size of the perpetrator or number of perpetrators, the conduct is harassment that is not likely to provoke a violent response;
- (3) Moving the language regarding facsimile transmissions from paragraph (d) to the more analogous paragraph (c) of section 711-1106 (1), Hawaii Revised Statutes, pertaining to telephone calls; and
- (4) Deleting the word "repeated" from anonymous communications in paragraph (d) of section 711-1106 (1), Hawaii Revised Statutes, since an anonymous communication which would cause the recipient to believe that the actor intends to cause bodily injury or property damage should be treated the same as any other unwanted communication which would cause the same result.
- (5) Adding a new paragraph to include repeated communications, where the recipient of the communication has advised the maker that further communication is unwelcome.

Your Committee finds that this bill, as amended, will provide greater protection to victims of harassment while at the same time preserving the rights of citizens to engage in political expression and ordinary communication.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3354, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3354, S.D. 1, H.D. 1, C.D. 1.

Representatives Metcalf, Amaral, Hiraki, Hirono and Thielen,
Managers on the part of the House.

Senators Blair, Tungpalan and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 58 on S.B. No. 2896

The purpose of this bill is to amend Chapter 329B, Hawaii Revised Statutes, to clarify the substance abuse testing procedures used when testing inmates in the care and custody of the Department of Public Safety.

First, the bill, as received by your Committee, adds a new section to Chapter 329B that:

- (1) Requires, in all instances where inmates are subjected to substance abuse testing that may result in sanctions or punishment being imposed against the inmate, all samples are to be sent to a licensed, certified laboratory for the initial screening and confirmatory test;
- (2) Exempts substance abuse testing of inmates for purpose of treatment and counseling from the requirements of the new section;
- (3) Establishes procedures for the taking and keeping of samples;
- (4) Requires the Director of the Department of Public Safety to promulgate rules pursuant to Chapter 91, Hawaii Revised Statutes, establishing chain-of-custody procedures to ensure proper identification, labeling and handling of test samples; and

Second, the bill excludes from the definition of "substance abuse test" in section 329B-2, Hawaii Revised Statutes, urinalysis testing of individuals who are under the care and custody of any state agency if the testing is done by or at the expense of the state agency.

Your Committee amended the bill by:

- (1) Replacing the requirement that specimens be taken at the facilities' medical unit by medical personnel and that all specimens be sent to a licensed, certified laboratory with a requirement that a tested inmate be afforded the option of a confirmatory test by a licensed, certified laboratory. The cost of the confirmatory test will be at the State's expense except where the results of the test are positive, in which case the inmate will be charged with the cost of the confirmatory test;
- (2) Deleting the requirement that the Director of the Department of Public Safety promulgate rules pursuant to Chapter 91, Hawaii Revised Statutes;
- (3) Clarifying that the chain-of-custody procedure includes a tracking form documenting the handling and storage of the specimen from collection to final disposition of the specimen;
- (4) Clarifying that the exclusion from the definition of substance abuse test refers to substance abuse testing of individuals under the care and custody of the Department of Public Safety; and
- (5) Making technical, nonsubstantive changes for purposes of clarity, consistency and style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2896, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2896, H.D. 2, C.D. 1.

Representatives Shon, Metcalf, Amaral, Arakaki, Duldulao and Tatibouet,
Managers on the part of the House.

Senators Blair, Matsuura and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 59 on S.B. No. 2382 (Majority)

The purpose of this bill is to establish a permanent needle exchange program and allow the Director of Health to terminate the program if it no longer serves its intended purpose or poses a threat to public health and safety.

Your Committee finds that the needle exchange program is intended to reduce the transmission of HIV by reducing the availability of contaminated needle and syringe units through a one-to-one exchange of used units for sterile units. Your Committee further finds that this program provides a vital link with intravenous drug users by allowing routine contact with a public health worker who can provide education about HIV risks and make referrals to medical and social service agencies.

Your Committee recognizes that this type of program is not the complete solution for the injection drug user population. Instead, it serves as a stop-gap measure to reduce the transmission of various blood borne diseases and provides a first step towards eventual treatment for certain users. To significantly address the problem, however, your Committee finds that the sterile needle and syringe exchange program must be paired with a strong educational and counseling program. Accordingly, your Committee encourages all parties to look into the development of such a program.

Your Committee on Conference has amended this bill by requiring the Department of Health to include in its annual budget testimony, or in a separate appropriation bill, the estimated funding necessary to provide substance abuse treatment, referral, and counseling services for needle exchange program participants who request the services. This estimate is to reflect the amount needed to provide additional services and shall not be construed to replace the current funding level for all other substance abuse programs nor to displace other participants in such programs.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2382, S.D. 1, H.D. 3, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2382, S.D. 1, H.D. 3, C.D. 1.

Representatives Shon, Metcalf, Souki, Alcon, Amaral, Arakaki, Oshiro and Tatibouet,
Managers on the part of the House.

Senators McMurdo, B. Kobayashi, Levin and Koki,
Managers on the part of the Senate.
(Senator Koki did not concur.)

Conf. Com. Rep. 60 on S.B. No. 276

The purpose of this bill is to protect wildlife while still allowing specified plastic devices to be used to connect consumer goods.

Allowable plastic devices are those which:

- (1) Do not contain an enclosed hole or circle of more than 1 1/4 inch in diameter; or
- (2) Have rings that break at the time the beverage container or other consumer good is removed from the ring.

The bill includes penalty provisions that are identical to those in Section 339-7, Hawaii Revised Statutes (HRS), relating to beverage containers with detachable pull-tabs.

Upon further consideration, your Committee has amended the bill by clarifying that it pertains to plastic connecting devices and by rewording the penalty provisions to conform them to the language found in Section 339-24, HRS.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 276, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 276, S.D. 1, H.D. 2, C.D. 1.

Representatives Hiraki, Metcalf, Alcon, Amaral, Morihara, Santiago and Thielen,
Managers on the part of the House.

Senators Chang, Levin and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 61 on S.B. No. 2229

The purpose of this bill is to amend Rule 404 of the Hawaii Rules of Evidence by:

- (1) Allowing proof of prior similar acts committed by the same person against the same victim in felony cases under chapter 707 of the Hawaii Penal Code and in misdemeanor and felony cases under chapter 709 to afford an inference that the person likely committed the present crime, and in self-defense cases to show that the alleged victim was the first aggressor;
- (2) Limiting the admissibility of evidence to prior similar acts committed five years prior to the incident which is the basis for the present case;
- (3) Requiring the proponent to provide reasonable notice of the intent to offer such evidence and to describe the general nature of the evidence; and
- (4) Inserting a provision directing the Revisor of Statutes to take appropriate action to publish the commentary to the Hawaii Rules of Evidence.

Your Committee amended the bill by:

- (1) Amending the purpose clause;
- (2) Limiting admission of evidence of prior similar acts to acts committed (A) within thirty-six months prior to an incident which is the basis for a felony case or an equivalent self-defense case; or (B) within twenty-four months prior to an incident which is the basis for a misdemeanor case or an equivalent self-defense case; and
- (3) Making other technical, nonsubstantive changes for purposes of clarity, consistency and style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2229, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2229, S.D. 1, H.D. 1, C.D. 1.

Representatives Metcalf, Amaral, Hagino, Hirono and Ward,
Managers on the part of the House.

Senators Blair, Holt and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 62 on S.B. No. 2674

The purpose of this bill is to improve the administration and efficiency of the Child Support Enforcement Agency (CSEA) and the child support enforcement process and to make the provisions consistent with federal law. More specifically, the bill:

- (1) Makes Hawaii law consistent with federal law, by requiring that the family court review the child support guidelines at least once every four years;
- (2) Allows a portion of the interest earned from CSEA's special interest bearing account established for child support payments to be used for the maintenance and operation costs of the account;
- (3) Clarifies that the CSEA investigators have appropriate access, including automated inquiry access, to records notwithstanding any provisions for confidentiality except those in the Uniform Information Practices Act (Modified);
- (4) Authorizes the disclosure of child support information for enforcement purposes, thereby authorizing CSEA to publish the identities of parents owing support; and
- (5) Gives hearings officers the discretion to hold hearings by telephone or by other electronic telecommunication methods. Under existing law, all parties to a hearing must consent before electronic telecommunication methods can be used. Under the requirement of the Federal Family Support Act, CSEA must review and adjust orders where one or more parents reside outside of Hawaii. Travel costs and expenses can be

controlled if the hearings officer has the sole discretion to determine when electronic telecommunication use is warranted.

Your Committee clarified the reference to chapter 92F, the Uniform Information Practices Act (Modified), so as not to preclude CSEA investigators from gaining access to otherwise confidential records of other agencies since the reference to Chapter 92F is not intended to preclude access to CSEA but rather to restrict CSEA from disclosing that information to others.

Your Committee also made a technical, nonsubstantive amendment for the purpose of clarity.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2674, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2674, S.D. 1, H.D. 2, C.D. 1.

Representatives Tom, Souki, Chun, Duldulao, M. Ige and Tatibouet,
Managers on the part of the House.

Senators Blair, McMurdo and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 63 on S.B. No. 2729

The purpose of this bill is to (1) streamline the review, research and recordation of documents in the Bureau of Conveyances and Land Court; (2) authorize the Department of Land and Natural Resources to establish a fee schedule with respect to the review, research and recording of documents in the Bureau under rules pursuant to Chapter 91, Hawaii Revised Statutes; (3) increase or clarify the fees charged by the Bureau and Land Court; and (4) make various housekeeping amendments in Chapters 501 and 502, Hawaii Revised Statutes.

Your Committee amended the bill by increasing the fee in section 501-218(27) for filing any order after original registration from \$1 to \$5 to cover filing costs, and making few typographical corrections.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2729, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2729, S.D. 1, H.D. 1, C.D. 1.

Representatives Hirono, Metcalf, Amaral, Morihara, Takamine and Thielen,
Managers on the part of the House.

Senators Blair, Crozier and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 64 on S.B. No. 2900

The purpose of this bill is to authorize the Director of Public Safety to transfer prisoners to federal or out-of-state correctional institutions without seeking gubernatorial approval.

Currently the Governor must authorize such actions.

Your Committee finds that this bill will facilitate necessary transfers and thus enhance correctional efficiency in this State. In addition, this bill will help make Hawaii's correctional policies consonant with the national trend to empower departments to make these decisions.

Your Committee has amended this bill by authorizing the Director to transfer Hawaii inmates to out-of-state correctional facilities developed, owned, and operated by the State pursuant to agreements negotiated by the Governor and the Director with the out-of-state jurisdiction and approved by the Legislature by concurrent resolution.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2900, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2900, S.D. 1, H.D. 1, C.D. 1.

Representatives Metcalf, Amaral, Morihara, Thompson and Ward,
Managers on the part of the House.

Senators Mizuguchi, Crozier and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 65 on S.B. No. 2653

The purpose of this bill is to establish criteria to ensure that the Department of Health has sufficient authority to adopt rules relative to the design, location, operation, closure and post closure maintenance of Municipal Solid Waste Landfills (MSW Landfills) as provided for by 40 C.F.R. 258, also known as Subtitle D.

By adopting rules in compliance with Subtitle D, the State would achieve "approved status" and gain considerable flexibility in the regulation of new and existing MSW Landfills. If the State fails to gain "approved status" by adopting rules in compliance with Subtitle D by October 9, 1993, the federal regulations will take effect automatically, providing no flexibility for the counties to propose alternative designs for landfills compatible with local conditions. The failure to gain "approved status" will force the counties and other landfill operators to meet strict design standards and cost the counties and Hawaii's taxpayers millions of dollars over the next few years.

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

- (1) Authorizing the Director of Health to adopt rules providing for public participation in the review of applications for permits, permit renewals and modifications, selection of corrective action remedies and related matters;
- (2) Exempting federally approved programs from provisions construing a failure to act on an application for a permit required for solid waste pollution control as a grant of the application; and
- (3) Making nonsubstantive technical amendments for the purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2653, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2653, S.D. 1, H.D. 1, C.D. 1.

Representatives Hiraki, Ihara, Metcalf, Shon, Morihara, Young and Thielen,
Managers on the part of the House.

Senators Chang, Solomon and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 66 on S.B. No. 2420

The purpose of this bill is to establish a food safety consultation and education program within the Department of Health. Your Committee finds that food handlers and food industry managers who are educated about sanitary conditions in food preparation are essential for the control of germs and toxins in foods served to the public. Your Committee further finds that the Department of Health has been working with the Hawaii Restaurant Association to develop an educational program to attain voluntary compliance with food safety regulations from restaurants.

Your Committee, upon further consideration, has amended S.B. No. 2420, S.D. 1, H.D. 2, by including the findings and purpose section in the new part created under Chapter 321. Your Committee also amended the section on public monitoring for purposes of grammar and sentence structure without any effect on the substance.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2420, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2420, S.D. 1, H.D. 2, C.D. 1.

Representatives Souki, Chun, Duldulao, Say, Shon and Tajiri,
Managers on the part of the House.

Senators McMurdo, B. Kobayashi, Levin and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 67 on S.B. No. 3271

The purpose of this bill is to strengthen the laws relating to unlicensed contracting.

Specifically, the bill proposes to: (1) raise the "handyman" exemption from \$100 to \$500 to update the statute with a realistic, inflation-adjusted amount; (2) allow verifiable self-employment experience as credit towards obtaining a contractor's license; (3) raise the fine for aiding and abetting an unlicensed contractor and to make it easier to prosecute those who do; and (4) provide a consumer with a thirty-day period in which to cancel a contract consummated by an unlicensed contractor in a door-to-door sale.

Your Committee finds that the practice of unlicensed contracting continues to plague the State and licensed contractors have exacerbated the problem by refusing to take smaller jobs, especially when the construction market is booming. In the DCCA's special report to the Legislature, Unlicensed Contracting: Everyone's Problem, Everyone's Fight, licensed contractors agreed to establish a referral program so that any consumer seeking the services of a licensed contractor could obtain such services regardless of the size of the job. However, since the agreement was made, no referral program has been established.

Therefore, your Committee has amended the bill by increasing the handyman exemption to \$1,000, and by inserting a provision which would prohibit an owner-builder from using the owner-builder exemption under Section 444-2(7), Hawaii Revised Statutes, for three years if the owner-builder sells or leases the improved structure within one year of the improvement.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3271, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3271, S.D. 1, H.D. 1, C.D. 1.

Representatives Hirono, Metcalf, Amaral, Morihara, Oshiro and Ward,
Managers on the part of the House.

Senators Ikeda, Cobb, Iwase and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 68 on S.B. No. 2922

The purpose of this bill is to amend and repeal various professional and vocational licensing provisions of the Hawaii Revised Statutes for purposes of clarity and uniformity.

In 1991, the Legislature passed Act 111, the Uniform Professional and Vocational Licensing Act, which represented the first phase of the efforts of the Departments of Commerce and Consumer Affairs and the Attorney General to fashion a uniform licensing law. Act 111 was codified as Chapter 436B, Hawaii Revised Statutes.

By amending Chapter 436B and conforming various licensing statutes to the provisions of that chapter, this measure completes the second phase in the establishment of the uniform licensing law. Most of the amendments made by this bill eliminate duplicative administrative provisions from the various licensing chapters.

Your Committee has amended the bill by: (1) correcting an erroneous reference to the departmental affiliation of the long-term care ombudsman at page 134, line 12; (2) correcting a minor Ramseyer format error at page 190, line 20; and (3) changing from bold to standard print section title material to be deleted, in accordance with standard Senate drafting style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2922, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2922, S.D. 2, H.D. 2, C.D. 1.

Representatives Hirono, Souki, Alcon, Duldulao, Morihara and Ward,
Managers on the part of the House.

Senators Yamasaki, Cobb, Ikeda, Iwase and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 69 on S.B. No. 2454

The purpose of this bill is to allow physicians to require the use of brand name pharmaceuticals when medically necessary.

Your Committee finds that the use of generic drug products can provide less costly medication for persons who may be adequately treated with such generics. However, your Committee further finds that there are certain conditions, such as epilepsy, for which substitutions can have detrimental effects.

Epileptics are an exceptional group and additional information was presented which persuaded your Committee that this group is dissimilar to other groups. The consequences of variation in anti-epileptic prescribed medication are unparalleled due to the uniqueness of this medical condition.

Accordingly, your Committee has amended this bill by prohibiting the substitution of equivalent drug products for anti-epileptic drugs, except upon the consent of the prescriber and the patient, or the patient's parent or guardian.

Your Committee reiterates its support for the generic drug law and urges substitution of drugs when appropriate. The exception provided for anti-epileptic drugs applies because of the unique consequences of substitution of anti-epileptic drugs, and is not to be construed as a policy decision to allow other exceptions to the generic drug law.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2454, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2454, S.D. 1, H.D. 2, C.D. 1.

Representatives Shon, Hirono, Metcalf, Amaral, Bainum, Duldulao, Hiraki, Morihara and Ward,
Managers on the part of the House.

Senators McMurdo, Levin and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 70 on S.B. No. 2678

The purpose of this bill is to conform State laws with the provisions of the federal Prescription Drug Marketing Act of 1987 (PDMA) and the Code of Federal Regulations (21 C.F.R. part 205) by:

- (1) Authorizing the Board of Pharmacy to establish licensure requirements for wholesale prescription drug distributors;
- (2) Directing the Department of Health to inspect the facilities, operations, and administrative practices of wholesale prescription drug distributors; and
- (3) Establishing minimum standards in conformance with federal mandates regarding the storage and handling of prescription drugs.

Your Committee finds that the failure to bring State law into compliance with federal standards by September 14, 1992 would require the federal Food and Drug Administration to prohibit the receipt by local prescription drug wholesalers of prescription drugs shipped in interstate commerce. This bill is therefore necessary to ensure the continued supply of reasonably priced prescription drugs for the members of the consuming public who need them.

Upon further consideration, your Committee has amended the bill by inserting the provisions of Sections 7 through 11, dealing with storage and handling, recordkeeping, and other requirements applicable to prescription drugs, into Section 2, making these provisions a part of Chapter 328, Hawaii Revised Statutes, deleting Section 12, and renumbering the remaining sections. These amendments would require legislative authorization for any change in procedures relating to wholesale prescription drug distributors.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2678, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2678, S.D. 1, H.D. 1, C.D. 1.

Representatives Hirono, Metcalf, Amaral, Hiraki, Morihara and Ward,
Managers on the part of the House.

Senators Ikeda, Iwase and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 71 on S.B. No. 2770

The purpose of this bill is to place underground storage tank contractors under the regulatory oversight of the Contractor's License Board.

Currently, there is no regulation of this work, although persons who are basically unqualified hold themselves forth as such contractors and pose an incipient danger to the health and safety of citizens and the environment.

In view of the pressing need to regulate these activities, your Committee has amended this bill by deleting its contents and inserting a new section to Chapter 444, Hawaii Revised Statutes, providing for immediate control and formal regulation of persons who engage in underground storage tank work. Specifically, the new section provides that:

- (1) "Underground storage work" means installation and removal of systems, retrofitting, repair, transport, or disposal;
- (2) Effective immediately no person shall engage in underground storage work without being under the direct supervision of a geologist or licensed engineer or architect and can prove it by a letter of agreement with the supervising professional;
- (3) After June 30, 1994, no person shall do underground storage tank work without the direct supervision (letter included) of a geologist or licensed engineer or architect registered, licensed, or otherwise regulated pursuant to rules adopted by the Department of Health;
- (4) The Departments of Commerce and Consumer Affairs, Labor and Industrial Relations, and Health may apply for injunctive relief where a health, safety, or environmental hazard is imminent, and shall have complete access to the contractor's or licensee's records for inspection purposes;
- (5) Violation of the section or impeding a department carrying out inspections or enforcement activities shall be a misdemeanor; and
- (6) A violator may also be subject to administrative fines of \$5,000 per day for each day a violation occurs.

As amended, the supervising professionals will be under the jurisdiction of the Contractors License Board as well as subject to licensing by the Department of Health, and the Department is directed to adopt rules for licensing to be effective by July 1, 1994.

Your Committee believes that this bill, as amended, will provide the immediate and long-term regulation necessary to protect the general public and the environment.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2770, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2770, S.D. 1, H.D. 1, C.D. 1.

Representatives Hirono, Metcalf, Amaral, Morihara, Oshiro and Ward,
Managers on the part of the House.

Senators Ikeda, Chang, Iwase and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 72 on S.B. No. 3109

The purpose of this bill is to require insurers and self-insurers of rental vehicles to extend their personal injury and property damage coverage to properly licensed co-habitants and co-employees of the named lessee who drive the insured vehicle with the lessee's permission and, in the case of a co-employee, only if the lessee is present in the vehicle. The bill also requires the lessor to provide all parties in an accident involving a rental vehicle with all information it has pertaining to the accident.

Upon further consideration, your Committee has amended the bill by: (1) deleting those provisions requiring personal injury coverage; (2) broadening property damage coverage to include anyone operating the rental vehicle with the lessee's express permission; (3) exempting the insurer from liability if the vehicle is reported stolen within three days of discovery; and (4) providing the insurer and owner of a rental vehicle with a right of subrogation against the renter and operator for breach of the rental contract.

Your Committee stresses that the bill is in no way meant to restrict or supersede county ordinances regulating car rental companies. It is your Committee's intent that local ordinances affording greater protection or coverage shall continue to apply where enacted.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3109, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3109, S.D. 1, H.D. 1, C.D. 1.

Representatives Hirono, Amaral, Metcalf, Morihara and Ward,
Managers on the part of the House.

Senators Ikeda, Iwase and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 73 on S.B. No. 1526

The purpose of this bill is to exempt shared telecommunications services (STS) in hotel and hotel-condo complexes from Public Utilities Commission (PUC) regulation.

Your Committee finds that state of the art telecommunications services would enhance economic development and business in Hawaii. Your Committee notes that shared telecommunications services have been successfully implemented in a majority of the states.

Upon further consideration your Committee has amended the bill by revising the definition of hotel/hotel condo complex as follows:

- (1) To clarify that a complex consists of any and all buildings or structures instead of one or more structures as contained in the previous draft of the bill.
- (2) To require that a complex include three or more customary hotel services other than living accommodations and the use of furniture and fixtures instead of one or more customary hotel services as contained in the previous draft of the bill.
- (3) To include all complexes which have fifty-one per cent or more of its units registered and subject to the transient accommodations tax instead of seventy-five per cent or more as contained in the previous draft of the bill.
- (4) To expand the list of customary hotel services to include room attendant service and concierge service.

Your Committee has also added a definition of shared telecommunications service.

Your Committee has decided to set aside the issue of the use of STS at telework centers because it understands that the PUC will investigate this matter during commission proceedings and rulemaking on the issue of STS. Your Committee further understands that the PUC will complete its work and report back to the legislature prior to the convening of the 1993 legislative session.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1526, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1526, S.D. 2, H.D. 2, C.D. 1.

Representatives Cachola, Hirono, Honda, Lee, Morihara and Marumoto,
Managers on the part of the House.

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

Conf. Com. Rep. 74 on S.B. No. 2228

The purpose of this bill is to update the Hawaii Rules of Evidence pursuant to some of the less controversial recommendations made in the Final Report of the Committee on Hawaii Rules of Evidence. More specifically, the bill:

- (1) Deletes from rule 412 references to the term "rape", which is no longer used in the Hawaii Penal Code, and clarifies that the shield of Rule 412 applies only to evidence offered to prove the character of the victim;
- (2) Narrows the attorney-client privilege in rule 503 by adding two exceptions, which are based on the attorneys' professional responsibility rules;
- (3) Amends Rule 608 to allow specific instances of a witness's prior acts, for the purpose of attacking the witness' credibility, to be inquired into on cross-examination, and may, at the discretion of the court, be proved by extrinsic evidence. However, when a witness testifies to the character of another witness, relevant specific instances of the other witness' conduct may be inquired into on cross-examination but may not be proved by extrinsic evidence;
- (4) Amends Rule 702 so that, in determining the issue of assistance to the trier of fact, the court may consider the trustworthiness and validity of the scientific technique or mode of analysis employed by an expert witness;
- (5) Includes "sounds" within the meaning of "writings and recordings" for purposes of the original document rule requirement of Rule 1001;
- (6) Neutralizes gender language throughout the evidence code;
- (7) Makes other technical, nonsubstantive changes for purposes of clarity, conformity and style; and
- (8) Inserts a provision directing the revisor of statutes to take appropriate action to publish the commentary in the Hawaii Rules of Evidence.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2228, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2228, S.D. 1, H.D. 1, C.D. 1.

Representatives Metcalf, Amaral, Hagino, Hirono and Ward,
Managers on the part of the House.

Senators Blair, Holt and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 75 on S.B. No. 2231

The purpose of this bill, as received, is to create two victim-counselor privileges - a sexual assault counselor-victim privilege and a domestic violence counselor-victim privilege - similar to the Massachusetts model. This bill also amends other provisions of the Hawaii Revised Statutes to reflect the addition of the two privileges and to exclude from the privileges those conversations which are disclosed pursuant to the duty to provide evidence in child abuse proceedings and to report suspected elder abuse.

Your Committee amended the bill by combining language proposed by the Senate in S.B. No. 2231, S.D. 1 and by the House of Representatives in S.B. No. 2231, S.D. 1, H.D. 1. More specifically, the amendments incorporate the House's bifurcation into the Senate's definition of a victim counselor, as a limitation on the scope of the definition. The House's definitions of "sexual assault crisis center" and "domestic violence program" are also included in the conference draft because these terms are central to the definitions of the two subclasses of victim counselors.

Thus, the new victim-counselor privilege, as established by this bill as amended, provides the following features:

- (1) Defines a "domestic violence victims' program" as any refuge, shelter, office, safe home, institution or center established for the purpose of offering assistance to victims of abuse through crisis intervention, medical, legal, or support counseling;
- (2) Defines a "sexual assault crisis center" as any office, institution, or center that offers assistance to victims of sexual assault and the families of such victims through crisis intervention, medical, and legal counseling;
- (3) Defines a "victim" as a person who consults a victim counselor for assistance in overcoming any adverse emotional or psychological effect of sexual assault, domestic violence, or child abuse;
- (4) Defines a "victim counselor" as either a sexual assault counselor or a domestic violence victims' counselor;
- (5) Defines a "sexual assault counselor" as a person who is employed by or is a volunteer in a sexual assault crisis center, has undergone a minimum of thirty-five hours of training, who is, or who reports to and is under the direct control and supervision of, a registered social worker, nurse, psychiatrist, psychologist, or psychotherapist and whose primary function is the rendering of advice, counseling or assistance to victims of sexual assault;

- (6) Defines a "domestic violence victims' counselor" as a person who is employed by or is a volunteer in a domestic violence victims' program, has undergone a minimum of twenty-five hours of training and who is, or who reports to and is under the direct control and supervision of, a direct service supervisor of a domestic violence victims' program, and whose primary function is the rendering of advice, counseling, or assistance to victims of abuse;
- (7) Defines a "victim counseling program" as any activity of a domestic violence victims' program or a sexual assault crisis center that has, as its primary function, the counseling and treatment of sexual assault, domestic violence, or child abuse victims and their families, and that operates independently of any law enforcement agency, prosecutor's office, or the Department of Human Services.

With respect to the requirement that the program "operate independently" of any law enforcement agency, prosecutor's office, or the Department of Human Services, your Committee could not agree and therefore did not adopt the language set forth in Standing Committee Report No. 1960 as follows:

"Furthermore, to insure that qualified victim counseling programs 'run independently,' future funding should not be channelled through law enforcement agencies or through the Department of Human Services."

- (8) Defines a communication as "confidential" if not intended to be disclosed to third persons other than those to whom disclosure would be in furtherance of the provision of counseling or treatment services to the victim or those reasonably necessary for the transmission of the communication;
- (9) Provides that a victim has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made to a victim counselor for the purpose of counseling or treatment of the victim for the emotional or psychological effects of sexual assault, domestic violence, or child abuse or neglect, and to refuse to provide evidence that would identify the name, location, or telephone number of a safe house, abuse shelter, or other facility that provided temporary emergency shelter to the victim;
- (10) Provides that the privilege may be claimed by the victim, the victim's guardian or conservator, or the personal representative of a deceased victim;
- (11) Provides that the victim counselor is presumed to have authority to claim the privilege but only on the victim's behalf;
- (12) Establishes exceptions to the privilege consistent with the physician-patient and psychologist-client privilege; and
- (13) Excludes from the privilege, mandatory reporting as required in Chapters 346, 350, 586 and 587 of the Hawaii Revised Statutes.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2231, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2231, S.D. 1, H.D. 1, C.D. 1.

Representatives Metcalf, Amaral, Hagino, Hirono and Ward,
Managers on the part of the House.

Senators Blair, Holt and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 76 on S.B. No. 3145

The purpose of this bill is to amend section 134-6(a), Hawaii Revised Statutes, regarding the possession or use of a firearm in the commission of a felony. More specifically, the bill:

- (1) Makes it unlawful to knowingly carry or have in a person's immediate control a firearm while engaged in the commission of a felony;
- (2) Provides that a person shall not be prosecuted under section 134-6(a) where the separate felony involves a possessory gun offense under Chapter 346, the offense of reckless endangering in the first degree under section 707-713, or the offense of terroristic threatening in the first degree -- all of which already have enhanced penalties for use or possession of a firearm; and
- (3) Applies the new provisions retroactively to June 19, 1990, which is the date of the enactment of section 134-6 (Act 195).

Your Committee made two amendments to the bill.

First, your Committee added to the offenses that are excluded from the application of section 134-6, the felony offenses of criminal property damage in the first degree and second degree under section 708-820 and 708-821, respectively, in cases where the firearm is the instrument or means by which the property damage is caused.

Second, the retroactive provision was amended as follows:

- (1) The provisions of this bill will apply in prospective cases and pre-indictment or pre-charged cases that would otherwise fall within the scope of section 134-6(a) and (d);
- (2) If the case is pending at the time this bill is enacted, then at time of sentencing, the court shall determine whether the prosecution for violation of section 134-6(a) and (d) would have been excluded under the provisions of this bill. If the court so finds, the court shall sentence the person for the underlying felony offense or conduct upon which prosecution for violation of section 134-6(a) and (d) was based. If the person is also being sentenced for the underlying felony offense, no sentence shall be imposed under section 134-6(a) and (d) and such count shall be dismissed; and
- (3) If the felony has already been convicted for violation of section 134-6(a) and (d) at the time of this bill's enactment, the court shall determine whether the prosecution for violation of section 134-6(a) and (d) would have been excluded under the provisions of this bill. If the court so finds, the court shall vacate the current sentence and resentence the person for the underlying felony offense or conduct upon which the prosecution for violation of section 134-6(a) and (d) was based. If the person has already been sentenced for the underlying felony offense, the sentence imposed under section 134-6(a) and (d) shall be vacated and the conviction reversed without resentencing.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3145, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3145, S.D. 1, H.D. 1, C.D. 1.

Representatives Metcalf, Amaral, Oshiro, Takamine and Ward,
Managers on the part of the House.

Senators Blair, Holt and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 77 on S.B. No. 2258

The purpose of this bill is to provide a mechanism to enforce current no-fault laws by allowing police officers to remove the license plates from a motor vehicle upon discovery of termination of insurance.

Upon further consideration, your Committee has amended the bill by deleting authorization for police officers to remove the license plates of uninsured motor vehicles and inserting language that allows the police to tow and impound the uninsured motor vehicle after a thirty day notice has expired. The motor vehicle shall remain impounded until such time as proof of no-fault insurance is submitted to the county finance director. Your Committee has amended the bill further by providing that an impounded, uninsured motor vehicle shall be considered abandoned and subject to the provisions of Section 290-11, Hawaii Revised Statutes, if not redeemed within thirty days.

Your Committee finds that there is a large number of uninsured motor vehicles on the road, and tougher measures are needed to enforce the State's no-fault laws.

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

Representatives Hirono, Amaral, Metcalf, Morihara and Thielen,
Managers on the part of the House.

Senators Ikeda, Iwase, Matsuura and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 78 on S.B. No. 2253

The purpose of this bill is to:

- (1) Provide means for the assessment and evaluation of the education system, lump-sum budgeting, student performance and performance standards, and class size reduction;
- (2) Establish a pilot business manager program;
- (3) Establish and evaluate pilot extended school day and year-round programs; and
- (4) Provide an assessment and inventory of add-on programs to the core education curriculum.

INTRODUCTION

Before beginning the substantive discussion on this measure, your Committee on Conference would like to take this opportunity to make some preliminary observations to:

- (1) Set the tone for this Committee Report and provide some insight into the basic underlying philosophies and policies which have guided your Committee on Conference during this most difficult and challenging conference period; and
- (2) Provide a framework for a comprehensive discussion on the entire "education reform package" which is contained in this measure, as well as other related governance and education-related fiscal measures.

A COMMITMENT TO EDUCATION

There is no other issue before this Legislature that has generated more discussion, more ideas, more debate, and more innovative recommendations than education. While there is diverse opinion in our respective chambers on the specific mechanics of how to improve the quality and effectiveness of public education in this state, Democrats and Republicans alike agree that commitment to public education is commitment to Hawaii's future.

As elected officials, we understand that public investment in education is crucial to our State's economic growth and to the continued vitality of democracy. When education fails, democracy itself fails. We know that a failure to provide Hawaii's people with a decent education is a failure to capitalize on the wealth of imagination and energy that leads to ingenuity.

Public education is absolutely essential if Hawaii is to fully cultivate its immeasurable human resources. Education helps everyone, from the keiki to the kupuna, to develop skills that lead to a meaningful and fulfilling life. Education provides students with tremendous opportunities for greater economic, social, and cultural growth. Education challenges the abilities of all our children. Access to quality education allows our students to go where no person has gone before.

Your Committee strongly supports the concept of educational reform and restructuring, and believes in empowering schools and communities with greater flexibility and autonomy through site based, shared decision-making. Governance restructuring, in and of itself, will not achieve the policy results necessary to improve the quality of the educational system, but it will help to create the proper environment and infrastructure to support changes and improve student learning.

Your Committee took the approach of restructuring the public school system from the school up, rather than from the policy-making level down. Your Committee believes that in order to empower individual schools, the Board of Education, Department of Education, state agencies, the Governor, labor unions, and the Legislature must redefine and modify their relationships and responsibilities to the public school system. In other words, the school and ultimately the student, rather than the bureaucracy, must become the focal point.

THE COMMUNITY'S CHALLENGE

This year, the issue of education has generated widespread community interest and involvement in educational reforms.

It has been almost ten years since the National Commission on Excellence in Education issued its watershed report entitled, "A Nation at Risk." The report chronicles the often dismal performance of the American educational system. It also challenged the American people to rethink the manner in which Americans are educated.

In 1988, the Hawaii Business Roundtable, on its own initiative, commissioned Berman, Weiler and Associates to prepare a report to: (1) identify the strengths and weaknesses of the public education system; and (2) provide recommendations for specific reforms and improvements to the system. The "Berman" report generated widespread discussion.

Thereafter a follow-up report entitled, "The Next Steps: Hard Decisions" was released in 1991. Like its predecessor, this report generated dynamic and diverse discussions.

In reviewing these documents, your Committee on Conference notes several elements which are repeated in all three documents. The documents rally around a common theme of "students first." They propose changes to education governance, fiscal and administrative policies, and the structure of the school year and the school day. Finally, they place the "students first" theme in objective terms.

In 1991, the Legislature established the Task Force on Educational Governance (Task Force) through Act 332, SLH 1991. The Task Force was asked to:

1. Conduct public forums to extract discussion and debate on the issue of governance of Hawaii's public education system; and
2. Examine the roles of various departments, organizations, and agencies of the State, including the Governor, the Legislature, and the Board of Education, that affect Hawaii's public school system.

As part of this effort, the Task Force was instructed to coordinate a public forum process to accept comments and consider recommendations.

The Task Force report, released in March of this year, condensed into one volume: testimony, voluminous data, working papers, and opinion statements. Once again, it should be noted that the major theme that guided the individuals on the Task Force was "students first."

In all of our discussions, the message is the same as the theme of the Task Force--"students first."

It is within this context that your Committee on Conference deliberated, and is proud to set forth a most excellent measure which, when viewed with other educational measures, responds to the public's sentiments with regard to Hawaii's public education system.

GOVERNANCE TASK FORCE RECOMMENDATIONS

The Task Force made fifteen recommendations which your Committee on Conference would like to address individually.

1. Modified Lump-Sum Budgeting.

The concept of empowering the schools requires delegation, trust, and a shift from management control of processes and procedures, to one based on outcome and results. The Task Force proposed that funding for nonpersonnel costs plus average salaries for vacant school positions should be allotted directly to schools. Schools should have the flexibility to expend funds according to priorities established by school/community-based management (SCBM) councils. Funds for training, professional development, and other special programs should be included.

Your Committee on Conference, while in favor of the concept of modified lump-sum budgeting, is aware that a plan to develop and execute new methods of budgeting does not currently exist. Therefore, it is the intent of your Committee that the Department of Education (DOE) first develop a modified lump-sum budgeting plan for direct student/school allocations only. The plan shall contain 1) procedures, processes, and standards of accountability for implementing lump sum budgeting, and 2) proposed legislation to implement the plan in the future.

2. Service Agency Relationship with Other State Agencies.

The Task Force strongly believed that establishing service agency relationships between the DOE and other state agencies providing direct services in support of the schools would address the issues of the lack of accountability and agency response to DOE concerns and needs. In order to establish the service agency relationships between the DOE and other agencies, the funding for school repair and maintenance (R & M), student transportation, and school health services would be included in the DOE budget. DOE would have the ability to purchase services from other state agencies or have the option of going directly to the private sector if those agencies are unable to provide services in a timely and cost-effective manner.

The physical condition of our school facilities has been a growing concern of the community and the Legislature. Recent inspections of school facilities indicated that many need major as well as minor repairs and maintenance. Over the past several years, the Legislature has been earmarking funds especially for the improvement of public school facilities, including the creation of the educational facilities improvement special fund. Despite these concerted efforts, many repair and maintenance projects have yet to be scheduled and completed. This backlog of projects is due, partially, to the centralized program of repairs and maintenance administered by the State.

The Legislature has attempted to address this problem by creating school repairs and maintenance accounts to be administered by each school's principal. H.B. No. 3493 makes an appropriation of \$1,888,000, so that each of the 236 public schools will receive \$8,000 to undertake minor repair and maintenance projects. The Department of Education is requested to submit a report to the Legislature in 1993 on the establishment of the accounts and any repairs which have been made from the accounts.

Your Committee on Conference recognizes the frustration felt by the DOE as well as many individual schools with the current situation, and feels that including school R & M moneys into the DOE budget would allow the department itself to set its own R & M priorities and have the Department of Accounting and General Services implement the R & M projects in accordance with the priorities set forth by the DOE.

3. Selection of School Staffs.

The Task Force firmly felt that each school community needs to be comfortable with, and have confidence in its teachers and administrators. The Task Force recommended that SCBM councils be allowed to select principals, teachers, and classified staff, and provide guidance to councils through a DOE-developed SCBM guidebook.

The Task Force also sought, and your Committee on Conference concurs, that representatives involved in collective bargaining are encouraged to discuss and facilitate decision-making at the school level.

Your Committee on Conference feels that SCBM councils and the school community in general should become involved in the selection of school personnel.

4. Referendum of Structure of Board(s) of Education.

In developing recommended board structure alternatives, the Task Force tried to select the most viable and feasible options. There was no clear sentiment for any one structure, so the Task Force recommended that the Legislature pass a referendum to give the voters a choice of the following three structures for the board(s) of education:

- (1) Elected Local Boards of Education along County boundaries;
- (2) Appointed State Board of Education; and
- (3) Elected State Board of Education.

Remaining cognizant of the need to address the structure issue without setting precedent with a referendum, your Committee on Conference has made a provision for two questions to be submitted to the electorate at the 1992 primary election:

- (1) Allow the Governor to appoint the Superintendent of Education; limit the BOE's authority to policy-making only; and
- (2) Allow the Governor to appoint the Superintendent of Education and the BOE; limit the BOE's authority to policymaking only.

Unless either question is defeated at the polls, the Superintendent of Education will have control over internal management of the school system.

5. SCBM Congress.

In order to raise the level of discussion on educational matters in the State and the level of parental and community involvement, the Task Force recommended that an SCBM Congress be convened once every two years in odd-numbered years to report on how each school is doing, exchange ideas among schools, and develop a report on the state of education in Hawaii.

Your Committee on Conference believes this recommendation can be implemented without legislation. Your Committee encourages the Department of Education and all parties involved to begin initiating the recommendation when a sufficient number of schools are designated SCBM schools.

6. Environment to Attract and Retain the "Best and Brightest."

The Task Force strongly felt that an environment must be created through incentives and other means that would be conducive to attracting the "best and brightest" into the education profession, and to keep them in the schools.

Your Committee on Conference strongly supports this concept and views it as a vital component of the education reform movement. As stated in the Task Force report, "Quality of education is highly dependent upon the quality of school-level administrators and teachers. If the public school system is to pursue excellence, the system must be able to continually recruit highly qualified and capable individuals to meet ongoing staffing needs in the schools, as well as retain qualified and capable administrators and teachers at the school level." Administrators and teachers must be regarded as professionals and compensated accordingly. Revision of the compensation structure to make administrators and teachers the highest paid individuals in the school system and improvements in working conditions would clearly signify the importance and value of these individuals.

The Department of Education is encouraged to review and develop mechanisms through negotiations and other means to attract the "best and brightest" to enter the profession and remain at the schools.

7. Results-Driven System.

The Task Force in its recommendation stated that, "measurement of achievement is an integral part of accountability. If the ultimate goal is to improve educational achievement, then the public education system must move towards being results-driven. Thus, the development of a broad-based measurement instrument to provide assessments for the public school system as a whole, and to include individual schools and individual students should be instituted. Teacher and administrator performance should be assessed on a periodic basis and should also be broad-based but linked to student achievement."

Your Committee on Conference feels that extending the term of the Commission on Performance Standards to June 30, 1994 will allow for a better and proper assessment. The Commission would consider performance standards that are results-driven, balance direct and indirect measures, inform instruction and are valid, reliable, and cost-effective. The Commission is also requested to submit a model for future means of assessment.

8. Curriculum Review of "Add-on" Programs.

Over the years, a number of programs have been added to the curriculum through legislative and other mandates.

Many of these programs have outlived their usefulness and are competing for valuable instructional time. Because of this the Task Force recommended that an overall review of the educational curriculum should be conducted by a citizen task force established by the Legislature. The DOE should distribute the results of the task force's review to SCBM councils and assist schools in consolidating their requirements.

Your Committee on Conference finds that an inventory of all add-on programs will set a foundation on which to make a determination of the feasibility of add-on programs. Also, your Committee on Conference believes there may be some vocational programs that may be considered add-ons but as the school curriculum evolves, may actually be core curriculum.

9. Tightening Governor's Restriction Authority.

Concerns have been raised regarding the extent of gubernatorial control over educational expenditures. While it is important and necessary that the Governor have sufficient fiscal controls to ensure that expenditures do not exceed revenues, the Task Force felt that the budget law should be amended to require the Governor to issue a public declaration whenever budget restrictions are imposed. The declaration should state the purpose and rationale for each restriction.

In addition, the Governor should be limited to imposing restrictions only for anticipated revenue shortfalls and only on a percentage basis.

Your Committee on Conference agrees with the recommendation and has included a provision in this measure that would require the Director of Finance to modify or amend any previous allotment only after a public declaration. There would also be a notification requirement when the Governor makes a redetermination of an allotment.

10. Minimum of 30% of General Fund Budget Dedicated for Education.

Education is the cornerstone of our democratic society, and as such, public education should be viewed as an investment in the future of Hawaii. The Task Force recommended the dedication of resources in order to signify our commitment to supporting public education. As such, the State Constitution should be amended to require that by the year 2000, a minimum of 30% of general fund appropriations be appropriated for operations of the public school system.

Since the year 2000 has been targeted for major financial reforms, your Committee on Conference strongly feels that attention must be directed toward the internal restructuring of public education with a focus on attending to resolving the issues relating to governance. Your Committee would also like to have existing moneys efficiently and effectively spent.

11. Delegation of Personnel Functions.

The Task Force found that filling noncertificated school personnel vacancies on a timely basis has been a chronic problem. The delegation of the recruitment and examination functions from the Department of Personnel Services (DPS) to the DOE would remove an unnecessary layer from the hiring process, and fix responsibility and authority with the DOE.

Your Committee on Conference supports the current efforts of a DPS Task Force in conducting an active examination of how to implement the above recommendations for all departments and agencies. The DPS maintains a commitment to service and responsiveness in meeting the needs of the system.

12. Review of Laws and Regulations Applicable to the DOE.

There currently exists a myriad of laws, rules, and policies governing the operations of the DOE, which creates a complex and confusing environment under which educators must work. If we affirm the vision of school empowerment, then many of these laws, rules, and policies must be modified or repealed in order to allow schools to function more autonomously.

To initially address this problem, your Committee on Conference has requested that the Auditor conduct a study of chapter 26, Hawaii Revised Statutes, governing the executive departments, and chapter 37, Hawaii Revised Statutes, governing state budget policies, as they relate to the operations of the DOE. It is clear from the voluminous public testimony on school governance that issues related to the overlapping of authority and responsibilities of various state agencies and the policies related to the state budget have added to the bureaucracy of the school system.

13. Two-Thirds Vote for Education-Related Legislation.

Raising the requirement for passage of laws and budget "provisos" relating to education, would serve to shift legislative focus on education to general, statewide policy issues. The Task Force has thus recommended that the requirement for passage of laws and budget "provisos" relating to education by the Legislature be increased from a simple majority to a two-thirds vote.

While such a requirement may limit the Legislature's ability to micromanage education, it may also prohibit the enactment of good legislation. The Legislature has attempted to address the micromanagement issue through mandating the DOE to develop a plan for lump-sum budgeting by the 1993 session.

14. Multi-Path Curriculum to Enhance Learning Environment.

The Task Force has found that a multi-path curriculum with meaningful educational alternatives would help enhance the learning environment by better gearing curriculum to meet student needs and expectations. Students should be given a choice of paths and have the flexibility to change paths during the course of their education.

This recommendation was not addressed in this measure because the Board of Education currently has the authority to implement multi-path curriculum and your Committee would like to encourage the board to restructure the schools to include multi-path curriculum.

15. Special Session to Facilitate July 1, 1994 Implementation.

In order to properly address the Task Force's recommendations, the Task Force, as one of its recommendations, called for a special session of the Legislature in July 1992.

Your Committee feels that much thought, time and effort has been put into the content of the measures that specifically address the Task Force recommendations and based on that it is fair to say that we are in a "very special and excellent session."

SUBSTANTIVE REVISIONS

For the purpose of simplicity, your Committee has deleted the entire contents of this bill and inserted the following provisions:

1. An introductory section;
2. Requiring schools to prioritize their school repair and maintenance projects;
3. Requiring the Governor to develop incentives which would encourage and allow the private sector to make contributions towards the education system;
4. Permitting school/community-based management councils to become involved in the selection and evaluation of school personnel;
5. Encouraging reform and innovation in collective bargaining negotiation between the State and the unions;
6. Extending the term of the commission on performance standards and requiring the commission to consider performance standards that are results-driven and to develop a model for future assessment on a school-by-school basis;
7. Conducting a review of chapters 26 and 37 as they relate to education;
8. Conducting an inventory of all "add-on" programs or activities that are related to education and are currently competing with the ongoing basic skills program in the curriculum of Hawaii's public school system;
9. Endorsing the concepts of project Ke Au Hou and requiring the implementation of a business manager program at the secondary school level; and
10. Requiring the department of education to evaluate and implement the recommendations of the Task Force on Educational Governance where possible.

FURTHER DISCUSSIONS

Your Committee would like to note that the provision on class size reduction was removed from the bill because funding and a proviso for class size reduction was inserted into the Supplemental Budget.

Your Committee on Conference would like to acknowledge and thank the Hawaii Business Roundtable for the time and effort it has contributed to educational reform. Your Committee also expresses its sincere appreciation to the members of the Hawaii Task Force on Educational Governance for its exemplary efforts and careful consideration of the myriad of issues relating to educational governance, and to all of the people who testified at hearings and provided valuable input regarding educational reform.

The Report of the Education Commission of the States.

The Education Commission of the States recently published a "Report to the State Superintendent" on the reform and restructuring of public education in Hawaii. The Commission noted that Hawaii's reform encompasses some key distinctions unique to education reform initiatives occurring nationwide: "(1) the explicit shift to a focus on student outcomes (what students should know and be able to do) and (2) a move to community-based decisionmaking and decentralized school governance, providing increased latitude for individual schools in the areas of curriculum, instructional strategies and student assessment, as well as in use of instructional time, development of professional staff, use of school resources, and assessment of individual student needs."

In its assessment of Hawaii's reform initiative, the Commission notes that the State has the potential for leading the nation in setting forth a framework for educational reform that may become a national model. In moving toward reform, the Commission also notes some key issues of concern with which your Committee on Conference concurs and has attempted to incorporate into the revisions of the bill:

1. The need to create a comprehensive "road map" of the reform/restructuring efforts to ensure the integration of all of the initiatives;
2. The need to plan for a "Leadership Summit" to gauge the process to date and move toward a more coherent, systematic strategy;
3. The need to have the Performance Standards Commission set forth a strong, clear educational focus to the state's reform/restructuring initiative with respect to what students should know and be able to do and what characteristics of schools and system support the desired outcome;
4. The need to support the intent of Project Ke Au Hou and make a concerted effort to focus on aligning statutes and policies to ensure consistency in supporting decentralization and increasing flexibility and autonomy at the school level; and
5. The need to continue to build collaborative ties with key community partners in educational improvement and other agencies serving students.

Your Committee on Conference fully realizes that the reform of public education is not an event but rather a long term process and that the efforts of the Sixteenth Legislature mark the beginning of a long term process. Your Committee on Conference fully expects that there will be a continuance of educational reform efforts in future sessions.

Furthermore, your Committee on Conference is hopeful that the Governor will take the lead in convening an "Education Summit" to review the progress of reform efforts and to plan the next steps and future direction of continuing reforms.

Project Ke Au Hou.

Project Ke Au Hou ("A New Era") is just as its name suggests; the project marks the beginning of the process of "Restructuring the Public School System for Our Children's Future". Your Committee on Conference recognizes the need to not only support, but to go beyond the symbolism inherent in Project Ke Au Hou. The results of Project Ke Au Hou will serve to institutionalize the efforts to decentralize decisionmaking and promote school/community-based management.

The concepts undergirding Project Ke Au Hou are in synchrony with and reflective of the intent of your Committee on Conference, it is important that they be incorporated into this report:

1. Promotion of greater decision-making independence at the school level;
2. Reliance on the collaboration of the school administrator, teachers, support staff, parents, students, and citizens of the community in making decisions;
3. Belief in the concept that better educational results can be achieved when people responsible for implementing decisions are directly involved; and
4. Recognition of the importance of a community of people to restructure schools in ways that will lead to effective teaching and improved student performance.

Class Size Reduction.

The legislature recognizes that the prosperity, growth, and overall well-being of the State lies in the ability of its public school system to prepare Hawaii's students for the personal and work challenges of the future. To this end, the legislature is committed to efforts that ensure and support a conducive and nurturing educational environment for students to excel in.

In 1987, the legislature appropriated moneys to reduce class sizes in kindergarten and grade one. This effort was intended to enhance student learning and achievement in Hawaii's public schools. Lowering the student-teacher ratio was, and still is, regarded as one of many approaches to improving academic achievement by increasing individualized attention from the teacher to student, enhancing communication between the student and teacher, and better addressing individual student interests and needs.

However, the legislature notes that efforts to reduce class size must be comprehensive, not piecemeal. A comprehensive plan of action that is flexible and attuned to the overall school environment, educational needs, and school community concerns, must be initiated to effectuate any significant impact on the quality of education in the State. Furthermore, class size reduction must be a long-range option that takes into account the individual needs and characteristics of each school as well as the unique composition of each classroom. Comprehensive and periodic assessment of the effects of lowered class size ratios is imperative to the progress of this statewide initiative. Academic achievement is contingent on an exhaustive assessment of lower class size ratios and on other educational programs.

It is widely acknowledged that each school will respond to and accommodate class size reduction in different ways, depending on student enrollment and composition, and on resources, facilities, educational climate, and other variables affecting the school. The effects of reduced class sizes will be felt throughout all aspects of the school--on school administration, operations, and organization--as the school looks to available resources to provide additional teachers and facilities to accommodate students.

For class size reduction to improve student learning and outcomes, other educational issues must be addressed simultaneously. Facility shortages, student population fluctuations, limited resources, school structure, and class composition are critical variables that can help or hinder the positive effects of class size reduction efforts. Class size reduction must also work hand-in-hand with other variables--such as grade level, academic development, instructional and teaching methods, teacher skills, and curricula--to have a positive impact on the quality of education.

Teachers must also modify their teaching techniques, approach, and instruction accordingly for lowered class size ratios to be effective. Academic achievement does not necessarily improve with the reduction of student-teacher ratios, unless teaching styles and other variables are modified to adapt to new classroom structures.

In short, the effects of class size reduction cannot be isolated from other variables. Class size reduction, in and of itself, does not guarantee academic success, but complements other efforts to improve educational excellence and effectiveness in the public school system.

CONCLUSION

In conclusion, your Committee on Conference would like to reiterate that this measure in and of itself does not represent the Legislature's "educational package." This measure should be viewed within the collaborative context of H.B. No. 2123, H.D. 1, S.D. 1, C.D. 1, and other educational measures.

This package of measures sets into motion a major wave of education reform in an effort to create our common goal:

To provide for an educational system which encompasses the principle of lifelong learning that helps each individual realize his or her fullest potential as a productive citizen and contributing member of society, and to assure the best quality of life for all of Hawaii's people.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2253, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2253, S.D. 2, H.D. 2, C.D. 1.

Representatives Taniguchi, Bunda, Kawakami, Metcalf, Souki, Takamine, Tam and Marumoto,
Managers on the part of the House.

Senators Yamasaki, Blair, Hagino, Holt, Iwase, B. Kobayashi, McCartney, Mizuguchi and George,
Managers on the part of the Senate.

Conf. Com. Rep. 79 on S.B. No. 3432

The purpose of this bill is to authorize the Department of Education (DOE) to accept donations of equipment or fixtures which meet educational purposes. This bill also designates which state agency has the responsibility to repair and maintain such donated equipment or fixtures.

Your Committee finds that the DOE's budget does not allow it to completely meet the needs and demands of students. Because the department is not authorized to accept donated equipment and fixtures, many useful items are often refused. It is the intent of this bill to allow Hawaii's public schools to accept donations of equipment and fixtures that will provide public school students with modern facilities and enhance the learning environment.

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

- (1) Deleting the provision that donated fixtures must be new; and
- (2) Deleting the provision that a school principal may accept or solicit donations on behalf of the DOE, and may consult with parents about the desirability of a donation.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3432, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3432, S.D. 1, H.D. 2, C.D. 1.

Representatives Tam, Metcalf, Souki, Amaral, Kawakami, Oshiro, Santiago and Marumoto,
Managers on the part of the House.

Senators McCartney, B. Kobayashi and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 80 on S.B. No. 3367

The purpose of this bill is to designate the Department of Human Services as the lead agency for the planning and provision of services related to domestic violence and sexual assault and to provide that any appropriations made to the Department of Health for such services be transferred to the Department of Human Services effective July 1, 1992.

Your Committee amended the bill by incorporating certain provisions from both the Senate's version of the bill (S.B. No. 3367, S.D.1) and the House of Representative's version (S.B. No. 3367, H.D. 2); namely:

- (1) Amended the purpose clause;
- (2) Designated the Department of Human Services as the lead agency for all sexual assault and domestic violence programs;
- (3) Defined the terms "domestic violence" and "sexual assault" to exclude sexual abuse of a child by family and child abuse, as a limitation of the scope of the Department's duties under this bill;
- (4) Required the Department of Human Services to contract with a master contractor to coordinate the services of private agencies that provide domestic violence and sexual assault services, coordinate short- and long-term planning for such services, facilitate coordination of services among public and private agencies and assist the Department;
- (5) Required the Department to establish an appeals process for unsuccessful bidders who want a reconsideration of a decision made by the master contractor;

- (6) Provided that, if a satisfactory resolution is not reached through appeal, the appellant or the Department may seek resolution through the Neighborhood Justice Center; and
- (7) Required that any monies appropriated for domestic violence or sexual assault programs assigned to executive departments and not expended, encumbered, or allocated shall be transferred to the Department of Human Services not later than January 1, 1993.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3367, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3367, S.D. 1, H.D. 2, C.D. 1.

Representatives Tom, Metcalf, Say, Amaral, Chun, Duldulao, Kawakami and Marumoto,
Managers on the part of the House.

Senators Blair, McMurdo and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 81 on S.B. No. 1528

The purpose of this bill is to amend sections 712-1200 and 712-1206, Hawaii Revised Statutes, relating to prostitution and loitering for prostitution. More specifically, the bill:

- (1) Allows into evidence, a written statement signed, adopted or approved by the declarant, describing or explaining a communication regarding an act of prostitution, made immediately thereafter, whether or not the declarant is available as a witness; provided that the court determines that:
 - (A) The statement is more probative on the point for which it is offered than any other evidence which the proponent can procure through reasonable efforts;
 - (B) The general purposes of the rules of evidence and the interests of justice will be best served by the admission of the statement as evidence; and
 - (C) The prosecution properly notifies the defendant and the defendant's attorney;
- (2) Increases the fine for prostitution from \$500 to \$1,000 for the first offense; and
- (3) Increases the fine to \$1,000 and authorizes the court to order community service for any subsequent offense.

Your Committee amended the bill by:

- (1) Deleting the requirement in sections 712-1200 and 712-1206 that the written statement be more probative on the point for which it is offered as evidence than any other evidence which the proponent can procure through reasonable efforts;
- (2) Reinstating the \$500 fine for the first offense for prostitution; and
- (3) Reinserting the amendments to section 710-1024, Hawaii Revised Statutes, pertaining to the offense of bail jumping, that were proposed in S.B. No. 1528, as originally introduced.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1528, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1528, H.D. 1, C.D. 1.

Representatives Metcalf, Amaral, Hagino, Hiraki and Thielen,
Managers on the part of the House.

Senators Blair, Matsuura and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 82 on S.B. No. 2432

The purpose of this bill is to create a new framework for regulation of the pawnbroker industry.

Your Committee finds that the current law governing pawnbrokers has not been amended since 1955, is out of date, and may even have been out of date in 1955.

Specifically, the bill:

- (1) Adds seven new definitions to Section 445-131, Hawaii Revised Statutes;
- (2) Reduces the interest rate chargeable by pawnbrokers;
- (3) Provides for written pawn agreements and specifies their contents;
- (4) Requires finance charge disclosures similar to those required by the federal Truth-in-Lending Act;

- (5) Limits pawn transactions to one month in duration with the possibility of month-to-month extensions;
- (6) Establishes a 30-day holding period for redemption of pawned goods;
- (7) Establishes a maximum finance charge of twenty percent per month;
- (8) Increases the penalties for violations of the pawnbroker law;
- (9) Changes the sunset review of pawnbrokers to December 31, 1995; and
- (10) Repeals Section 445-134.

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

- (1) Providing that the extension of a pawn transaction's maturity date may only be done twice;
- (2) Deleting from Section 445-135 the proposed phrase "If the treasurer grants licenses to engage in the business of pawnbroker," to clarify the intent that the counties must license pawnbrokers; and
- (3) Deleting the amendment to Section 26H-4 that would have included pawnbrokers in the Auditor's 1995 sunset review.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2432, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2432, S.D. 1, H.D. 1, C.D. 1.

Representatives Hirono, Metcalf, Amaral, Hiraki, Morihara and Ward,
Managers on the part of the House.

Senators Ikeda, Crozier, Iwase and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 83 on S.B. No. 1843

The history of this bill over the past two legislative sessions is set forth in three Standing Committee Reports: SSCR No. 822, SSCR No. 1788 and HSCR No. 1261-92. As received by your Committee on Conference, the purposes of this bill are to:

- (1) Define a class of semiautomatic pistols as "assault pistols" if they have a detachable magazine and two or more of six listed characteristics;
- (2) Add a definition of the term "semiautomatic" to Chapter 134;
- (3) Provide that the newly defined class of assault pistols which are lawfully possessed prior to July 1, 1992 shall be registered by January 1, 1993 and may not be brought into the State after July 1, 1992;
- (4) Prohibit the sale or transfer of an assault pistol, after July 1, 1992, to anyone except a licensed dealer or the chief of police or by bequest or intestate succession. If transfer is made by bequest or intestate succession the recipient must, within ninety days, transfer the weapon to a licensed firearm dealer or to the chief of police or remove it from the State or render it inoperable;
- (5) Prohibit detachable pistol magazines with a capacity in excess of ten rounds;
- (6) Prescribe that the possession or acquisition of an assault pistol, except as authorized by law, shall be a class C felony which shall be punished by imprisonment for five years without the possibility of probation;
- (7) Prescribe that the possession of a prohibited detachable pistol magazine shall be a class C felony if it is inserted into a pistol, otherwise it shall be a misdemeanor.

Your Conferees accepted the fundamental structure of the House Draft, focusing on pistols to the exclusion of carbines, rifles, and shotguns, except that non-pistol firearms may be covered by the provisions in the bill limiting the capacity of detachable magazines capable of use with a pistol. This is due to the fact that some magazines are designed for use in both pistols, and rifles or carbines. In doing so, the Conferees were not guided by and did not apply the interpretation of Article I, Section 17 which was reflected in the Senate's position. In fact, your Conferees' specifically decline to make a finding that the weapons which are covered by this bill are or are not "excessively lethal" as that term is used in Committee of the Whole Report No. 5, from Volume 1 of the proceedings of the 1950 Constitutional Convention.

Your Conferees know that the battle between advocates of strict gun control and proponents of an undiluted right to keep and bear arms has not been settled by this conference draft. In fact, a constitutionally based challenge to this bill is a virtual certainty. Frankly, such a challenge is welcomed as an opportunity for the Legislature to be instructed on the extent to which our discretion is circumscribed by Article I, Section 17. Disagreement about the applicability and import of the constitutional language made this Legislature's task much more difficult. It is hoped that the anticipated litigation will assure that the jurisprudential gap is filled before this issue is revisited by a future Legislature.

Your Conferees modified the House's draft in the following particulars:

- (1) The second of the six characteristics was narrowed by the deletion of the words "recoil compensator." Recoil compensators are customarily used in certain specialized shooting competitions. Their inclusion with silencers and flash suppressors is inappropriate, since they increase the visual and aural signature of the firearm.
- (2) The third characteristic, a barrel shroud, has been clarified by adding limiting language.
- (3) The fourth characteristic is modified by specifying that it is the "manufactured" weight. This clarification is necessary because there are many accessories which may be added to a pistol that do not warrant reclassifying the pistol as an assault pistol.
- (4) Section 2 of the House's draft was deleted, since pistol registration is already a requirement as a prerequisite to lawful ownership. A conforming deletion was made to the amendments proposed for section 134-8, Hawaii Revised Statutes.
- (5) The Attorney General is required, prior to the effective date of the Act, to publicize and make available a list of firearms which the chiefs of police have determined meet the definition of an assault pistol.
- (6) The requirement concerning the modification of magazines to hold ten or fewer cartridges has been clarified by replacing the requirement for permanence with the requirement that they not be readily restorable to the larger capacity.
- (7) The limitation on the size of detachable ammunition magazines was amended to "grandfather" existing magazines with a capacity of less than twenty cartridges for a period of one year, if they are owned by the owners of registered pistols. The penalty provisions, therefore, will apply during that time only to persons who have a detachable magazine of greater than nineteen round capacity or who are not the legal owner of a registered firearm into which the magazine will fit. It should be noted that, in order to have this grandfather effect apply, the owners of the carbines and rifles with magazines whose capacity is greater than ten rounds will be required to register their firearm, even if registration is not otherwise required. This grandfather clause will permit owners of pistols with a magazine capacity between eleven and nineteen rounds to modify, or cause to be modified, their magazines, and will also permit firearms manufacturers and aftermarket suppliers to meet the demand for magazines with a maximum capacity of ten rounds.

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

Representatives Metcalf, Amaral, Oshiro, Takamine and Ward,
Managers on the part of the House.

Senators Blair, Holt and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 84 on S.B. No. 2296

The purpose of this bill is to authorize the Department of Commerce and Consumer Affairs to adopt rules to promote and enforce greater accuracy in motor vehicle advertising by limiting the types of representations that can legally be made.

Your Committee finds that advertisements for new motor vehicle sales often contain statements and terms that cannot readily be understood by consumers. These statements and terms may give the consumer the impression of understanding when in fact only those with inside knowledge of the auto industry know what is actually being said.

Upon further consideration, your Committee has amended the bill by inserting language similar to that contained in the Senate Draft 1 (S.D. 1) version, which statutorily prohibits the use of particular terms in motor vehicle advertising.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2296, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2296, S.D. 1, H.D. 1, C.D. 1.

Representatives Hirono, Morihara, Oshiro, Takamine and Ward,
Managers on the part of the House.

Senators Ikeda, Iwase and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 85 on S.B. No. 1293

The purpose of this bill is to earmark up to forty percent of the earnings of all inmates for quarterly deposit into the Criminal Injuries Compensation Fund.

The bill also clarifies the authority of the Fund to receive these payments and specifies that the deductions shall in no way relate to claims filed for compensation pursuant to Chapter 351, Hawaii Revised Statutes. The Director of Public Safety is required to submit timely annual reports on the deposits to the Legislature and the Criminal Injuries Compensation Commission.

Current law provides for deductions of up to forty percent from the earnings of any incarcerated perpetrator of a violent crime to reimburse the Fund for compensation paid to the inmate's victim. Under this bill, deductions and payments would be automatically applied across the board regardless of the nature of the crime or whether there is a compensable claim.

Your Committee finds that there is always a victim of violent crime and that perpetrators of such crimes should contribute to the compensation of victims of violence in general. Your Committee also finds that mandatory deductions will qualify the Department of Public Safety for certification under the federal Prison Industries Enhancement Program without which neither the Department nor its joint venture partners may engage in business involving interstate commerce.

Your Committee has amended this bill by providing for deductions of between five and twenty percent from the earnings of inmates convicted of any of the violent crimes listed in Section 351-32. Again, the deductions will not relate to specific compensation claims, but neither will they be taken from the earnings of inmates incarcerated for non-violent crimes that have no compensable victim.

Your Committee has also made some technical changes that have no substantive effect.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 1293, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1293, S.D. 2, H.D. 2, C.D. 1.

Representatives Metcalf, Souki, Amaral, Cachola, Kanoho, Say, Thompson and Thielen,
Managers on the part of the House.

Senators Yamasaki, Iwase, A. Kobayashi, Mizuguchi and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 86 on S.B. No. 2824

The purpose of this bill is to provide reimbursement to the counties for actual costs and administrative costs of motor vehicle plates issued to the State.

Upon further consideration your Committee has deleted reimbursement for administrative costs from the bill.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2824, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2824, S.D. 2, H.D. 1, C.D. 1.

Representatives Metcalf, Hashimoto, Oshiro, Say, Amaral and Anderson,
Managers on the part of the House.

Senators Yamasaki, Aki, Cobb, Fernandes Salling and George,
Managers on the part of the Senate.

Conf. Com. Rep. 87 on S.B. No. 2918

The purpose of this bill is to clarify Chapter 251, Hawaii Revised Statutes, relating to the rental motor vehicle and tour vehicle surcharge tax, by amending the definition of "rental motor vehicle" or "vehicle" to:

- (1) Include vehicles designed to carry seventeen passengers or fewer that are rented for a period of six months or less; and
- (2) Exclude certain types of trucks, truck-tractors, tractor-semitrailer combinations, truck-trailer combinations, or cargo vans.

After further consideration your Committee has amended the bill by changing the effective date from upon approval to July 1, 1992, and by correcting a typographical error.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2918, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2918, S.D. 1, H.D. 1, C.D. 1.

Representatives Oshiro, Hirono, Say, Baker, Morihara, Tajiri and Ward,
Managers on the part of the House.

Senators Yamasaki, Aki, Fernandes Salling, Nakasato and George,
Managers on the part of the Senate.

Conf. Com. Rep. 88 on S.B. No. 2714

The purpose of this bill is to amend Chapter 236, Hawaii Revised Statutes, to make it compatible with current medical practices for Hansen's disease, and to repeal sections that are no longer applicable.

Currently, the Hawaii Revised Statutes provide that the patient residents of Kalaupapa shall be accorded adequate health care and other services for the remainder of their lives. However, former residents who have chosen to leave Kalaupapa settlement to live closer to friends and family are forced to give up the benefits guaranteed to those who remain at the settlement. The bill attempts to address this problem by amending the law so that Hansen's disease patients who were once segregated by order of the Department of Health and who now reside within the State but live outside Kalaupapa and Hale Mohalu, will receive medical treatment and services on an equal basis as those who remain at the settlement or the institution.

At the present time, the Hawaii Revised Statutes also prohibit anyone from taking photographs of any patient confined at any hospital or place for the care and treatment of individuals with Hansen's disease without the patient's written permission. The problem that currently exists is that there is no provision of penalty for violations of the ban. Thus, the law is broken frequently at Kalaupapa and the sheriff of the County of Kalawao has no ability to enforce the statute. The bill responds to this problem and updates the statute by limiting the prohibition to facilities maintained by the department of health, broadens the definition of picture taking to include current technologies, and provides that violators may be fined up to \$1000 per an incident.

Your Committee has amended this bill by making technical revisions for the purpose of conformity with drafting style.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2714, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2714, S.D. 2, H.D. 2, C.D. 1.

Representatives Say, Amaral, Baker, Duldulao, Metcalf, Shon and Anderson,
Managers on the part of the House.

Senators Yamasaki, B. Kobayashi, Levin, McMurdo and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 89 on S.C.R. No. 70

The purpose of this Concurrent Resolution is to grant prior legislative approval for the Board of Land and Natural Resources to grant an easement over or lease up to five acres of submerged land and other acreage at Ewa to Haseko (Hawaii), Inc. to develop a marina.

Authority is granted pursuant to Section 171-53, Hawaii Revised Statutes, but the Board will still have to obtain the prior approval of the Governor and meet CDUA and other requirements before the lease may be executed. If the Board fails to execute the lease by July 1, 1997, the authorization would be rescinded.

Your Committee finds that there is a compelling need for more berthing space for recreational boaters and that a facility at Ewa would be in the public interest.

After further consideration, your Committee has amended this Concurrent Resolution by deleting the drop dead date for the authorization.

Your Committee on Conference concurs with the intent and purpose of S.C.R. No. 70, S.D. 1, H.D. 1, as amended herein, and recommends its adoption in the form attached hereto as S.C.R. No. 70, S.D. 1, H.D. 1, C.D. 1.

Representatives Stegamier, Oshiro, Baker, Thompson and Ward,
Managers on the part of the House.

Senators Holt, Ikeda and George,
Managers on the part of the Senate.

Conf. Com. Rep. 90 on S.B. No. 3247

The purpose of this bill is to appropriate funds for the development of a self-help affordable housing subdivision in Hana, Maui.

Your Committee finds that Hana is the most economically depressed area within the county of Maui. The rate of personal income for residents in the area is the lowest in the county and housing costs are the highest.

Your Committee upon further consideration has amended the bill to increase the amount appropriated to a total amount of \$350,000. Your Committee has also inserted into Section 1 language formerly contained in Section 2 and made additional amendments for the purposes of clarity and style which do not affect the substance of this bill. Your Committee has also 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 Conference is in accord with the intent and purpose of S.B. No. 3247, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3247, S.D. 2, H.D. 2, C.D. 1.

Representatives Isbell, Souki, Arakaki, Chang, Kawakami, Shon, Yonamine and Tatibouet,
Managers on the part of the House.

Senators Yamasaki, Aki, Crozier, B. Kobayashi and George,
Managers on the part of the Senate.

Conf. Com. Rep. 91 on S.B. No. 2770

The purpose of this bill is to prohibit any person from performing underground storage tank work unless acting under the direct supervision of a geologist or a licensed engineer or architect who agrees in writing to be accountable for the work. After June 30, 1994, the geologists, engineers, and architects providing supervision will have to be registered, licensed, or otherwise regulated pursuant to rules that the Department of Health is required to adopt by that date.

Upon further consideration, your Committee on Conference has amended the bill by deleting SECTION 2, dealing with the designation of those performing underground storage tank work as specialty contractors under Chapter 444, Hawaii Revised Statutes, as these individuals are already treated as such by the Contractors License Board.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2770, S.D. 1, H.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2770, S.D. 1, H.D. 1, C.D. 2.

Representatives Hirono, Metcalf, Amaral, Morihara, Oshiro and Ward,
Managers on the part of the House.

Senators Ikeda, Chang, Iwase and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 92 on S.B. No. 2758

The purpose of this bill is to make an appropriation to the Division of Consumer Advocacy of the Department of Commerce and Consumer Affairs for the payment of consultant fees in the various utility and transportation cases pending, or to be filed, with the Public Utilities Commission and other state and federal agencies.

Your Committee has amended the bill by inserting the amount of \$125,000 as the appropriated amount and 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 Conference is in accord with the intent and purpose of S.B. No. 2758, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2758, S.D. 2, H.D. 2, C.D. 1.

Representatives Hirono, Say, Hiraki, Kanoho, Morihara, Tajiri and Thielen,
Managers on the part of the House.

Senators Yamasaki, Aki, Ikeda, Iwase and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 93 on S.B. No. 2258

The purpose of this bill is to provide a mechanism to enforce current no-fault laws by allowing police officers to remove the license plates from a motor vehicle upon discovery of termination of insurance.

The bill allows the police to tow and impound the uninsured motor vehicle after a thirty day notice has expired, and the motor vehicle shall remain impounded until such time as proof of no-fault insurance is submitted to the county finance director. It also provides that an impounded, uninsured motor vehicle shall be considered abandoned and subject to the provisions of Section 290-11, Hawaii Revised Statutes, if not redeemed within thirty days.

Your Committee has amended the bill to correct typographical errors at page 2, lines 11 and 18.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2258, S.D. 1, H.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2258, S.D. 1, H.D. 1, C.D. 2.

Representatives Hirono, Amaral, Metcalf, Morihara and Thielen,
Managers on the part of the House.

Senators Ikeda, Iwase, Matsuura and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 94 on S.B. No. 2288

The purpose of this bill is to appropriate monies to the Department of the Attorney General to purchase supplies and conduct blood and saliva testing of criminals and create the data bank for its recordation.

Your Committee amended this bill by inserting the percentage by which the appropriation exceeds the state general fund expenditure ceiling.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2288, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2288, S.D. 1, H.D. 1, C.D. 1.

Representatives Metcalf, Souki, Amaral, Baker, Duldulao, Hiraki, Morihara and Ward,
Managers on the part of the House.

Senators Yamasaki, Blair, Hagino, Holt and George,
Managers on the part of the Senate.

Conf. Com. Rep. 95 on S.B. No. 2894

The purpose of this bill is to enable maximum utilization of the Employees' Retirement System by judges and internal affairs investigators, corrections officers, and narcotics enforcement investigators employed in the Department of Public Safety.

Specifically, the bill allows until July 1, 1993 for retired judges to buy back into the Retirement System and continue serving as Class A members, and protects the 2.5 percent retirement rate for that portion of an employee's career served as an internal affairs or narcotics enforcement investigator or corrections officer if the person retires after a promotion to a position for which the rate is the normal 2 percent.

Currently, judges cannot accrue more than 75 percent of their average final compensation; however, some wish to continue serving. This bill will provide an incentive for them to remain in service.

Internal affairs investigators currently accrue benefits at the normal rate of 2 percent a year. This bill would place them in the System at the 2.5 percent rate as class A members.

Your Committee has amended this bill by deleting internal affairs officers from class A membership at 2.5 percent but allowing corrections officers and narcotics enforcement investigators to keep their higher rate if they subsequently retire as internal affairs investigators. This provides an incentive for corrections or narcotics officers to move into the specialized field of internal affairs which, although not technically a promotion, is a position that requires dedication and experience of the kind that career law enforcement officers possess.

In addition, your Committee has made some nonsubstantive technical changes for the purpose of clarity.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2894, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2894, S.D. 1, H.D. 2, C.D. 1.

Representatives Metcalf, Souki, Takamine, Tajiri and Yonamine,
Managers on the part of the House.

Senators Yamasaki, Iwase, A. Kobayashi, Mizuguchi and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 96 on S.B. No. 3371

The purpose of this bill is to establish a statewide integrated program for treatment of sex offenders to be implemented jointly by the Department of Public Safety, the Judiciary, the Hawaii Paroling Authority, and any other agency that may be assigned sex offender oversight responsibilities.

The program will develop a master plan and integrated system of treatment services and programs, identify all offenders in custody who would benefit from treatment, and do any and all other things necessary to provide a cohesive, coordinated approach to mitigating the problem and rehabilitating offenders. A coordinating body will be established to ensure compliance with the master plan.

Your Committee finds that incarceration has minimal impact on sex offender rehabilitation; however, this program and its master plan provide a different kind of approach based on uniform and communal assumptions that should produce beneficial results heretofore unachievable.

Your Committee has amended this bill by deleting reference to the Department of Labor and Industrial Relations as an agency having oversight of sex offenders, and by deleting the appropriation.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3371, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3371, H.D. 2, C.D. 1.

Representatives Tom, Metcalf, Say, Alcon, Amaral, Chang, Chun and Tatibouet,
Managers on the part of the House.

Senators Yamasaki, Iwase, A. Kobayashi, Mizuguchi and George,
Managers on the part of the Senate.

Conf. Com. Rep. 97 on S.B. No. 2964

The purpose of this bill is to provide initial funding for efforts to establish support and assistance to families, professionals, and persons with autism via the creation of a resource and technical assistance project.

Your Committee finds that current services in Hawaii frequently do not meet the unique needs of persons with autism, and effective intervention and appropriate support to families is necessary to prevent persons with autism from being subject to costly, long-term or lifetime institutionalization.

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, and making technical nonsubstantive changes.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2964, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2964, S.D. 1, H.D. 1, C.D. 1.

Representatives Shon, Souki, Chun, Duldulao, M. Ige, Tom, Yonamine and Tatibouet,
Managers on the part of the House.

Senators Yamasaki, B. Kobayashi, McCartney, Solomon and George,
Managers on the part of the Senate.

Conf. Com. Rep. 98 on S.B. No. 3004

The purpose of this bill is to appropriate funds for the removal of hazardous materials from public schools by the Department of Health.

Your Committee finds that the removal of all hazardous materials from public schools in the State is in the interest of the health, safety, and welfare of the staff, students, and community who use the facilities, and should be done in an expeditious manner.

The Department of Health provided information to your Committee indicating that the designation of the Department as the agency responsible for removal of hazardous waste is in direct conflict with the Department's responsibility to regulate the storage and disposal of hazardous waste. The Department of Education is not exempt from such regulations, therefore it is incumbent upon the Department of Health to enforce compliance by the Department of Education.

Upon further consideration, your Committee has amended this bill by designating the Department of Education to remove hazardous materials from the schools. The Department of Education may obtain consultant services and technical assistance for the safe and efficient removal of hazardous materials from the schools. The Department of Health shall provide assistance to the Department of Education upon request.

Your Committee has also 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 Conference is in accord with the intent and purpose of S.B. No. 3004, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3004, S.D. 1, H.D. 2, C.D. 1.

Representatives Tam, Souki, Kawakami, M. Ige and Marumoto,
Managers on the part of the House.

Senators Yamasaki, Iwase, B. Kobayashi, McCartney and George,
Managers on the part of the Senate.

Conf. Com. Rep. 99 on S.B. No. 3398

The purpose of this bill is to appropriate \$1 for fiscal year 1992-1993 to initiate the transfer of international technologies and businesses to the State.

Your Committee finds that the State should insure the transfer of international technologies and businesses to create job opportunities for the people of Hawaii.

Your Committee has amended this bill by changing the appropriated amount from \$1 to \$200,000.

Your Committee has also 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 Conference is in accord with the intent and purpose of S.B. No. 3398, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3398, S.D. 1, H.D. 2, C.D. 1.

Representatives Bellinger, Souki, Kanoho, M. Ige and Marumoto,
Managers on the part of the House.

Senators Yamasaki, Aki, Hagino, Matsuura and George,
Managers on the part of the Senate.

Conf. Com. Rep. 100 on S.B. No. 1419

The purpose of this bill is to appropriate funds to: (1) provide psychological assistance to persons and communities affected by catastrophic or traumatic emergency events, and (2) support the Hawaii Disaster Medical Assistance Team (DMAT/Hi-1).

Your Committee supports the need for the establishment of state-wide emergency response programs especially the provision of psychological assistance to persons in communities affected by catastrophic or traumatic emergency events.

Your Committee also supports DMAT-Hi-1 which was organized in response to the Aloha Airlines incident in 1988 and comprises over ninety volunteer emergency physicians, surgeons, anesthesiologists, registered nurses, paramedics, and logistic and administrative personnel who provide local and statewide emergency medical assistance during mass casualty disaster incidents. DMAT/Hi-1 is recognized by the United States Public Health Service and the Federal Office of Disaster Affairs as a national and international medical response source.

Your Committee has amended this bill by including \$145,000 for the operations of the DMAT/Hi-1. Your Committee has also 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 Conference is in accord with the intent and purpose of S.B. No. 1419, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 1419, S.D. 1, H.D. 1, C.D. 1.

Representatives Shon, Metcalf, Souki, Amaral, Duldulao, Tajiri and Tatibouet,
Managers on the part of the House.

Senators Yamasaki, B. Kobayashi, Levin, McMurdo and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 101 on H.B. No. 3960

The purpose of this bill is to clarify Act 132, Session Laws of Hawaii 1991, which was enacted to ensure that condominium project associations have adequate funding of replacement reserves so that apartment owners are not charged high fees unexpectedly for maintenance and repairs to condominium common elements. The bill clarifies Act 132 by:

- (1) Replacing the term "cash reserves" with "replacement reserves";
- (2) Requiring a minimum of fifty percent, rather than one hundred percent, of the estimated replacement reserves based on a reserve study performed by the association;
- (3) Extending the funding of estimated replacement reserves in increments from five to seven years;
- (4) Providing for enforcement by any apartment owner;
- (5) Providing that the requirements of this section override any requirements of the association, with certain exceptions relating to a requirement that the association collect more than fifty percent of reserve requirements; and
- (6) Expanding the definition of "emergency situation" to include extraordinary expenses due to legal or administrative proceedings brought against the association.

Your Committee strongly believes that condominium projects should have adequate reserves in fairness to all owners who receive the benefits of use of the common elements. However, a one-hundred percent reserves requirement may be higher than necessary for the purpose of ensuring that all condominiums have some adequate level of reserves. Accordingly, your Committee believes reducing the mandatory reservation requirement from one-hundred percent to fifty percent will afford a level of protection to all owners. Nothing will preclude condominiums from having a higher or one-hundred percent reserve. Your Committee is informed that many condominiums already meet a fifty percent requirement

and thus, will not be affected by this requirement. However, this bill will require condominiums with inadequate reserves to come up to this minimum standard.

Accordingly, your Committee on Conference has agreed to return to the House Draft. A non-substantive technical correction was also made.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3960, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3960, H.D. 1, S.D. 1, C.D. 1.

Representatives Hirono, Hiraki, Morihara, Oshiro and Ward,
Managers on the part of the House.

Senators Crozier, Aki and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 102 on H.B. No. 3030

The purpose of the bill is to amend Section 453-8(a), Hawaii Revised Statutes, (H.R.S.), to allow the Board of Medical Examiners ("Board") to consider disciplinary action against doctors for either egregious conduct or negligence which causes harm to another.

After discussions with the Hawaii Medical Association, the Hawaii Federation of Physicians and Dentists and the Department of Commerce and Consumer Affairs, your Committee has amended Section 3 of the bill, §453-8(a)(7), H.R.S., by adding by "hazardous negligence causing bodily injury to another," as cause for discipline by the Board of Medical Examiners.

Your Committee has also incorporated into this bill the provisions of S.B. 2453 S.D. 1 H.D. 1, dealing with out-of-state prescriptions. The House had earlier passed a House bill on the same subject.

The purpose of this amendment is to allow pharmacists in the State of Hawaii to fill or refill written or orally-ordered out-of-state drug prescriptions on a one-time basis. This is to benefit the State's visitors who may have run out, lost or forgotten their medication.

Upon careful consideration, your Committee has included the House amendment to this bill which limited the supply of prescribed drugs to thirty days. This is to reduce the potential for abuse and conforms with the bill's rationale, that is, to meet the legitimate, short-term needs of Hawaii's visitor population for validly prescribed medicine.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3030, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3030, H.D. 1, S.D. 1, C.D. 1.

Representatives Hirono, Metcalf, Amaral, Arakaki, Morihara and Thielen,
Managers on the part of the House.

Senators Ikeda, Iwase, Matsuura and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 103 on H.B. No. 2613

The purpose of this bill is to reduce the permitted level of force that a person responsible for the care of a minor, or an incompetent person, may use.

Your Committee has amended this bill as follows:

- (1) By specifying that the force used must be employed with due regard for the age and size of the recipient;
- (2) By requiring that the force used must be "reasonably related to" the purpose of safeguarding or promoting the welfare of the minor or incompetent person, including the prevention or punishment for conduct; and
- (3) By inserting the term "neurological damage" to further define and clarify the permissible level of force.

These amendments are intended to further clarify the level of force one may use upon minors and incompetents. In determining whether or not the level of force used is permitted under law, a court must consider the age and size of the recipient and whether a reasonable relationship exists between the force used and a legitimate purpose as specified in the statute.

The term "gross degradation" was deleted as surplusage and its removal is not intended to mean that acts of "gross degradation" are now permissible. Rather, the term was deleted to remove the risk of the other words in that paragraph being interpreted "noscitur a sociis" with a term that is not pertinent to the lower threshold.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2613, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2613, H.D. 1, S.D. 1, C.D. 1.

Representatives Metcalf, Amaral, Arakaki, Bainum and Thielen,
Managers on the part of the House.

Senators Blair, Crozier and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 104 on H.B. No. 3164

The purpose of this bill is to:

- (1) Revise the computation method of the county general excise and use tax surcharge credit for all taxpayers who reside in counties which have enacted the surcharge;
- (2) Add an additional tax credit schedule for residents residing in a county which has not adopted the general excise and use tax surcharge;
- (3) Increase the medical services excise tax credit to four and one-half percent for residents residing in a county that has enacted a county general excise and use tax surcharge; and
- (4) Provide penalties for individuals who claim the county general excise and use tax surcharge credit or the four and one-half percent medical services tax credit and do not reside in the appropriate county.

Your Committee finds that revising the computation method of the county general excise and use tax surcharge credit will provide additional tax relief for middle and lower income resident individual taxpayers while reducing the tax credit amount for higher income brackets. Your Committee also finds that a separate county general excise and use tax surcharge credit based upon a reduced schedule is also justified for resident taxpayers who reside in counties which have not enacted a county general excise and use tax surcharge.

Your Committee has amended this bill by:

- (1) Adding a provision to ensure that the tax credits shall be in effect only in each year that the general excise and use tax surcharge is in effect;
- (2) Specifying that the tax credit shall be available to resident individual taxpayers who reside in the appropriate county for more than two hundred days of the taxable year in the aggregate; and
- (3) Making technical, nonsubstantive amendments for the purpose of consistency and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3164, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3164, H.D. 2, S.D. 2, C.D. 1.

Representatives Oshiro, Ihara, Souki, Baker, Say and Yonamine,
Managers on the part of the House.

Senators Yamasaki, Aki, Fernandes Salling, George and A. Kobayashi,
Managers on the part of the Senate.

Conf. Com. Rep. 105 on H.B. No. 3277

The purpose of this bill is to amend the laws relating to insurance company taxation. The bill, as received by your Committee, recommends certain uniform tax rates, provides tax credits against those rates, and makes certain other changes relating to the taxation and payments of taxes by insurance companies.

Your Committee has amended this bill in order to avoid potential constitutional problems and to avoid the loss of revenue. The major purposes of this bill, as amended, are to raise revenue, to provide uniform tax rates in order to avoid potential constitutional problems, to improve state regulation of the insurance industry, and to encourage prompt customer service for the benefit of consumers.

The bill, as amended, encourages both the development and regulation of the insurance industry in Hawaii. The State of Hawaii has made efforts to become a financial center in order to attract banking, stock exchanges, and captive insurance companies. The State has been especially successful in attracting captive insurance companies; 22 companies have been licensed since the captive insurers law was enacted in 1987.

The United States Supreme Court has found that states are free to structure their tax systems to encourage the growth and development of intrastate commerce and industry. See *Trinova Corp. v. Michigan Dept. of Revenue*, 111 S. Ct. 818, 835-836 (1991) (quoting *Boston Stock Exchange v. State Tax Comm'n*, 429 U.S. 318, 336-337 (1977)). A state, however, may not enact legislation the purpose of which is to encourage the development of the insurance industry in the state if the legislation discriminates against nonresidents. See *Metropolitan Life Ins. Co. v. Ward*, 470 U.S. 869, 882 (1985).

Therefore, your Committee has redesigned the tax and credit structure to encourage the development of the insurance industry in Hawaii without discriminating against foreign insurance companies. The tax rates your Committee has provided are uniform and revenue neutral. The tax rates do not discriminate against foreign insurance companies.

Section 1 of the amended bill explains the need for the uniform tax rates and the tax credit, and explains the major purposes to be accomplished by the bill.

Sections 2, 3, 4, and 5 of the bill add four new sections to article 7, part 2 of the insurance code. Article 7 of the code, which contains the insurance premium tax, is devoid of many of the procedural provisions that govern other state taxes. These new sections are intended to conform the administration of the insurance premium tax with the State's other revenue laws.

Section 2 applies the penalty and interest provisions of section 231-39, Hawaii Revised Statutes, regarding noncompliance, evasion, underpayments, and overpayments to the insurance premium tax.

Section 3 clarifies that appeals from insurance premium taxes are to be taken in the same way as appeals from all other state taxes.

Section 4 provides generally that the commissioner of insurance has three years within which to assess deficiencies in the insurance premium tax. The three year period to assess deficiencies is inapplicable if a return of premium tax was false or fraudulent with intent to evade the tax. Also, an insurer has three years within which to claim a refund of insurance tax that it has overpaid. This period does not apply, however, where the tax is appealed or contested pursuant to section 40-35, Hawaii Revised Statutes, as these remedies have their own time limitations. Furthermore, this section of the bill provides that the commissioner and the taxpayer may agree to extend these limitation periods if they have not already expired. These provisions are intended to be comparable to the law and practice under the general excise tax law, as stated in section 237-40, Hawaii Revised Statutes.

Section 5 of the bill provides a one per cent credit to facilitate regulatory oversight of insurers. The tax credit does not require a foreign insurer to substantially restructure its interstate operations in order to qualify, and it is equally available to foreign and domestic insurers. The credit will not be available to ocean marine insurers, as such insurers pay premium tax on the basis of gross underwriting profit, rather than gross premiums. The credit can be allowed only if the three requirements in subsection (b) of the section are met for the entire taxable year. In order to obtain the credit, an insurer must (1) maintain in Hawaii books and records sufficient to allow the insurance commissioner to conduct an examination of the company, (2) employ in Hawaii persons knowledgeable about the insurer's financial operation and who are authorized to represent the insurer in all matters pertaining to examination, and (3) maintain in Hawaii a customer service center with employees authorized to promptly adjust, settle, and pay claims and to promptly answer all questions from consumers.

The tax credit has been designed to encourage regulation and is rationally related to that legitimate state purpose. Your Committee finds that the business of insurance is a public necessity, and that it is in the public interest to regulate this industry. By federal mandate under the McCarran-Ferguson Act, 15 U.S.C. sections 1011 to 1015, the states have the responsibility to regulate the insurance industry. Recent failures in the insurance industry, for example, the Executive Life Insurance Company, have adversely affected our citizens.

The tax credit is tailored to advance the State's regulatory goals by requiring books and records, and personnel knowledgeable about those books and records, to be readily available to state regulators so that Hawaii need not rely on regulation by other states over whose standards and expertise Hawaii has no control. Regulation will be improved and response by the insurance commissioner will be quicker under the provisions of this bill. Requiring a customer service center in the State so that the State is no longer burdened with the onerous task of resolving consumer complaints with industry representatives on the mainland or in foreign countries will greatly facilitate regulation by eliminating much of the consumer complaint work of the insurance commissioner. If it is more difficult for some nondomestic companies to meet the credit requirements than for some domestic companies, it is because those companies are the cause of the harm that the credit seeks to cure. See Baldwin v. Montana Fish and Game Comm'n, 436 U.S. 371, 388-391 (1978).

Your Committee anticipates that the commissioner of insurance will adopt rules pursuant to chapter 91, Hawaii Revised Statutes, addressing and clarifying these requirements in order to adequately facilitate the commissioner's regulatory oversight.

Section 6 of the bill amends section 7-202(a) and (b) of the insurance code. Ocean marine insurance is taxed as before; all life insurance is taxed at a uniform rate of 2.75%; and other insurance is taxed at a uniform rate of 4.7% for the period of July 1, 1992, to June 30, 1993, and at a rate of 4.265% thereafter.

Section 7 of the bill is intended to clarify refund and payment procedures and to confirm that they are uniform with the procedures provided under the other tax laws. In Aetna Life Insurance Co. v. Park, 5 Haw. App. 122, 678 P.2d 1104 (1984) (Aetna II), the Intermediate Court of Appeals held that some of the concepts contained in section 231-23, Hawaii Revised Statutes, applied to the insurance code. This section confirms and clarifies the intermediate court of appeals' interpretation. Subsection (a) sets forth the general rule regarding refunds and clarifies the administrative authority of the commissioner. First, the commissioner is not expected to deviate from any assessment already made, except to correct clerical errors; and second, the commissioner is not authorized to pass upon the legality of the insurance code, as long as the commissioner applies the code uniformly to all insurers. Any taxpayer wishing to challenge the code or the commissioner's interpretation of the code may do so by pursuing the payment under protest procedures under section 40-35, Hawaii Revised Statutes, or by appealing the assessment. Thus, it is not your Committee's intent to change the holding of the Intermediate Court of Appeals in Aetna Life Insurance Co. v. Park, 5 Haw. App. 115, 677 P.2d 1101 (1984) (Aetna I). Subsection (b) allows a taxpayer to apply an administrative refund to taxes subsequently accruing under the code. Subsection (c) provides that the commissioner will authorize interest to be paid on overpayments of tax in the same manner as that provided for other taxes.

The remaining sections of the bill provide for transitional rules and a general effective date of July 1, 1992, applicable to premiums received after June 30, 1992. In particular, section 8 of the bill amends the definition of "expenses" in article 14 of the insurance code so all insurers whose rates are regulated will retain the benefit of the credit for a year's time, after which the benefit will be passed on to consumers. Many insurers carry multiple lines and file for rate adjustments at various times during any given year, and will be allowed the benefit of the credit for a year from the effective date of each filing as to the line of insurance covered by that filing.

The taxes imposed on insurance premiums produce substantial revenues to meet the State's public needs and programs. The present economic climate has caused a significant downturn in overall revenues, and the State may face a projected budget shortfall in a few years. In light of this, your Committee has amended the tax rate provisions so that current levels of premium tax revenues can be maintained.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3277, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3277, H.D. 2, S.D. 2, C.D. 1.

Representatives Hirono, Souki, Baker, Hiraki, Morihara, Say and Anderson,
Managers on the part of the House.

Senators Yamasaki, Ikeda, Iwase, McCartney and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 106 on H.B. No. 1509

The purpose of this bill is to allow the counties to:

- (1) Establish community facilities special tax districts for the purpose of financing special improvements within the county;
- (2) Issue and sell bonds to fund the special improvements; and
- (3) Assess a special tax on property located in the special tax district to finance the special improvements and to pay debt service on any bonds issued to finance the special improvements.

Your Committee has amended the bill to clarify that special improvements refer to capital improvements and that funds generated by the issuance of these bonds are not to be used for maintenance, services or other general operating expenses.

Your Committee has also amended the bill to:

- (1) Exempt these special tax assessments from the requirement in Section 46-80, Hawaii Revised Statutes, that land be assessed according to the special benefits conferred by the special improvement;
- (2) Delete the requirement that liens be recorded in the Bureau of Conveyances against the properties in the district;
- (3) Clarify that counties need only determine that property subject to the special tax be improved or benefited in a general or any other manner;
- (4) Permit special taxes to include provisions for reserves and arbitrage rebate;
- (5) Clarify that bonds issued are not included in the determination of the power of a county to issue general obligation bonds or funded debt;
- (6) Provide the lessee with the affected owner's rights for notice, hearing and protest if an affected owner fails to waive the requirement that the lessee pay the proposed special tax;
- (7) Clarify that if a lessee is required by the terms of its lease to pay the proposed special tax, the affected owner may waive in writing the requirement that the lessee pay the special tax and obligate the owner to refrain from imposing upon any successor lessee an obligation to pay the special tax;
- (8) Have the Act take effect July 1, 1992; and
- (9) Make other non-substantive changes.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1509, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1509, H.D. 1, S.D. 2, C.D. 1.

Representatives Bellinger, Hashimoto, Souki, Tajiri and Marumoto,
Managers on the part of the House.

Senators Yamasaki, Aki, Fernandes Salling and George,
Managers on the part of the Senate.

Conf. Com. Rep. 107 on H.B. No. 2313

The purpose of this bill is to:

- (1) Authorize the Department of Education (DOE) to establish and administer a traffic safety education program to be conducted at each public school for students from kindergarten through grade twelve;
- (2) Extend the time period during which the DOE may conduct the motor vehicle driver education and training program at each public high school to include weekends, holidays, and any recess, in addition to regular school hours;
- (3) Add a provision that requires that fifty percent of the fees deposited into the special drivers education fund account allocated by the Insurance Commissioner be used to support the drivers education program administered by the DOE for high school students and to support the traffic safety education program; and
- (4) Include an appropriation section for funds to employ a traffic safety education resource teacher.

One vital service that Hawaii's public school system provides to students is through its motor vehicle driver education and training program (program). This program fulfills a much-needed service within the community by informing students of the potential hazards encountered on Hawaii's roadways and by educating students to take preventive measures to avoid accidents to themselves and to others. Furthermore, traffic safety education teaches students to practice safe and defensive driving habits.

Your Committee has amended this bill by:

- (1) Permitting, rather than requiring, the DOE to establish the requirements for the position of a traffic safety education specialist;
- (2) Specifying that the traffic safety education specialist may be paid by the DOE out of fees allocated to the Superintendent of Education from the special drivers education fund account pursuant to section 431:10C-115;
- (3) Referring to "traffic safety education resource teacher" as "traffic safety education specialist" instead;
- (4) Deleting the appropriation section contained within the bill; and
- (5) Making technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2313, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2313, H.D. 1, S.D. 2, C.D. 1.

Representatives Tam, Oshiro, Say, M. Ige and Tatibouet,
Managers on the part of the House.

Senators Yamasaki, Iwase, B. Kobayashi, McCartney and George,
Managers on the part of the Senate.

Conf. Com. Rep. 108 on H.B. No. 2366

The purpose of this bill is to re-establish the Molokai Irrigation System Water Users Advisory Board to advise the Department of Agriculture on matters of concern to the users of the Molokai Irrigation System.

Since this measure involves an appropriation for fiscal year 1992-1993, your Committee has amended this bill by adding a new section that specifies the amount and rate that the appropriation contained in this bill exceeds the State's general fund expenditure ceiling, stating that such action will comply with constitutional and statutory requirements. Your Committee has further amended this bill by renumbering the affected sections.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2366, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2366, H.D. 2, S.D. 1, C.D. 1.

Representatives Honda, Souki, Baker, Chang, Kawakami and Anderson,
Managers on the part of the House.

Senators Yamasaki, Chang, Levin, Solomon and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 109 on H.B. No. 3030

The purposes of the bill are to amend Section 453-8(a)(7), Hawaii Revised Statutes, by adding "hazardous negligence causing bodily injury to another," as cause for discipline by the Board of Medical Examiners and to allow pharmacists in the State of Hawaii to fill or refill written or orally-ordered out-of-state drug prescriptions on a one-time basis.

Your Committee has amended this bill by correcting a typographical error.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3030, H.D. 1, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3030, H.D. 1, S.D. 1, C.D. 2.

Representatives Hirono, Metcalf, Amaral, Arakaki, Morihara and Thielen,
Managers on the part of the House.

Senators Ikeda, Iwase, Matsuura and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 110 on H.B. No. 3342

The purpose of this Act is to appropriate funds to establish a nonpoint source pollution control program in the Department of Health.

Your Committee on Conference finds that nonpoint source pollution is a major source of water pollution in Hawaii, resulting in negative effect on the State's ecosystems, local living standards, and economy. Your Committee further finds that federal funds are no longer available through the Clean Water Act, Section 205 (j)(5), for the implementation of the State's Nonpoint Source Pollution Program, and that federal funding under Section 319 (h), Grants for Improvement of Management Programs, require State matching moneys, as provided for in this Act.

Your Committee on Conference has amended this bill by:

- (1) Agreeing to adopt the Senate versions for Sections 1 and 2, except for deleting "irrigation system" as an excluded State water, and adding paragraphs on what the director may do in the course of enforcing this chapter or any rule adopted pursuant to this chapter;
- (2) Enlarging the scope of the definition for "Nonpoint source pollution," as recommended by the Department of the Attorney General;
- (3) Adding a section to clarify that this Act not be construed or interpreted to diminish the scope of chapter 342, Hawaii Revised Statutes, or the authority of the Director of Health under chapter 342D, and
- (4) Deleting the appropriation section of the bill.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3342, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3342, H.D. 2, S.D. 2, C.D. 1.

Representatives Hiraki, Metcalf, Souki, Baker, Santiago, Young and Thielen,
Managers on the part of the House.

Senators Yamasaki, Chang, Hagino, Levin and George,
Managers on the part of the Senate.

Conf. Com. Rep. 111 on H.B. No. 2719

The purpose of this bill is to establish a two-year homeless assistance pilot project within the Hawaii Housing Authority.

The bill would:

- (1) Establish a two-year homeless assistance pilot project to give incentives and assistance to private homeowners who provide housing to homeless persons or families for five years;
- (2) Establish a homeless programs coordinator and a homeless assistance coordinating committee;
- (3) Allow no more than five sites per census district, to prevent saturation of communities; and
- (4) Appropriate an unspecified amount for funding the homeless assistance pilot project.

Your Committee finds that the public issue of homelessness is one of the greatest social problems in Hawaii. The voluntary program established by this bill would offer an alternative to costly shelters and would allow for separation of the different types of homeless, enabling agencies to provide better care to all segments of the homeless population and opening an avenue for returning homeless persons and families back to the mainstream of society.

Your Committee also finds that, as much as possible, homeless families should receive priority over single persons for placement in homes.

Your Committee amended the bill by:

- (1) Adding to the purpose section an explanation of the severity of the homeless problem and greater details on the description of the program;
- (2) Giving the project the name "Hale Kokua";
- (3) Removing "for administrative purposes" from the section establishing the pilot project;
- (4) Providing for the executive director of the Hawaii Housing Authority to administer the project, rather than the homeless programs coordinator;
- (5) Adding, to the duties of the coordinator, the adoption of rules under Chapter 91, Hawaii Revised Statutes, providing that any rules adopted within one year after the effective date shall be exempt from the public notice and public hearing requirements of Chapter 91;
- (6) Changing the composition of the homeless assistance coordinating committee by removing the coordinator and adding the director, who will serve as the ex-officio voting chairperson;
- (7) Providing that the assistance offered to property owners shall "include, but not be limited to, at least one of the following";
- (8) For property owners withdrawing before the end of the five-year term, providing that the counties shall determine the disposition of any housing units constructed with a grant;
- (9) Changing the requirement for an annual report on the status of the project to a requirement for an interim report;
- (10) Providing that the repeal of the Act shall not affect the right to recover grants under section 8;
- (11) Deleting the appropriation sections; and
- (12) Making technical, nonsubstantive changes for the purposes of style and clarity.

Your Committee also finds that the funds available for the current homeless stipend program may be used for the Hale Kokua project.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2719, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2719, H.D. 2, S.D. 1, C.D. 1.

Representatives Isbell, Tom, Souki, Amaral, Bainum, Kawakami and Tatibouet,
Managers on the part of the House.

Senators Yamasaki, Aki, Crozier, B. Kobayashi and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 112 on H.B. No. 3982

The purpose of this bill is to implement the Diamond Head State Monument Plan of 1979 by including additional lands within the Diamond Head State Monument area, requiring conformance to the plan, and funding improvements to the Diamond Head trail system in the Diamond Head area.

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

- (1) Removing the land parcel known as Kuilei Cliffs, identified by Tax Map Key Number 3-1-42:2, from within the Diamond Head State Monument area;
- (2) Deleting all of section 6 which refers to the withdrawal of lands within the Diamond Head State Monument set aside by Executive Orders 1832 and 1997 as well as proposed leases on these lands.
- (3) Inserting an appropriation of \$100,000 in section 7 for improvements to the Diamond Head trail system.
- (4) Deleting section 8 which refers to appropriations for developing plans to relocate the Hawaii national guard and Federal Aviation Administration facilities.
- (5) 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; and
- (6) Making technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3982, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3982, H.D. 1, S.D. 2, C.D. 1.

Representatives Ihara, Hagino, Souki, Hashimoto, Horita, Yonamine, Young and Marumoto,

Managers on the part of the House.

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

Conf. Com. Rep. 113 on H.B. No. 2959

The purpose of this bill is to appropriate funds to be expended by the Department of Health to investigate the cause of the recent, extensive algal bloom occurring off the West Maui coastline.

The widespread algal bloom affecting Maui's shoreline has rendered many of the beaches and snorkeling areas unsuitable for recreational use. A thorough investigation into the potential causes of this blight on the nearshore marine environment in Maui could provide information that would be beneficial statewide.

Your Committee has amended this bill by:

- (1) Providing the sum of \$100,000 for the investigation of the causes of the algal bloom;
- (2) 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; and
- (3) Making technical, nonsubstantive amendments for the purpose of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2959, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2959, H.D. 2, S.D. 1, C.D. 1.

Representatives Stegmaier, Shon, Souki, Bainum, Baker, Morihara and O'Kieffe,
Managers on the part of the House.

Senators Yamasaki, Chang, Hagino, Levin and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 114 on H.B. No. 3944

The purpose of this measure is to require the Office of State Planning (OSP) to conduct a comprehensive study and evaluation of land use regulation and management in Hawaii and to make recommendations for improving related laws and practices.

Upon further consideration, your Committee has amended this bill by deleting its contents and substituting a measure which:

- (1) Allows the Board of Land and Natural Resources (BLNR) to modify restrictions on a commercial lease or to extend the term of a commercial lease for an aggregate term of fifty-five years, in order to qualify the lease for mortgage lending or guaranty purposes; and
- (2) Adds aquaculture operations to the list of operations for which disposition of public lands may be negotiated with greater flexibility by the BLNR.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3944, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3944, H.D. 1, S.D. 1, C.D. 1.

Representatives Hagino, Metcalf, Alcon, Amaral, Young and O'Kieffe,
Managers on the part of the House.

Senators Holt, Iwase, Matsuura and George,
Managers on the part of the Senate.

Conf. Com. Rep. 115 on H.B. No. 3084

The purpose of this bill is to make statutory revisions to Chapter 342L, Hawaii Revised Statutes (HRS), regarding Underground Storage Tank (UST) Management, for purposes of clarity, consistency, and equivalency with the Federal UST law.

This bill also adds several new sections to the law to finance and establish soil remediation farms throughout the State beginning on October 1, 1992, and to regulate underground storage tank service providers.

Your Committee has amended this bill by:

- (1) Deleting the sections on soil remediation farms and regulating service providers, and inserting a new section on a directory of underground storage tank service providers;

- (2) Amending the definition of "soil remediation farm" to "soil remediation site;"
- (3) Amending Section 342L-36.5, HRS, to:
 - (a) Retain the original statutory language contained in subsection (a);
 - (b) Insert a new subsection (b) which allows the Department of Health to deduct up to \$50,000 of fees collected to educate tank owners;
 - (c) Insert a new subsection (c) which allows the Department of Business, Economic Development, and Tourism to deduct up to \$100,000 of fees collected to identify state-owned lands on the islands of Oahu, Hawaii, Maui, and Kauai for the purpose of remediating contaminated soils;
 - (d) Change subsection (b) to (d);
 - (e) Change subsection (c) to (e) and clarify which owners are subject to the tank fee assessment; and
 - (f) Delete the original subsection (d) in its entirety to reflect the deletion of the soil remediation farm section as noted in item (1) above;
- (4) Deleting the Senate language contained in Section 33 and inserting the House language for this section to reflect the deletion of the soil remediation farm section as noted in item (1) above.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3084, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3084, H.D. 2, S.D. 2, C.D. 1.

Representatives Hiraki, Metcalf, Say, Kawakami, Morihara, Young and Thielen,
Managers on the part of the House.

Senators Yamasaki, Chang, Hagino, Levin and George,
Managers on the part of the Senate.

Conf. Com. Rep. 116 on H.B. No. 2319

The purpose of this bill is to provide that after January 1, 1992, the Housing Finance and Development Corporation (HFDC) shall require the installation of solar water heating equipment at any residential development project built with state funds, located on state lands, or otherwise subsidized by the State.

Your Committee has amended this measure by:

- (1) Providing that as of January 1, 1993, HFDC require the installation of solar water heating equipment according to the following percentages of units approved between 1993 to 1995: thirty percent in 1993, forty percent in 1994, and fifty percent in 1995;
- (2) Deleting the provision exempting projects developed by private nonprofit corporations from this requirement;
- (3) Requiring the Department of Business, Economic Development, and Tourism (DBED) to adopt rules pursuant to Chapter 91, Hawaii Revised Statutes, with respect to alternate water heating systems that shall be installed in the remaining units not required in Section 2 to have solar water heating equipment;
- (4) Requiring DBED to submit a report to the Legislature before the 1996 legislative session evaluating the overall life-cycle cost and energy efficiency of the heating equipment being installed; and
- (5) Amending the effective date to take effect upon approval and to be repealed on January 1, 1996.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2319, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2319, H.D. 2, S.D. 1, C.D. 1.

Representatives Hiraki, Isbell, Souki, Alcon, Morihara, Young and Thielen,
Managers on the part of the House.

Senators Crozier, Aki and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 117 on H.B. No. 3119

The purpose of this bill is to continue transferring law enforcement positions and functions to the Department of Public Safety from other state departments.

Act 211, Session Laws of Hawaii 1989, establishes the Department of Public Safety as the umbrella organization for state law enforcement functions that had previously been assigned to various departments. Some personnel and functions

were transferred by that Act, while the Director in consultation with the Governor studied other personnel and functions that should also be transferred. This bill will codify the recommendations made pursuant to that study.

This bill transfers to the Department of Public Safety:

- (1) Executive security officers in the Department of the Attorney General, effective July 1, 1993;
- (2) After-hours contract security employees with the Department of Education, including library security officers and contractual security officers, effective July 1, 1993;
- (3) Uniformed security employees and contractual security officers employed by the Department of Health for the state hospitals, effective January 1, 1993; and
- (4) Contractual security guards with the Department of Human Services, effective January 1, 1993.

Your Committee finds that the transfers proposed by this measure are consistent with the policy established by Act 211.

This bill is amended by:

- (1) Appropriating \$250,000, for fiscal year 1992-1993, to facilitate the transfers;
- (2) 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; and
- (3) Making technical, nonsubstantive changes for the purposes of clarity, style, and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3119, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3119, H.D. 2, S.D. 1, C.D. 1.

Representatives Metcalf, Yonamine, Souki, Baker, Hagino, Hirono and Ward,
Managers on the part of the House.

Senators Yamasaki, Iwase, A. Kobayashi, Mizuguchi and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 118 on H.B. No. 3838

The purpose of this bill is to enable the Department of Health to meet the requirements of the federal Clean Air Act Amendments of 1990 through the rule-making process. Specifically, this bill:

- (1) Provides for criminal penalties for violations of the State Clean Air Act;
- (2) Establishes a small business assistance program to provide technical support and environmental compliance information;
- (3) Establishes a compliance advisory council;
- (4) Establishes a small business ombudsman for air pollution control;
- (5) Provides for judicial review of permit decisions for all participants in the public comment process;
- (6) Increases the penalties for violating Chapter 342B or for hampering inspection efforts to not more than \$25,000;
- (7) Authorizes the Department of Health (Department) to establish permit fees to cover the costs of developing, supporting, and administering Clean Air Act permits;
- (8) Prohibits the emission of air pollutants without written approval; and
- (9) Defines "air pollutant" as any substance designated as such by state rule.

Upon further consideration, your Committee has provided the Department with greater statutory guidance by replacing Chapter 342B, Hawaii Revised Statutes, with a new chapter on air pollution control. Your Committee finds that, from a legislative perspective, this approach clearly establishes legislative intent with regard to the manner in which air pollution shall be controlled in this state.

As amended, this bill consists of provisions that:

- (1) Expand on items (1) through (8) listed above; and
- (2) Include certain portions of Chapter 342B.

In addition, this bill contains language that:

- (1) Establishes a new and comprehensive permit program for covered sources to be funded by fees collected from the sources based on the number of tons of emissions of air pollutants;
- (2) Establishes a clean air special fund into which the fees will be deposited;
- (3) Provides a new definition of "air pollutant" which is defined by the federal Clean Air Act that includes those substances for which State rules are adopted;
- (4) Increases the civil penalties;
- (5) Provides public participation in consent orders and settlement agreements;
- (6) Allows for citizen suits beginning on July 1, 1995;
- (7) Requires the Department to submit annual reports on air quality;
- (8) Provides for minimum permit conditions; and
- (9) Increases public participation by expanding the comment period to sixty days.

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

In drafting these provisions, your Committee, to the extent possible, attempted to base provisions on the requirements of the federal Clean Air Act. However, in some instances, it was felt that provisions of the federal proposed regulations should be included. It is your Committee's understanding that the federal intent is to give the states as much discretion as possible in tailoring their programs to each individual state's needs. At the same time, your Committee recognizes that subsequent amendments to some of these provisions may be required after the final federal regulations have been promulgated. Should this become necessary, your Committee stands prepared to do what is needed to bring State law and rules into conformity with federal guidelines.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3838, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3838, H.D. 2, S.D. 2, C.D. 1.

Representatives Hiraki, Souki, Chang, Hagino, Kanoho, Morihara and Thielen,
Managers on the part of the House.

Senators Yamasaki, Chang, Hagino, Levin and George,
Managers on the part of the Senate.

Conf. Com. Rep. 119 on H.B. No. 2871

The purpose of this bill is to establish that a person can be found criminally negligent for storage of a firearm if a person keeps a firearm on the premises and the person knows or reasonably should know that a minor can gain access to the firearm without the permission of the parent or guardian and that minor does obtain the firearm.

Your Committee on Conference, in Conference Draft 1, had mandated that the penalty for the criminally negligent storage of a firearm is a class C felony. After consideration, your Committee on Conference has agreed to reduce this penalty to a misdemeanor and has amended the bill accordingly.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2871, H.D. 1, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2871, H.D. 1, S.D. 1, C.D. 2.

Representatives Metcalf, Amaral, Bainum, Hagino and Ward,
Managers on the part of the House.

Senators Blair, Crozier and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 120 on H.B. No. 2911

The purpose of this measure is to appropriate funds to the Department of Hawaiian Home Lands (DHHL) for administrative costs, a contingency fund, and low-interest loans for self-help housing on Hawaiian home lands in Panaewa and Keaukaha on the island of Hawaii.

Your Committee finds that many families participating in self-help programs in Panaewa and Keaukaha lack the wherewithal to qualify for financing, and that this bill will help enable such families to purchase their own homes.

Your Committee has amended this bill by:

- (1) Inserting the appropriation amount of \$350,000 for fiscal year 1992-1993 for self-help housing on Hawaiian home lands in Panaewa and Keaukaha on the island of Hawaii;

- (2) Stipulating that any funds remaining after the DHHL determines that the need for the loans in Panaewa and Keaukaha has been met shall be made available for similar loans elsewhere in the state;
- (3) 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, in order to comply with constitutional and statutory requirements; and
- (4) Making technical, nonsubstantive amendments for the purpose of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2911, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2911, H.D. 2, S.D. 1, C.D. 1.

Representatives Hagino, Souki, D. Ige, Tajiri, Young and Thielen,
Managers on the part of the House.

Senators Yamasaki, Aki, Crozier, B. Kobayashi and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 121 on H.B. No. 3076

The purpose of this bill is to:

- (1) Make an emergency appropriation, at the recommendation of the Governor, of \$15,000,000 to the Department of Health (DOH) to provide operating funds for the Division of Community Hospitals for the remainder of the 1991-1992 fiscal year; and
- (2) Require that the DOH meet, in good faith, with private sector health care facility operators to avail itself to information on effective and efficient operation, administration, and financial management of community hospitals; and based on these meetings, submit a report to the Legislature on the possible implementation of the recommendations made by these parties.

Your Committee has amended this bill by clarifying that the appropriation contained in this bill will exceed the general fund expenditure ceiling by 0.53 percent, instead of 12.4 percent.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3076, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3076, H.D. 1, S.D. 2, C.D. 1.

Representatives Souki, Shon, Baker, Duldulao, Say and Anderson,
Managers on the part of the House.

Senators Yamasaki, A. Kobayashi, Levin, McMurdo and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 122 on H.B. No. 3854

The purpose of this bill is essentially to:

- (1) Provide that the knowing and intentional violation of a restraining order issued pursuant to Section 580-10, Hawaii Revised Statutes (HRS), is a misdemeanor and the violator shall be sentenced to counseling and possible jail sentence;
- (2) Provide that the temporary restraining order (TRO) shall enjoin the respondent from performing any combination of certain offensive acts;
- (3) Provide that a family court judge may issue orally a TRO if the respondent is present in court;
- (4) Provide that a TRO will be in effect for a period not to exceed ninety days from the date the order is granted;
- (5) Provide that the knowing and intentional violation of an order for protection issued pursuant to Section 586-11, HRS, is a misdemeanor and the violator shall be sentenced to counseling and possible jail sentence;
- (6) Provide that for the first offense of the abuse of a household member the person shall serve a minimum jail sentence of forty-eight hours; and
- (7) Provide that for the second and any subsequent offense which occurs within one year of the previous offense the person shall be termed a "repeat offender" and serve a minimum jail sentence of thirty days.

This bill is used as a vehicle to consolidate several bills amending the provisions of Chapter 586, HRS, a bill dealing with Chapter 709, HRS, and a proposed amendment to Chapter 580, HRS. These bills are thematically related and consolidation provides a better prospect of consistency. More specifically the following bills were incorporated: H.B. 2605, H.D. 1 (§586-4 and -11, HRS); H.B. 3221, H.D. 1 (§586-5 and -6, HRS); and H.B. 3326, H.D. 1 (§709-906, HRS). In addition, a proposed amendment to Section 580-10, HRS, was included.

Your Committee has corrected an error in Section 6 found on page 8. This section of the bill amends Section 586-11, HRS, entitled "Violation of an order for protection." In Conference Draft 1, the proposed terminology used in amending this section is "temporary restraining order." As Section 586-11, HRS, only addresses "order for protection" and not "temporary restraining order", the term "temporary restraining order" found on page 9, lines 2 and 8-9, is replaced with "order for protection" to avoid confusion.

Your Committee also had agreed to adopt the House version in amending Section 709-906, HRS, in Section 7 of this measure. The House version which amends section 709-906 is found in H.B. No. 3326, H.D. 1. This version was not completely inserted in Conference Draft 1, but is so now in Conference Draft 2. Technical, nonsubstantive changes are also made for the purposes of clarity, style, and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3854, H.D. 1, S.D. 1, C.D. 1, as amended herein, and recommends that it pass Third Reading in the form attached hereto as H.B. No. 3854, H.D. 1, S.D. 1, C.D. 2.

Representatives Metcalf, Amaral, Arakaki, Hirono and Thielen,
Managers on the part of the House.

Senators Blair, Ikeda and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 123 on H.B. No. 2614

The purpose of this bill is to evaluate and improve the present system of support services provided to domestic abuse victims, taking into account the different needs of the people on each of the islands, by appropriating funds to the Legislative Reference Bureau ("LRB") for the implementation of a study that will:

- (1) Identify and evaluate social services and gaps in services currently being provided to victims of domestic violence, such as emergency care, shelter, and counseling, but excluding services provided by law enforcement and prosecutorial agencies;
- (2) Make recommendations for the development of a model, in each county, that will assist victims in obtaining the support services necessary to make the transition from the abusive situation and deal with the legal procedures involved in the apprehension and prosecution of the abuser; and
- (3) Consider models similar to intake and referral services, victim witness or child advocacy programs, child or dependent adult protective services, sex abuse treatment programs, or a combination of these types of programs or services.

This bill further directs all state, county, and private agencies providing services to provide full cooperation and support to the LRB.

Your Committee on Conference clarifies at this time that for the purposes of this Act, "domestic violence" means domestic abuse, as defined by Chapter 586, Hawaii Revised Statutes, by a spouse or other intimate and does not exclude neglect or abuse of a child or elder, as mentioned in Senate Standing Committee Report No. 2385-92.

This measure has been amended by:

- (1) 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; and
- (2) Making technical, nonsubstantive changes for the purposes of clarity and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2614, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2614, H.D. 2, S.D. 1, C.D. 1.

Representatives Metcalf, Say, Amaral, Arakaki, Baker, Hirono and Ward,
Managers on the part of the House.

Senators Yamasaki, Blair, Hagino, A. Kobayashi and George,
Managers on the part of the Senate.

Conf. Com. Rep. 124 on H.B. No. 2431

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 Conference is in accord with the intent and purpose of H.B. No. 2431, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2431, H.D. 2, S.D. 2, C.D. 1.

Representatives D. Ige, Souki, Ihara, Lee, Say and Tatibouet,
Managers on the part of the House.

Senators Yamasaki, Cobb, Hagino, Tungpalan and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 125 on H.B. No. 2917

The purpose of this bill is to establish the Program for All-Inclusive Care for the Elderly (PACE) demonstration project in the Department of Health's Maluhia Long-Term Care Center.

Your Committee has agreed to the H.D. 2 version of the bill, with the following amendments:

- (1) Provided that the Department of Health "may" rather than "shall" adopt rules in accordance with Chapter 91, Hawaii Revised Statutes, for the purposes of this Act;
- (2) Deleted provisions which would have established the PACE risk reserve fund; and
- (3) Made technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2917, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2917, H.D. 2, S.D. 2, C.D. 1.

Representatives Tom, Shon, Souki, Amaral, Duldulao, Kawakami and Tatibouet,
Managers on the part of the House.

Senators Yamasaki, B. Kobayashi, Levin, McMurdo and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 126 on H.B. No. 3857

The purpose of this bill is to:

- (1) Continue the two-year family center demonstration project (Project) established by Act 329, Session Laws of Hawaii 1990, until July 1, 1993;
- (2) Expand the Project to more than one family center;
- (3) Provide that each family support center shall be advised by a community liaison committee;
- (4) Require family centers to establish a training and technical assistance component to develop and promote family centers and family center concepts;
- (5) Maintain the availability of family literacy programs while providing that these programs need not be operated directly by the family centers; and
- (4) Provide that Act 329 shall be repealed on July 1, 1993.

Your Committee has agreed to adopt H.B. 3857, H.D. 2, with the following amendments:

- (1) Clarifying that family support principles shall direct that services must, inter alia, focus on community strengthening and development;
- (2) Providing that Sections 1, 3, and 4 of Act 329 shall be repealed on July 1, 1993;
- (3) Deleting the provision which would have repealed Act 329 on June 30, 1993; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3857, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3857, H.D. 2, S.D. 2, C.D. 1.

Representatives Tom, Souki, Arakaki, Chun, M. Ige, Kanoho, Kawakami and Tatibouet,
Managers on the part of the House.

Senators Yamasaki, B. Kobayashi, Levin, McMurdo and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 127 on H.B. No. 3002

The purpose of this bill is to appropriate funds from the general revenues of the State to satisfy claims for legislative relief, judgments against the State, settlements, attorney fees, and miscellaneous claims. The bill further provides the reasons and the amount and rate by which the appropriations contained in this bill exceed the state spending limit for fiscal year 1991-1992.

Your Committee has amended this bill by:

- (1) 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;
- (2) Reinserting the settlement reached in *Interior Showplace, Inc. v. State of Hawaii*;
- (3) Adding the following claims as advised in a memorandum dated April 20, 1992, from the Department of the Attorney General and addressed to your Committee on Conference:

| | |
|---|---------------------------|
| (a) James and Heiki Fujita dba Olena Farms | \$25,000.00 Settlement |
| (b) Vonda Preston | \$12,530.65 Settlement |
| (c) Tayaba, et al. v. Kautzky, et al. Civil No. 91-1313-04, First Circuit | \$15,000.00 Settlement |
| (d) Utu v. Falk Civil No. 88-0577-HMF, U.S.D.C. Amount of Judgment: \$16,000.00 Interest at 4% from 1/3/90 \$ 3,261.55 | \$19,261.55 |
- (4) Amending the claim of *Albert Moniz v. State of Hawaii, et al*, to read:

| | |
|--|---------------------------|
| <i>Albert Moniz, Jr. v. State of Hawaii, et al.</i> Civ. No. 90-00517ACK, U.S.D.C. Amount of Judgment: \$55,000.00 Interest at 4% from 10/22/91 \$ 1,009.84 | \$56,009.84 Settlement |
|--|---------------------------|
- (5) Deleting the claim for *Kay Austen v. State, et al*, per the same memo from the Department of the Attorney General; and
- (6) Making technical, nonsubstantive changes for the purposes of clarity, style, and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3002, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3002, H.D. 2, S.D. 2, C.D. 1.

Representatives Metcalf, Souki, Amaral, Cachola, Duldulao, Hiraki, Kanoho and Thielen,
Managers on the part of the House.

Senators Yamasaki, Blair, Cobb, Hagino and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 128 on H.B. No. 2612 (Majority)

The purpose of this bill is to create a model for the gathering of data and statistics on the nature and frequency of occurrence of hate crimes in Hawaii.

A comprehensive data collection system would allow legislators and policymakers to ascertain crime prevalence, chart fundamental crime trends over a period of time or within a specific geographical location, and identify criminal justice and crime related issues and priorities. The development of a model to collect hate crimes statistics in Hawaii would greatly assist this purpose.

Your Committee on Conference 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 revisions were also made for purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2612, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2612, H.D. 2, S.D. 1, C.D. 1.

Representatives Metcalf, Souki, Amaral, Arakaki, Bainum, Baker and Ward,
Managers on the part of the House.

Senators Yamasaki, Blair, Hagino, Iwase and Koki,
Managers on the part of the Senate.
(Senator Koki did not concur.)

Conf. Com. Rep. 129 on H.B. No. 3353

The purpose of this bill is to authorize the issuance of revenue bonds for the purpose of financing and refinancing the purchase of the Queen Emma Gardens Apartments complex by the Housing Finance and Development Corporation (HFDC).

Your Committee has made amendments to provide that:

- (1) The issuance of the bonds is to be subject to the approval of the fiscal soundness of the purchase plan by the Director of Finance, and the Director's satisfaction that the purchase is in the best interests of the State and the tenants of Queen Emma Gardens Apartments complex;
- (2) The bonds are issued for the acquisition of Queen Emma Gardens Apartments complex by purchase or eminent domain proceedings in an amount up to \$55,000,000; and
- (3) Before the HFDC purchases or acquires the property through eminent domain proceedings, the City and County of Honolulu must relinquish any reversionary interests in the property.

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

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3353, H.D. 3, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3353, H.D. 3, S.D. 1, C.D. 1.

Representatives Isbell, Souki, Bainum, Chun, Shon and Yonamine,
Managers on the part of the House.

Senators Yamasaki, Aki, Crozier, B. Kobayashi and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 130 on H.B. No. 3493

The purpose of this bill, as received, is to appropriate \$1,444,000 for repair and maintenance projects in each of the 236 public schools. This bill also appropriates \$444,000 for salaries and expenses to establish eight handyworker positions within the Central Services Division of the Department of Accounting and General Services. Specifically, this bill requires that these positions be dedicated to the Department of Accounting and General Services' School Repair and Maintenance Program and serve areas of critical need.

Your Committee finds that the establishment of school repair and maintenance accounts reflects the recommendation of the Task Force on Educational Governance to eliminate "red tape" and empower schools. Your Committee notes that it is not the intent of the Legislature to burden school principals, but rather to streamline the process so that each school can take care of minor repair and maintenance projects in a timely and expeditious manner.

Accordingly, your Committee has amended this bill by:

- (1) Authorizing the Department of Education to establish school-level minor repairs and maintenance accounts, not to exceed \$8,000 for each public school, to be administered by each school's principal;
- (2) Inserting an appropriation sum of \$1,888,000 for fiscal year 1992-1993 to distribute the sum of \$8,000 to each of the 236 public schools for minor repairs and maintenance; and
- (3) Requesting a report from the Department of Education on the establishment of the school accounts and repairs made from such accounts.

Your Committee has also 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 Conference is in accord with the intent and purpose of H.B. No. 3493, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3493, H.D. 2, S.D. 2, C.D. 1.

Representatives Souki, Tam, Baker, Isbell, Santiago, Shon, Yonamine and Tatibouet,
Managers on the part of the House.

Senators Yamasaki, B. Kobayashi, McCartney, Solomon and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 131 on H.B. No. 3801

The purpose of this bill is to create the Hawaii Community Hospitals Public Corporation (Corporation), to be effective on July 1, 1993. This bill:

- (1) Creates a board of directors of the Corporation consisting of nine voting members and one nonvoting member who is to be the chief executive officer to be appointed by the board. Eight voting members are to be representatives of their respective counties and one voting member is to be the Director of Health as an ex officio member;
- (2) Creates four county advisory committees within the Corporation to advise their respective public health facility administrators;
- (3) Allows each administrator to organize facility committees to advise the administrator and the community;
- (4) Grants the Corporation general powers;
- (5) Provides for appointment of a chief executive officer without regard to civil service provisions;
- (6) Confers certain powers to the chief executive officer including hiring various personnel with and without regard to civil service provisions;
- (7) Provides for exempt and nonexempt personnel; and
- (8) Requires submission of an annual report to the Legislature.

In addition, the bill:

- (1) Creates an interim Hospitals Governance Committee (Committee), to be headed by an independent chairperson, to plan the orderly transition of authority and functions from the Division of Community Hospitals of the Department of Health to the Corporation. The Committee is to submit proposed amendments to the law governing the Corporation for the Legislature's consideration and action in the 1993 Regular Session for the purpose of implementing an appropriate, effective, and efficient system of operating and managing the Corporation;
- (2) Specifies a non-exhaustive list of issues to be addressed by the Committee;
- (3) Provides for the composition of the Committee;
- (4) Creates a hospitals governance support team and provides for its composition;
- (5) Requires the Governor to appoint an independent chairperson of the Committee;
- (6) Requires the support team to act as an executive search committee for the chairperson of the Committee;
- (7) Sets deadlines for the appointment and empanelling of the support team, the Committee, and the chairperson of the Committee;
- (8) Sets qualifications of the chairperson of the Committee;
- (9) Amends Act 223, Session Laws of Hawaii 1990, to extend the deadline for the Department of Health to formulate policies for the autonomous operation of Maui Memorial and Hilo Hospitals from June 30, 1992 to June 30, 1993; to provide for the submission of an additional interim status report to the Governor, the President of the Senate, and the Speaker of the House of Representatives not less than twenty days before the convening of the 1993 Regular Session; and to extend the date for submitting the final project completion report to twenty days before the convening of the 1994 Regular Session;
- (10) Appropriates an unspecified amount for the operation of the Committee and an unspecified amount for funding the executive search for the chairperson of the Committee, to be expended by the Department of Health;
- (11) Provides for passage of the bill before passage of the budget; and
- (12) Gives effect to the bill upon approval except for the new chapter regarding the Corporation which is to take effect on July 1, 1993.

Your Committee has amended this bill by:

- (1) Deleting its substance, except for language amending Act 223;
- (2) Extending the deadline for the Department of Health to formulate policies for the autonomous operation of Maui Memorial and Hilo Hospitals from June 30, 1992 to June 30, 1993;
- (3) Requiring the Director of Health to submit an interim report to the Governor, the President of the Senate, and the Speaker of the House of Representatives not less than twenty days prior to the 1993 Regular Session, and a final project completion report not less than twenty days prior to the 1994 Legislature;

- (4) Extending the repeal date of Act 223 to January 1, 1993, except for Section 9, the repeal date of which is extended to January 1, 1994; and
- (5) Adding Kona Hospital to Act 223.

Your Committee feels that continuing the formulation of policies for the autonomous operation of Maui Memorial and Hilo Hospital in fiscal year 1993 is desirable.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3801, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3801, H.D. 2, S.D. 2, C.D. 1.

Representatives Shon, Souki, Baker, Duldulao, Kawakami, Say, Tajiri and Marumoto,
Managers on the part of the House.

Senators Yamasaki, Aki, A. Kobayashi, Levin, McMurdo, Mizuguchi and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 132 on H.B. No. 2400

The purpose of this bill is to establish a Residential Mortgage Insurance Underwriting Program within the Housing Finance and Development Corporation (HFDC) to insure mortgage loans made for multi-family rental housing under which a private nonprofit corporation or a government corporation is the mortgagee.

Your Committee has amended the bill by:

- (1) Clarifying that the aggregate principal amount of insurance liability for loans which may be insured shall not exceed \$50,000,000;
- (2) Clarifying that in establishing the guidelines for mortgage insurance underwriting, the HFDC shall seek to establish levels of permissible "loan" coverage, rather than "loan-to-value" coverage, which are adequate to make the insured mortgages acceptable to secondary market investors;
- (3) Providing that the source of funds to capitalize the Multi-family Rental Housing Mortgage Insurance Revolving Fund shall be the Homes Revolving Fund rather than the general revenues of the State; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and style.

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 Conference is in accord with the intent and purpose of H.B. No. 2400, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2400, H.D. 2, S.D. 2, C.D. 1.

Representatives Isbell, Hirono, Souki, Alcon, Bainum, Chun, Morihara and Tatibouet,
Managers on the part of the House.

Senators Yamasaki, Crozier, Ikeda, B. Kobayashi and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 133 on H.B. No. 3179

The purpose of this bill is to:

- (1) Repeal Act 302, Session Laws of Hawaii 1991, and to specify that the unexpended balance of the appropriation made in Act 302 shall lapse into the general fund;
- (2) Appropriate an unspecified amount for the acquisition of an electronic voting system, including the hiring of staff; and
- (3) Exempt the selection and negotiation process from the provisions of Chapter 103, Hawaii Revised Statutes.

Your Committee on Conference has amended the bill by:

- (1) Removing all material except the repeal of Act 302, Session Laws of Hawaii, 1991, and the lapse of the unexpended balance of the appropriation in that Act; and
- (2) Making technical, non-substantive revisions for purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3179, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3179, H.D. 2, S.D. 1, C.D. 1.

Representatives Metcalf, Souki, Amaral, Morihara, Tajiri, Takamine, Yonamine and Ward,
Managers on the part of the House.

Senators Yamasaki, Blair, Hagino, Matsuura and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 134 on H.B. No. 3658

The purpose of this bill is to:

- (1) Require the memorial to the veterans of the Korean and Vietnam conflicts to be constructed on the Ewa lawn of the State Capitol;
- (2) Require that the proportions of the memorial be consistent with the size of existing structures in the area, such as the statues of Queen Liliuokalani and Father Damien;
- (3) Require that the design of the memorial utilize the natural assets of the site, with secluded areas of wall and trees for purposes of remembrance and meditation;
- (4) Specify that the Commission on War Memorials (Commission) has until September 30, 1992, to finalize a design for the memorial that meets the criteria set forth in the bill;
- (5) Require the Department of Land and Natural Resources to solicit the participation of all veterans' organizations, including veterans of the Korean and Vietnam conflicts, in the planning and design of the war memorial hall within the Aiea (Rainbow) bay state recreation area, as proposed in the master plan;
- (6) Clarify that the Commission is the Veterans Memorial Commission in Section 6E-44, Hawaii Revised Statutes; and
- (7) Appropriates an unspecified sum to the Department of Accounting and General Services, for fiscal year 1992-1993, to carry out the purposes of this bill as they relate to the memorial to the veterans of the Korean and Vietnam conflicts.

Your Committee on Conference fully recognizes the sacrifices made by Hawaii's sons and daughters that served in the Korean and Vietnam wars and attaches great importance to the urgent need in constructing memorials honoring these brave men and women. Moreover, your Committee on Conference also recognizes that the construction of these memorials is a very emotional issue that touches the hearts of many Hawaii residents and strongly encourages statewide public participation and input with regards to the planning, design, and construction of these memorials. After much discussion on all relevant issues on this matter, your Committee on Conference has amended this bill by:

- (1) Requiring that the height of the memorial not exceed 20 feet, keeping in proportion with other statuary located in the immediate area;
- (2) Establishing that the Veterans Memorial Commission shall have ninety days after the effective date of this Act to finalize a design for the memorial that meets the criteria set forth in Section 1 of this measure;
- (3) Requiring the Commission to submit the design to the Veterans Memorial Review Board (Board) established in Section 3 of this bill;
- (4) Requiring the Commission to consider the suitability of the proposals of the seven finalists of the original design competition to the criteria set forth in Section 1 of this measure, and to consult with all interested veterans' and community groups;
- (5) Providing that if the Commission fails to submit a design to the review board within ninety days after the effective date of this Act, or ceases its work prior to that deadline, then the Department of Accounting and General Services shall submit a final design as provided in Section 3;
- (6) Establishing within the Department of Accounting and General Services for administrative purposes only, a temporary Veterans Memorial Review Board comprised of only five members. Three of the members shall be appointed by the Governor, one member shall be appointed by the Speaker of the House, and one member shall be appointed by the President of the Senate. Members appointed to the Board shall at least include veterans of the Korean and Vietnam conflicts, members with expertise in the field of architecture, and a representative from Neighborhood Board Number 13;
- (7) Establishing that the Board's function shall be to monitor and review the work of the Commission in developing the design and to approve or disapprove the final design of the memorial submitted by the Commission or the Department of Accounting and General Services in accordance with Section 3;
- (8) Requiring the Board's decision to be rendered within seven days of a timely submission by the Commission;

- (9) Requiring that approval be predicated upon a finding that the design and its selection conform to the criteria set forth in Sections 1 and 2 of this bill;
- (10) Mandating that if the Board disapproves the submitted design, or if the Commission ceases its work or fails to meet the deadline established in Section 2, then the Department of Accounting and General Services shall submit a final design within thirty days after the date of disapproval or the date it assumes responsibility from the Commission;
- (11) Mandating that the Board cease to exist following its approval of a final design for the memorial;
- (12) Adding language allowing for the lapsing of the general obligations bonds appropriation;
- (13) Identifying the general obligations bonds allowed to lapse;
- (14) Adding language specifying that \$840,000 are appropriated out of the general obligations bonds to construct the memorial; and
- (15) Making technical, nonsubstantive changes for the purposes of clarity, style, and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3658, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3658, S.D. 2, C.D. 1.

Representatives Metcalf, Souki, Amaral, Chang, Hagino, Hiraki, Say and Thielen,
Managers on the part of the House.

Senators Yamasaki, Cobb, Crozier, Iwase, A. Kobayashi, Mizuguchi and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 135 on H.B. No. 1817

The purpose of this bill is to address a grave threat to essential public services and the State's economy as a result of a disruption in the continued supply of heavy fuel oil by interisland tank barge shipment. The bill is designed to resolve the problem created by the risk of liability assigned under state and federal law for an ocean spill of heavy fuel oil in two ways:

- (1) To modify existing state law so that state law no longer creates unlimited liability for a heavy fuel oil spill from a barge shipping such fuel interisland; and
- (2) To provide sufficient opportunity and incentives, in light of the current commercial unavailability of heavy fuel oil, for the nonfossil fuel producers and the neighbor island public utilities to renegotiate the supply contracts by which utilities acquire power from nonfossil fuel producers.

Because of its unique geographical location, Hawaii is dependent on shipments of oil and other petroleum products shipped in oil transport vessels to meet its energy needs. To reduce dependence on domestic and imported sources of oil, the electric utilities in the counties of Kauai, Maui, and Hawaii purchase thirty-six, nineteen, and twenty-six percent, respectively, of the electrical energy consumed in those counties from nonfossil fuel producers using bagasse processed and burned at local sugar mills as the primary fuel source. Approximately seven hundred thousand barrels of heavy fuel oil are used annually by the nonfossil fuel producers to generate electricity when bagasse is not available.

The federal Oil Pollution Act of 1990, P.L. 101-380, and Hawaii's Environmental Response Law, Hawaii Revised Statutes ("HRS") chapter 128D, impose unlimited liability for certain accidents such as oil spills on shippers and other handlers of oil and petroleum products operating in waters of the State. As a result of this unlimited liability and the new kinds of damages that may be recovered for spills under these laws, shippers have announced their unwillingness to continue shipping heavy fuel oil interisland.

Hawaii's nonfossil fuel producers are directly affected by Pacific Resources, Inc.'s ("PRI") recent announcement that it will continue to supply, but not transport, heavy fuel oil to neighbor island sugar companies beyond March 31, 1992, due to its liability exposure under state and federal laws. PRI's decision leaves Hawaiian Tug and Barge ("HT&B"), which is still contractually obligated to transport fuel for the Hawaiian Electric Light Company, Inc. ("HELCO") and Maui Electric Company, Ltd. ("MECO") utilities, as the only interisland shipper of heavy fuel oil.

HT&B has warned that it, too, may discontinue its interisland transportation of heavy fuel oil when its contract with neighbor island utilities on Maui and Hawaii expires at the end of 1993. HT&B has offered that, if the nonfossil fuel producers are willing to indemnify HT&B on a pro rata basis for the risks associated with the additional liability attributable to the nonfossil fuel producers' shipments, HT&B will haul the nonfossil fuel producers' oil temporarily, on a space-available basis, along with its weekly shipments to Maui and Big Island electric companies. In addition, HT&B has offered to begin shipments of fuel oil to Kauai on the same terms. Thus far, the nonfossil fuel producers have been unwilling and/or unable to indemnify HT&B.

In recognition of this emergency situation, your Committee has added section 1 of the bill which provides a limitation on liability for heavy oil spills from barge shipments which are subject to the Oil Pollution Act of 1990 and which have a capacity of not more than 60,000 barrels of heavy fuel oil. Under section 1, the liability for such a spill under state law is limited to a maximum of \$700,000,000.00, the limits of HT&B's present insurance, and, your Committee believes, a reasonable limit on liability, regardless of actual insurance coverage. A \$700,000,000 limitation on liability applies only to those shipments subject to the Oil Pollution Act of 1990 because that act has an emergency response fund of

\$1,000,000,000 which is available in the event of a spill, thereby assuring that there are adequate financial resources available to respond to any emergency.

Your Committee has provided that section 1's limitation on liability provision will expire on June 30, 1996 in order not to require the utilities to commence the costly permitting process prior to the close of the 1993 session of the Legislature, when the need for the utilities to convert to an alternate fuel will be clarified. Your Committee understands that air monitoring requires approximately one year, the modeling in support of an air permit application would require six months, regulatory review would involve eighteen months, and construction is expected to take about six months. Inasmuch as the cost of converting existing generation facilities is expected to exceed \$10 million, the expiration date of June 30, 1996, will permit the decision and conversion process to take place in an orderly manner following the 1993 legislative session.

In further recognition of this emergency, section 3 of the bill specifically addresses the electric power supply problem created by the unavailability of heavy fuel oil on the neighbor islands. As discussed above, the unavailability of heavy fuel oil has its source in the environmental laws. Section 3 of the bill gives the Public Utilities Commission ("PUC") new authority which will permit the neighbor island nonfossil fuel producers to continue generating electricity when biomass products are unavailable by using alternatives to heavy fuel oil. These alternative fuel sources, typically diesel fuel or coal, are more expensive than heavy fuel oil. Section 3 allows for the increased cost of such fuel to be borne by ratepayers.

Your Committee is mindful of the emergency circumstances that underlie this bill and finds that serious power outages, adversely affecting the health, safety, and welfare of the people of this State, will occur in the absence of a legislative solution that will allow the nonfossil fuel producers' additional fuel costs to be passed on.

Your Committee is aware of the existing power purchase contracts between the utilities and the nonfossil fuel producers. While the validity of those contracts is in question, in the face of the commercial unavailability of the underlying fuel source, this bill is designed to not impermissibly impair those contracts. Rather, this bill seeks to leave those contractual arrangements intact, or to permit mutually agreeable modifications, and provide, subject to the limitations in the bill, a mechanism so that the additional expense incurred by the nonfossil fuel producer burning more expensive fuels can be borne by the ratepayers.

It may be, however, that the utility and the nonfossil fuel producer are unable to come to an agreement. In that event, and in the event that the PUC affirmatively finds the circumstances of subsection (a) of section 3 to exist, nothing in the bill prevents the PUC from directing the utility to purchase power from the nonfossil fuel producer on the terms directed by the PUC. The emergency situation that may otherwise result requires that the PUC do no less.

Your Committee finds that sections 2 and 3 of the bill are a necessary response to the threat that neighbor island nonfossil fuel producers will no longer have access to heavy fuel oil, a fuel which intermittently powers some of the nonfossil fuel producers' generators. Sections 2 and 3 of the bill provide the nonfossil fuel producers with the incentive and the opportunity to continue to supply energy through use of alternative fuels, where the additional cost of the alternative fuel might otherwise be prohibitive.

It is equally important to ensure that ratepayers are not made to suffer any more than is absolutely necessary or fair as a consequence of this emergency. Your Committee finds that, in order to protect the ratepayer, the bill makes it clear that:

- (1) Any premium paid above the rate previously approved or prescribed by the PUC will be limited to the nonfossil fuel producer's increased direct cost of fuel; and
- (2) Any premium will be reduced or eliminated if the utility's avoided cost payment rate increases more than the additional cost incurred by the producer. Ratepayer interests are further protected by the bill's requirement that nonfossil fuel producers must provide satisfactory documentation to justify any premium that they receive.

Finally, ratepayers are protected by the provision requiring that sections 2 and 3 of the bill expire on June 30, 1993, leaving the public utility and the nonfossil fuel producer in the same commercial and competitive positions they were in prior to the onset of this threat to public services.

Sections 2 and 3 of the bill reflect an extensive rewrite of the bill's prior drafts. Your Committee has provided that the additional fuel cost paid by the nonfossil fuel producers be passed on, through the utilities, to ratepayers by way of an automatic adjustment clause.

Several of the subsections refer to heavy fuel oil as "unavailable." Subsection (a)(2), for instance, requires that the PUC must determine that heavy fuel oil is and will presumably continue to be unavailable to the nonfossil fuel producer before a new or modified contract can be approved. By "unavailable," your Committee means only to suggest "commercial unavailability," that is that the product, in this case heavy fuel oil, has become significantly more expensive than either party anticipated as a possibility when entering into the underlying contract. "Commercial impracticability" serves as a similar standard.

Subsection (a)(3)(B) requires that, before the newly agreed- to rate can go into effect, the PUC must find that the payment of a rate in excess of the rate previously approved or prescribed by the PUC is reasonably necessary for the public utility to provide a "reliable supply" of electricity to its customers. Your Committee finds that it is specifically not the intent of this subsection to permit the public utility or the PUC the opportunity to reevaluate an earlier decision to enter into a purchased power contract with a nonfossil fuel producer, either on the basis of the public utility's current mix of resources or a reconsideration of the wisdom of using the underlying resource. This emergency will not serve as the opportunity by which the public utility may justify terminating any previously agreed-to nonfossil fuel production unless

the nonfossil fuel producer is unable or unwilling to renegotiate the purchased power contract in accord with the terms set out in the bill.

Subsection (a)(5) requires that, before the newly agreed-to rate can go into effect, the PUC must find that the nonfossil fuel sources for the generation of energy will continue at "normal levels." Similarly, subsection (b) requires that the higher rate paid under subsection (a) is applicable only to the percentage of the energy that is "normally produced" by the nonfossil fuel producer and supplied to the public utility from heavy fuel oil. By "normal levels", your Committee intends only that the use of, and recovery of the expense associated with, more expensive lighter fuels not serve as the basis for nonfossil fuel producers to unexpectedly and significantly increase their power production.

Subsection (a)(5) also makes it clear that nonfossil fuel producers must continue in their current non-energy-related business and continue to produce energy from nonfossil fuel sources in order to qualify for the increased fuel cost premium. Your Committee finds specifically that this bill is not intended to provide a subsidy, paid by ratepayers, to encourage sugar companies who are nonfossil fuel producers, to expand their power production capability.

Subsection (b) reflects your Committee's intent that the nonfossil fuel producer must file an application with the PUC within 30 days of its switch to higher priced fuel, and provide written notice to the PUC, the consumer advocate, and the public utility before it may recover for those higher fuel costs. If a nonfossil fuel producer files an application with the PUC more than thirty days after its switch to higher priced fuels, it may only recover those higher fuel costs incurred in the thirty days prior to giving notice. If a nonfossil fuel producer should switch to a higher priced fuel prior to the effective date of this act, pursuant to section 5, it may nonetheless recover those costs, subject to the notice requirements of subsection (b).

Your Committee has determined that it would be unwise to include in the bill any provision permitting the nonfossil fuel producer to recover from the public utility, and ultimately the ratepayer, for any increase in the nonfossil fuel producer's capital costs associated with re-tooling or modifying the nonfossil fuel producer's generating system. Your Committee believes that guaranteeing the nonfossil fuel producers the increased cost of their fuel is sufficient incentive to continue producing power.

While some of the nonfossil fuel producers will incur capital costs associated with retrofitting their generation systems to accommodate lighter fuels, those improvements will generally have a significantly longer life than the emergency period anticipated by the bill. Allocating the risk of an unforeseen rise in fuel prices in the underlying utility/nonfossil fuel producer contract to the utility's ratepayers may be fair, but allocating the risk associated with the resulting need to make long-term capital improvements is not.

Your Committee is also mindful that state loan programs exist (e.g., agricultural loan and capital loan programs) which might provide assistance to nonfossil fuel producers shifting over to higher-priced fuel. Your Committee anticipates that the administrators of those loan programs will consider any application by a nonfossil fuel producer with care.

Your Committee intends that a nonfossil fuel producer shall carefully review its options for fuel alternatives. It may be appropriate for the PUC to allow recovery of the carrying costs associated with a fuel source if doing so would allow the nonfossil fuel producer to purchase a less expensive fuel.

Your Committee has determined not to include specific or detailed reference to the process by which a new or modified utility/nonfossil fuel producer contract is approved by the PUC. Your Committee finds that, with the direction provided in subsection (e) that "the commission shall make every effort to complete its deliberations and issue its decision as expeditiously as possible," the sense of the Legislature that this represents an emergency situation which requires prompt attention by the PUC has been conveyed. Taking into account the legislative direction, the PUC shall nevertheless have the discretion to manage its calendar as it deems most proper in the circumstance.

Nothing in the bill prohibits or is intended to discourage nonfossil fuel producers, utilities, or the consumer advocate from petitioning the PUC to exercise its newly acquired emergency powers. Your Committee intends that, in the event that the utility and the nonfossil fuel producer are unable to agree on a new or modified contract under the terms described, any of the parties to the contract, the consumer advocate, or the PUC itself may initiate proceedings to address the situation.

Your Committee intends that the PUC, in its discretion, may allocate any higher rate paid by a utility under subsection (a) on any basis that the PUC deems reasonable and consistent with this bill. Included among the allocation options that the PUC should consider are allocations in accordance with an increase paid by the ratepayer's utility (e.g., Maui ratepayers pay increases related to increases in MECO payments) and allocations on a statewide basis (e.g., increases in MECO payments are paid for by ratepayers on all islands), subject to the conditions set forth in subsection (d) of section 3 of the bill.

Under the bill, the PUC is able to fashion statewide relief for the increase reflecting the higher rate in whatever manner it deems advisable under the circumstances stated. Your Committee anticipates that, when fashioning statewide relief, the PUC should consider the circumstances of those in the greatest need (e.g., the poor and the elderly) on those other islands allocated a portion of the higher rate. Further, in fashioning statewide relief, your Committee anticipates that the PUC will allocate the higher rate in a manner so that overall rates are made more equal.

Finally, it is not your Committee's intent that any of the cost recovery programs described herein or adopted hereunder should delay nonfossil fuel producers and/or utilities from recovering the additional costs associated with higher priced fuels.

In addition to the foregoing amendments, technical, nonsubstantive revisions have been made for the purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 1817, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 1817, S.D. 2, C.D. 1.

Representatives Hiraki, Metcalf, Amaral, Hagino, Morihara, Young and Thielen,
Managers on the part of the House.

Senators Chang, Levin, Solomon and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 136 on H.B. No. 2320

The purpose of this bill is to appropriate funds out of the general revenues to conduct a statewide household hazardous waste collection project.

Your Committee on Conference finds that the presence of hazardous waste in homes is a potential danger to the occupants, and that improper disposal contaminates our landfills and poses a danger to refuse collectors.

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

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2320, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2320, S.D. 1, C.D. 1.

Representatives Hiraki, Souki, Alcon, Chang, Santiago, Yonamine, Young and Thielen,
Managers on the part of the House.

Senators Yamasaki, Chang, Hagino, Levin and George,
Managers on the part of the Senate.

Conf. Com. Rep. 137 on H.B. No. 3062

The purpose of this bill, as received by your Committee, is to appropriate undetermined sums of money for fiscal year 1992-1993 for deposit into the natural area reserve fund and the forest stewardship fund.

This bill also amends Chapter 195, Hawaii Revised Statutes, by requiring a public hearing before terminating state funding for a management plan approved by the board under the natural area partnership program, and by clarifying that the permanent dedication of a conservation easement or transfer of fee title may be revoked only if state funding is terminated without the concurrence of the landowner and the cooperating entity.

Your Committee finds that it is unnecessary to include an appropriations section in this bill as monies are already earmarked for the natural area partnership program in the budget.

Your Committee is cautious regarding dedicated funding in these times of budget cutbacks and anticipated shortfalls in revenue collections. However, dedicated funding should not be categorically ruled out despite being inappropriate this year.

Your Committee has amended this measure by:

- (1) Deleting the word "and" and inserting a comma on page 1, line 6;
- (2) Deleting the word "or" and inserting the word "and" on page 2, line 18;
- (3) Inserting the phrase "prepared by the cooperating entity or landowner and" on page 3, lines 2-3;
- (4) Deleting of language "The board may [approve alteration] alter the management plan to adapt to current conditions[. Amendments to the management plan]; provided that any amendment shall be made available for public review;" on page 4, lines 9-12;
- (5) Deleting the appropriations language of the bill;
- (6) Renumbering the sections; and
- (7) Making technical, nonsubstantive changes for the purpose of accuracy.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3062, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3062, H.D. 2, S.D. 2, C.D. 1.

Representatives Hiraki, Souki, Baker, Morihara, Santiago, Tajiri, Young and Marumoto,
Managers on the part of the House.

Senators Yamasaki, Hagino, Holt, Solomon and George,
Managers on the part of the Senate.

Conf. Com. Rep. 138 on H.B. No. 3134

The purpose of this Act is to enhance the energy emergency response capability of the State in the event of a petroleum shortage by having the Department of Business, Economic Development, and Tourism prepare a comprehensive and integrated State Energy Emergency Preparedness Plan to be implemented in the event of a shortage or anticipated shortage of the State's petroleum supply.

Your Committee on Conference recognizes the dependence of the State of Hawaii on imported petroleum products. Your Committee finds that the absence of a State Energy Emergency Preparedness Plan in case of an anticipated or actual petroleum shortage will have negative impacts on the lives of the people and the economy of the State.

Your Committee on Conference has amended this bill by incorporating the nonsubstantive changes proposed in the Senate version.

Your Committee has also 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 Conference is in accord with the intent and purpose of H.B. No. 3134, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3134, H.D. 2, S.D. 1, C.D. 1.

Representatives Hiraki, Morihara, Ihara, Souki, Hashimoto, Kawakami, Santiago and Thielen,
Managers on the part of the House.

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

Conf. Com. Rep. 139 on H.B. No. 602

Currently, the Executive Branch of the State, pursuant to section 77-13(d), Hawaii Revised Statutes, may employ sixteen Super Class (SC's) positions, not counting physicians and psychiatrists for whom there is no limit. The Judiciary, on the other hand, is allocated only one SC position and is not entitled to use this classification for medical professionalizes. This bill would allow the Judiciary two SC positions and unlimited physicians or psychiatrist classified at the SC level.

Your Committee on Conference also understands that currently the Circuit Court of the First Circuit has a tremendous backlog of cases waiting to be decided. The procedure that the Judiciary uses to help alleviate this backlog is to rotate district court judges up to circuit court and have per diem judges hear district court judges' cases. Your Committee on Conference is not entirely agreeable to this method of operations but recognizes that the Judiciary is doing its best to meet this problem with what little it has. Therefore, in recognizing this dilemma, this bill is amended by:

- (1) Establishing eight additional judgeships for the Circuit Court of the First Circuit;
- (2) Establishing an additional judgeship for the intermediate court of appeals;
- (3) Amending Section 604-8, Hawaii Revised Statutes, to allow trials by juries for violations occurring under Section 291-4, to be heard in the District Court;
- (4) Requesting that the Judiciary submit to the Legislature, prior to convening of the 1993 Regular Session, a comprehensive plan for:
 - (a) The reduction of the use of per diem judges to the minimum level necessary for the operation of the Judiciary;
 - (b) An analysis of the benefits and problems that would occur if per diem judges were selected from lists presented by the Judicial Selection Commission, in the same manner as regularly appointed district court judges; and
- (5) Making, technical, nonsubstantive changes for the purposes of clarity, style and consistency.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 602, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 602, H.D. 2, S.D. 1, C.D. 1.

Representatives Metcalf, Say, Alcon, Amaral, Oshiro, Tajiri, Takamine and Ward,
Managers on the part of the House.

Senators Blair, Yamasaki, Hagino, Holt, Mizuguchi and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 140 on H.B. No. 2571

The purpose of this bill is to amend the state public contracts law by increasing the threshold level at which public contracts are subject to formal bidding requirements, and adjusting the requirements for informal bids and performance bonds.

Your Committee finds, however, that while adjustments to the obsolete formal bid thresholds are both necessary and long overdue, this problem area is symbolic of the changes that must be made in the State's procurement as a whole--changes that are long overdue for a law that has become obsolete.

As a first step in what the conferees envision as a long range plan to substantially overhaul the State's entire law and procurement system, your Committee finds that there are components of the American Bar Association's Model Procurement Code and recommendations contained in the Lallatin and Associates study that can be implemented now, and that your Committee believes will show immediate, beneficial results in improving efficiency and accountability in the State procurement process.

Accordingly, your Committee has amended this bill substantially. As amended, the bill adds a total of forty new sections to the public contracts law that, among other things, establish procedures for invitations for bids, technical offers and competitive sealed proposals in multi-step bidding, single step sealed bidding, sole source contracts, the establishment of a contract compliance audit unit, the status of procurement files as government (i.e., public) records, use of bidder lists, liability for excessive expenditures, small purchases, emergency procurement, and the requirement that all branches of state government and the counties adopt rules to implement procurement requirements.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2571, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. 2571, H.D. 2, S.D. 2, C.D. 1.

Representatives Bellinger, Souki, Baker, Kanoho, Tajiri and Anderson,
Managers on the part of the House.

Senators Yamasaki, Iwase, Mizuguchi, A. Kobayashi and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 141 on H.B. No. 3787

The purpose of this Act is to set forth general guidelines for the adoption of impact fee ordinances and to establish uniform provisions for county impact fee ordinances.

Your Committee has amended this measure by:

- (1) Requiring that the data sources and methodology upon which needs assessments and impact fees are based be set forth in the needs assessment study;
- (2) Changing the effective date to take effect upon its approval; and
- (3) Making technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3787, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3787, H.D. 1, S.D. 1, C.D. 1.

Representatives Souki, Alcon, Chang, Say, Yonamine and Marumoto,
Managers on the part of the House.

Senators Holt, Ikeda, Iwase and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 142 on H.B. No. 3457

The purpose of this bill is to require the Comptroller to sell surplus state personal property to the general public. The announcement would be given in a newspaper for three weeks and may be posted in conspicuous places. Proceeds of the sale would be disposed of pursuant to Section 106-23, Hawaii Revised Statutes.

Your Committee has amended this bill by:

- (1) Specifying that surplus state personal property will be offered for sale to the general public by bid or auction, after which remaining property will be sold at retail;
- (2) Clarifying that the Comptroller shall "announce" rather than "give notice" regarding the disposition of surplus state personal property; and
- (3) Making technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee directs the Department of Accounting and General Services to determine the costs for handling surplus property and to submit its findings to the Legislature no less than twenty days prior to the convening of the 1993 Regular Session.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3457, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3457, H.D. 1, S.D. 1, C.D. 1.

Representatives Souki, Alcon, Duldulao, M. Ige and Marumoto,
Managers on the part of the House.

Senators Mizuguchi, Crozier and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 143 on H.B. No. 3838

The purpose of this bill is to enable the Department of Health to meet the requirements of the federal Clean Air Act Amendments of 1990.

As received, this bill defines air pollutant as having the same meaning as in the Clean Air Act, 42 United States Code 7608 (g) and any substance designated as such by rules adopted under chapter 91. Because this citation is incorrect, your Committee has amended this bill by replacing the phrase, "42 United States Code 7608 (g)", with "42 United States Code §7602 (g)".

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3838, H.D. 2, S.D. 2, C.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3838, H.D. 2, S.D. 2, C.D. 2.

Representatives Hiraki, Souki, Chang, Hagino, Kanoho, Morihara and Thielen,
Managers on the part of the House.

Senators Yamasaki, Chang, Hagino, Levin and George,
Managers on the part of the Senate.

Conf. Com. Rep. 144 on H.B. No. 3934

The purpose of this bill is to appropriate funds for fiscal year 1992-1993 to establish a two-year pilot program called the Hawaii Young Scholars Program (program) within the Department of Education (DOE). Specifically, the bill:

- (1) Authorizes the DOE to implement the Hawaii Young Scholars Program in five selected elementary schools throughout the State, beginning with the third grade in the first year of the program, and then the fourth grade in the second year of the program;
- (2) Allows the DOE to coordinate with the University of Hawaii in the design of the program;
- (3) Authorizes the DOE to provide a contract of agreement to each economically disadvantaged child and the child's parents or guardians that is consistent with school/community-based management; and
- (4) Requires the DOE to submit a report on the performance of the Hawaii Young Scholars Program and its recommendations with regard to the program to the Legislature, twenty days prior to the convening of the Regular Session of 1994.

Your Committee recognizes the powerful effects of education in shaping the lives of individuals. In this regard, your Committee acknowledges the importance of providing educational opportunities, incentives, and support to Hawaii's youth, particularly to those youths who are disadvantaged.

One way to lessen the disparity among certain ethnic groups who are less inclined to pursue a higher education is to instill the positive rewards of education in individuals from an early age. Providing a stimulating, positive, and nurturing educational environment that reinforces academic excellence is highly influential in encouraging students to make lifelong learning a personal quest and to motivate students to pursue higher levels of educational attainment.

Your Committee understands the fiscal constraints being imposed on the state budget and on state programs and services due to the downturn in general revenues. However, your Committee notes the positive rewards that the Hawaii Young Scholars Program can have on students' educational progress and on the quality of public education, and therefore, intends that this bill be a vehicle which allows the DOE to establish the two-year pilot program. It is the understanding of your Committee that this program is not to conflict with or replace any existing program. It is also the understanding of your Committee that the Hawaii Young Scholars Program will be funded entirely through existing DOE funds and other private sources. Furthermore, future appropriations will not be required for this two-year pilot project.

Accordingly, your Committee has amended this bill by:

- (1) Deleting the appropriation section from the bill;

- (2) Allowing, rather than authorizing, the DOE to establish the Hawaii Young Scholars Program;
- (3) Using permissive rather than mandatory language throughout the bill, which conforms to language that allows the DOE to establish the Hawaii Young Scholars Program; and
- (4) Making technical, nonsubstantive amendments for the purposes of clarity and style.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3934, H.D. 2, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3934, H.D. 2, S.D. 2, C.D. 1.

Representatives Tam, Say, Duldulao, Isbell, Kawakami, Shon, Stegmaier and O'Kieffe,
Managers on the part of the House.

Senators Yamasaki, Iwase, B. Kobayashi, McCartney and George,
Managers on the part of the Senate.

Conf. Com. Rep. 145 on H.B. No. 521

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 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.

Article VII, section 13, of the Constitution of the State of Hawaii, requires the Legislature to include a declaration of findings in every general law authorizing the issuance of general obligation bonds, which shall declare the issuance of state bonds authorized will not cause the debt limit to be exceeded at the time of issuance.

Your Committee has amended this bill by:

- (1) Inserting language explaining the portion of the amount derived from the issuance of bonds constituting instruments of indebtedness under which the State incurs a contingent liability as a guarantor must be included in determining the power of the State to issue general obligation bonds;
- (2) Inserting the appropriate amounts provided by the Department of Budget and Finance; and
- (3) Making technical, nonsubstantive amendments for the purposes of style and clarity.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 521, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 521, H.D. 1, S.D. 1, C.D. 1.

Representatives Souki, Alcon, Baker, Chang, Duldulao, M. Ige, Kanoho, Kawakami, Say, Tajiri, Yonamine,
Anderson and Marumoto,
Managers on the part of the House.

Senators Yamasaki, Aki, Hagino, Iwase, A. Kobayashi, B. Kobayashi, Levin, Solomon and George,
Managers on the part of the Senate.

Conf. Com. Rep. 146 on H.B. No. 2454 (Majority)

The purpose of this bill is to provide the necessary supplemental appropriations and authorizations for State programs and services for the 1991-1993 fiscal biennium by amending the General Appropriations Act of 1991.

FINANCIAL AND BUDGETARY OVERVIEW

Background

During the past five years, Hawaii was fortunate to realize double digit growth in general revenues that resulted in additional resources for many new programs, expansion of existing programs, and initiation of myriad capital improvement projects.

But, socio-economic changes nationally and worldwide during the last two years have placed a distressing set of strains on Hawaii's financial structure and revenues.

Last year, in fashioning the State Executive Budget, as well as the Judiciary Budget and the Office of Hawaiian Affairs (OHA) Budget for the 1991-1993 fiscal biennium, the Legislature was constrained by fiscal uncertainties triggered by the Persian Gulf War and the national recession. As a result, in all three Budgets, the 1991 Legislature focused on meeting only the most urgent needs of our state, while maintaining essential economic and social safeguards.

This year, the Legislature again began its deliberations facing a number of major fiscal uncertainties. Given the effects of the slowdowns in tourism and construction and a national economic recession, as well as increasing federal mandates without the concomitant federal moneys for implementation, the most important issue facing the 1992 Legislature has been declining revenues.

Financial Challenges

Hawaii is facing and will continue to face major financial challenges that will require creative responses, cutbacks in funding, and scaling back of programs to ensure that Hawaii remains fiscally solvent.

The first major financial challenge is the national recession that has affected many of states on the Mainland. As a result of the recession, unbalanced budgets and drastic cuts in public programs and services have been the norm across the Nation. Until this fiscal biennium, Hawaii has been able to avoid a similar fate. But the effects of the national recession has now reached Hawaii.

The second major financial challenge is the 1991 United States military action in the Middle East. Although the Persian Gulf War came to a quick and decisive end, the lingering effects of that War on Hawaii's fragile and cyclical tourism industry continues to be felt to this day.

The third major financial challenge is the shifts in Japan's investment policy. The slowdown of the Japanese economy and changes in its monetary and investment policies pose a great potential danger to the State's economy.

The final major financial challenge is the additional burdens being placed on Hawaii by the federal government. The federal deficit-reduction law has shifted many of the costs formerly paid by the federal government to the states. In addition, the continuing federal demand placed on the states to provide or expand services without the concomitant federal dollars has been a source of financial woes for all the states. These federal mandates are especially onerous for Hawaii's State government because in Hawaii, the State government is responsible for a disproportionate number of public services that are typically handled by local governments in other states. For example, the State maintains the public education system--which constitutes almost 30 percent of the State's total operating expenditures--as well as the correctional system, the court system, and many of the social services that are all usually handled by local governments.

Declining Tax Revenues

As a result of these major financial challenges in the last half of 1991, tax revenue reports provided early signs of state receipts falling below revenue projections. Moreover, presentations by Hawaii's noted economists at the start of the 1992 legislative session indicated that the state economy had shifted to a much lower rate of growth than had been experienced in prior years.

This was reflected in the January 10, 1992, report of the Council on Revenues, which revised downward its September 1991 forecast of state revenue growth from 10.0 percent in fiscal year 1991-1992 and 4.9 percent in fiscal year 1992-1993 to 6.0 percent and 2.7 percent, respectively. In their March 1992 report, the Council indicated that actual general revenue collections were below earlier projections, and their estimate was again revised downward to 2.4 percent and 1.1 percent, respectively. The impact of the March revision is that over \$350 million less in general fund collections is expected for the biennium than was projected in January.

Financial Plan: NO NEW TAXES

Your Committee finds that the fiscal integrity of the State is fundamental to sound and responsible government. To meet the \$350 million shortfall while ensuring the State's fiscal solvency, your Committee adopted the stance that this year's Supplemental Budget would be developed with NO TAX INCREASES. Instead, your Committee decided on a broad disciplined approach through:

- (1) Careful budgeting of our dwindling state resources;
- (2) Increasing efficiency of government services; and
- (3) Finding ways to get more revenue through other means, including better investments of our State moneys.

Prudence dictates that State expenditures over the next fiscal year and future fiscal years be approached cautiously with respect to expenditures from the general fund as well as with respect to bond issuance and debt service which have an impact on the general fund. At the same time, the demand for more government services will require the identification of new ways to further maximize productivity and efficiency in the delivery of public services and to maximize the returns on our State investments.

Hawaii is not alone with fiscal woes. Other jurisdictions across the Nation from the Eastern seaboard down to the Gulf Coast through America's "breadbasket" of the Midwest to the Pacific Coast are experiencing budgetary problems. Record unemployment rates, drastic reductions in government services, and astronomical budget deficits are being reported on the Mainland.

Compared to many Mainland jurisdictions, Hawaii is faring quite well. Prudent expenditures and wise investments in prior fiscal years have made this possible. And while your Committee has taken a very cautious approach for the 1992 supplemental year, it is the hope that Hawaii will continue to weather this national crisis and escape the catastrophic calamities being faced by our sister-states.

State Budget Process

Given the increased public interest in this year's three Supplemental Budgets and the state budget process itself, it would be instructive to summarize the financial planning process your Committee went through and completed.

In many respects the basic approach to state budgeting and financial planning is no different than the household budget process average families go through. Admittedly, the State's budget is on a much larger scale and some of the terminology may differ, but the assumptions with regard to income, expenses, and savings are the same.

Like the average family, the State's expenditures, in large part, are constrained by its income or revenues collected. First priority expenditures on the part of the State are earmarked for the fixed costs of government--health and human service statutory requirements, personnel salaries, building maintenance and repair including utility charges, equipment and supplies, and federal program mandates--similar to a family's fixed costs of mortgage or rental payments, auto insurance premiums, health care and insurance, and utilities.

Moreover if after the fixed costs are met, there is additional income, the State, like most families, designates an amount as "savings" to meet those unforeseen emergency expenditures that may arise in the future. And if after "savings" are realized there is still some disposable income available, many families may decide to make unanticipated expenditures on home improvement projects, new furniture, or travel. The State likewise expends additional income, but on a larger scale on program or service expansion, or on new programs or services requested by the public.

To put this discussion into context for the 1992 Supplemental Budget, the State is in the position to meet its fixed costs and earmark a conservative amount of "savings" for future fiscal years to meet unanticipated emergency expenditures which may arise. The State this year does not have the "leftover" funds to expand existing programs, or to establish new programs or services.

This Supplemental Budget should not in and of itself be viewed as the single product of the 1992 Legislature. Rather, this Supplemental Budget document should be viewed as a part of the whole--guiding yet complementary--to all other legislation reviewed, discussed, and acted upon during the 1992 legislative session. Government action is not limited to the appropriations process, and in many instances innovations and policies will be set by legislation which are nonfiscal in nature.

COMMITTEE DELIBERATIONS

Committee's Responsibility

To ensure the fiscal integrity of the State, your Committee carefully deliberated on this Supplemental State Executive Budget bill, as well as the Supplemental Judiciary Budget and OHA Budget bills and all other bills that affect state finances. Were it not for the projected revenue shortfall, your Committee would have been able to give serious consideration to funding many worthwhile programs. But in these uncertain fiscal times, your Committee must act responsibly in meeting a wide range of pressing community needs and concerns.

During deliberations, your Committee had to weigh the uncertainty of our financial future with the immediate needs in certain program areas. Your Committee's decisions in formulating the Supplemental State Executive Budget were characterized by confrontations with economic uncertainties and the harsh realities of limited financial resources. At the same time, your Committee recognizes that fiscal responsibility dictates the identification of new ways to further maximize productivity and efficiency in the delivery of public services. As a result, many difficult decisions had to be made on reducing the requested amounts, and in certain instances not providing funds at all. In this regard, serious consideration was given to ensure that adequate future fiscal resources would be available to maintain existing programs. Your Committee believes that, as difficult as the decisions were, the reductions are justified and constitute a proper course to follow.

Fiscal Responsibility

Your Committee believes that the public has the right to expect that the State's fiscal integrity is maintained, that public funds are expended wisely, and that government operations are executed efficiently.

Because the fiscal integrity of the State is fundamental to sound and responsible government, the impact of the changing economic conditions and other financial developments was closely examined by your Committee.

Moreover, your Committee believes that in these critical economic times, sound judgment and rational decisions must be made and that everyone must be willing to contend with certain services and programs being reduced, or to do without certain services and programs, until the economy improves significantly.

As a result, your Committee acknowledges that the development of the 1992 Supplemental Budget was indeed a challenge this year, insofar as practices and methodologies utilized in prior fiscal years changed dramatically to adjust to Hawaii's austere yet cautiously optimistic economy. Philosophies and patterns with regard to appropriations, expenditures, and the expansion or establishment of new government programs changed dramatically as well.

Each and every service area and department was scrutinized to ensure that state dollars appropriated would be prudently and efficiently spent. Dilemmas with regard to conflicting priorities surfaced, and hard decisions were made.

Moreover, as a consequence of the slowdown of Hawaii's economy over the past two years and the uncertainty of our future financial resources, prudence dictates that all state agencies over the next fiscal year and future fiscal years take a cautious approach regarding future expenditures and program expansions.

Your Committee urges all government agencies to adopt the position that economic uncertainty must be approached with an attitude of fiscal responsibility and constraint.

PROGRAMS AND SERVICES

Priorities

Your Committee has developed an austere Supplementary State Executive Budget that balances the priorities and needs of the people with the finite resources of the State.

As a result, many difficult decisions had to be made. Many worthwhile programs could not be implemented or expanded at this time. This has resulted in the reduction or elimination of funding for various programs which, although desirable, could not be accommodated under this year's fiscal constraints. Instead, to ensure a comprehensive and responsible allocation of dwindling state resources, the budget was produced to meet the most urgent needs of the State and to lay the foundations that will enable Hawaii to meet the challenges of the future. As a result, special attention centered on education as an investment in Hawaii's future and on health and human services to meet the immediate needs of the people most in need of assistance.

Education

As an investment in the future, no major program was given greater scrutiny, consideration, and support than public education. Along with H.B. No. 2123 on governance, S.B. No. 2253 on financial and structural reform, and other educational measures, education was a priority issue this year. Evermindful of the tight budgetary constraints of the state budget, your Committee was compelled to make several hard-hitting and difficult decisions regarding the prioritization of resources and services to public education in Hawaii. Despite these challenges, your Committee worked hard to respond to the myriad of fundamental needs of Hawaii's public schools, while supporting the momentum of educational change and innovation taking place within the community. Your Committee embarked on innovative approaches and pursued new avenues to improve the effectiveness of the public school system in educating Hawaii's youth.

It is widely recognized that basic academic skills are the necessary "building blocks" to educational excellence and achievement. Basic skills set the foundation for greater educational pursuits. A firm grasp of the basic skills learned in school will prepare students to expand their individual abilities and capabilities in other areas of academic interest and pursuit. A firm grasp of basic academic skills will also give students the fundamental tools to make education a lifelong process, and, to the greatest extent possible, prepare students for the personal and work challenges of the future. In light of this, the overriding concern and priority of your Committee during the 1992 legislative session was to reinforce and support existing core courses, programs, and services to students.

Funds were provided to bring direct and responsive educational improvement to students--through the classroom. In lower education, \$6.2 million will be used to purchase textbooks, computers, related computer software, and other essential materials to enhance learning, as well as to purchase equipment for new and existing classrooms. In addition, \$1.8 million was provided to enhance direct instructional services in the elementary grades, at the discretion of the elementary schools.

The powerful and positive effects of a safe, clean, and well-kept school environment on student learning and achievement is acknowledged through the appropriation of approximately \$1.9 million in H.B. No. 3493, H.D. 2, S.D. 2, C.D. 1, for school-level minor repairs and maintenance statewide, of which \$8,000 will be allocated to each of the 236 public schools in the state to respond to repair and maintenance needs of each school in a timely and efficient manner.

Your Committee also recognizes the immediate and pressing need to accommodate increases in student enrollment through the provision of several additional teaching positions and support staff to provide optimum learning opportunities for all students. Special education students will benefit from an additional 230 teacher positions and 33.5 positions to provide diagnostic services for the special education program. Student achievement in the core areas of math, science, language arts, and the social sciences will also be enhanced by the addition of 83 full-time teacher positions.

In a state with a high percentage of working mothers, finding quality, affordable child care services has become a significant of the community. To continue the services of the A+ Program, which has been providing affordable and quality after-school supervision for students enrolled in kindergarten through grade six, your Committee has appropriated \$1.9 million in funds. These funds will be used to provide after-school supervision for children in a stimulating and caring environment and reduce the incidence for latchkey children in the state.

The legislative effort and actions of the 1992 session represents a collaborative effort by various sectors of the community to participate in making education a lifelong process and to participate in Hawaii's future. In large part, those legislative measures affecting education are indicative of the commendable efforts by the public to participate and make a difference in education through the public process. The legislative actions of the 1992 session are largely symbolic of the will and interest of the people to have their voices heard in the decisions affecting education in Hawaii.

The road to educational excellence is winding and continuous. No doubt the road to educational excellence will continue to be fraught with challenge, collaboration, and change, but the road to educational excellence can be realized through a shared response and effort by the community to accommodate and address student and societal needs.

Health and Human Services

Your Committee is committed to providing optimal health care services to ensure the overall well-being of the community. To this end, your Committee focused its efforts on supporting and providing for the continuance of existing health care programs and services, as well as appropriating funds that will guarantee the most benefits to the islandwide community. The importance of providing accessible, affordable, and quality health care services was reaffirmed through legislative action during the 1992 legislative session.

This year, the mental health care needs of the community received considerable public attention. In recognition of the critical importance of support staff in Hawaii's hospitals, \$237,000 was appropriated to provide for the staffing needs of the newly renovated psychiatric unit at Maui Memorial Hospital. Furthermore, to address the grave concerns of the community regarding the mentally handicapped in the State, \$304,000 was appropriated to address the psychiatric service needs of Hawaii's community-based mental health system. Your Committee also demonstrated its commitment to upgrade the care and treatment provided to Hawaii's mentally ill and mentally handicapped through \$737,000 in funding for psychosocial rehabilitation services to chronically mentally ill individuals.

Despite the fiscal constraints imposed on the State Budget and on state programs and services due to the downturn in general revenues, your Committee made every attempt to bring the most benefits to Hawaii's children and elderly population, as these two groups are the crux, and in many cases, the stronghold of Hawaii's families. Your Committee appropriated \$99,000 towards planning and coordination efforts in the children's mental health service system and \$3,870,000 to provide increased funding for developmentally disabled individuals under the Title XIX home and community-based services program.

In addition, \$1.9 million was appropriated to implement the Job Opportunity and Basic Skills (JOBS) program on a statewide basis and \$26.2 million was appropriated to cover anticipated shortfalls in Assistance to Families With Dependent Children (AFDC) and General Assistance payments.

To address the spiraling health care costs of Hawaii's elderly, your Committee looked at ways of maximizing much-needed health care services and benefits to the elderly. Approximately \$95.4 million was appropriated to address the Medicaid shortfall to ensure the availability of high-quality medical services to Hawaii's Medicaid recipients.

Throughout its deliberations, your Committee reaffirmed its commitment to supporting Hawaii's families and to addressing the undue stressors placed on family life. The daily pressures felt by families statewide necessitate the need to support and address the concerns and problems that plague Hawaii's families in a world of challenge and continual change. This year, \$860,000 was appropriated to strengthen the family structure by continuing and expanding the family center demonstration project.

Preventive health measures designed to ward off the detrimental effects of illness and disease was addressed through the appropriation of \$711,000 to provide the resources necessary to implement universal access to a vaccine immunization program. It is the belief of your Committee that any effort to address and combat the harmful health effects of each member of the community will bring increased benefits and rewards to the entire state population. Your Committee's efforts in the areas of health and human services represent a committed effort to provide for the overall health care needs and well-being of the people of the State.

Other Programs

In addition, other important decisions and considerations of your Committee were made in other program areas.

In the areas of economic development and employment, your Committee continued its commitment to improving Hawaii's economy. Recognizing the importance of tourism to Hawaii's overall economy, your Committee appropriated \$700,000 to expand the marketing campaign of Hawaii on a national and international level. In addition, \$500,000 was provided to continue the Community Based Development Grant and Loan Program. To minimize the effects of the economic downturns and to expand the "employability" of Hawaii's workforce, your Committee has provided \$7 million to continue job assistance services to identified target groups.

In the areas of environment and infrastructure, assistance was provided to a variety of projects. Among them is \$900,000 to the Natural Area Reserves and the Natural Area Partnership Program to continue to protect and manage Hawaii's threatened and endangered plant and animal species. For the acquisition of various county highways and roads on Oahu, Maui, and Hawaii and to ensure that roads are maintained under the State's road standards, \$12.6 million has been provided.

In the areas of public safety, \$1.0 million was provided to provide needed security coverage at various correctional facilities and Hawaii State Hospital. In addition, \$864,000 was appropriated for needed repair and maintenance of correctional facilities.

SUMMARY

Your Committee willingly took on the difficult task of developing the Supplemental State Executive Budget to provide the needed services and programs to the people of Hawaii, while ensuring the State's overall fiscal solvency. Because the fiscal integrity of the State is fundamental to sound and responsible government, your Committee took a cautious approach to all fiscal concerns in light of the current tight revenue projections and the anticipation of slow economic growth in the immediate years ahead.

It was your Committee's responsibility to examine possible options and develop an approach that will be the most feasible, equitable, and of maximum benefit to Hawaii's taxpayers and at the same time, serves to ensure the State's overall fiscal solvency.

In summary, the Supplemental Budget developed by your Committee provides a responsible allocation of valuable, scarce resources to state programs to improve the quality of life for the citizens of Hawaii.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2454, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2454, H.D. 1, S.D. 1, C.D. 1.

Representatives Souki, Alcon, Baker, Chang, Duldulao, M. Ige, Kanoho, Kawakami, Say, Tajiri, Yonamine, Anderson and Marumoto,
Managers on the part of the House.
(Representative Anderson did not concur.)

Senators Yamasaki, Aki, Hagino, Iwase, A. Kobayashi, B. Kobayashi, Levin, Solomon and George,
Managers on the part of the Senate.

Conf. Com. Rep. 147 on H.B. No. 3184

The purpose of this bill is to provide supplemental appropriations to the Office of Hawaiian Affairs (OHA) for the fiscal biennium 1991-1993 by amending Act 301, Session Laws of Hawaii 1991.

FINANCIAL AND BUDGETARY OVERVIEW

During the past five years, Hawaii was fortunate to realize double digit growth in general revenues that resulted in additional resources for many new programs, expansion of existing programs, and initiation of myriad capital improvement projects.

Socio-economic changes nationally and worldwide during the last two years have placed a distressing set of strains on our financial structure and revenues. Last year, in fashioning the OHA Budget, as well as the Executive Budget and the Judiciary Budget for the 1991-1993 fiscal biennium, the Legislature was constrained by fiscal uncertainties triggered by the Persian Gulf War, the national recession, and changes in Japan's investment policy. As a result, in all three Budgets, the 1991 Legislature focused on meeting only the most urgent needs of our state, while maintaining essential economic and social safeguards.

This year, the Legislature again began its deliberations facing a number of major fiscal uncertainties. Given the effects of the slowdowns in tourism and construction and a national economic recession, as well as increasing federal mandates without the concomitant federal moneys for implementation, the most important issue facing the 1992 Legislature has been declining revenues.

In the last half of 1991, tax revenue reports provided early signs of state receipts falling below revenue projections. Moreover, presentations by Hawaii's noted economists at the start of the 1992 legislative session indicated that the state economy had shifted to a much lower rate of growth than had been experienced in prior years.

This was reflected in the January 10, 1992, report of the Council on Revenues, which revised downward its September 1991 forecast of state revenue growth from 10.0 percent in fiscal year 1991-1992 and 4.9 percent in fiscal year 1992-1993 to 6.0 percent and 2.7 percent, respectively. In their March 1992 report, the Council indicated that actual general revenue collections were below earlier projections, and revised further downward their estimate of revenue growth to 2.4 percent and 1.1 percent, respectively. The impact of the March revision is that over \$350 million less in projected general fund collections is expected for the biennium than was projected in January.

COMMITTEE DELIBERATIONS

Within this fiscal framework, your Committee has carefully reviewed the supplementary budget proposal submitted by OHA, as well as the amendments made by both the House of Representatives and the Senate.

To ensure the fiscal integrity of the State, your Committee carefully deliberated on this supplemental OHA Budget bill, as well as the supplemental Executive Budget and Judiciary Budget bills and all other bills that affect state finances. Were it not for the projected revenue shortfall, your Committee would have been able to give serious consideration to fund many worthwhile programs. But in these uncertain fiscal times, your Committee must act responsibly in meeting a wide range of pressing community needs and concerns.

During deliberations, your Committee had to weigh the uncertainty of Hawaii's financial future with the immediate needs in certain program areas. Your Committee's decisions in formulating the supplemental OHA Budget were characterized by confrontations with economic uncertainties and the harsh realities of limited financial resources. At the same time, your Committee recognizes that fiscal responsibility dictates the identification of new ways to further maximize productivity and efficiency in the delivery of public services. As a result, many difficult decisions had to be made on reducing the requested amounts, and in certain instances not providing funds at all. In this regard, serious consideration was given to ensure that adequate future fiscal resources would be available to maintain existing programs. Your Committee believes that, as difficult as the decisions were, the reductions are justified and constitute a proper course to follow.

Your Committee believes that in these critical economic times, sound judgment and rational decisions must be made and that everyone must be willing to contend with certain services and programs being reduced, or to do without certain services and programs, until the economy improves significantly.

FISCAL RESPONSIBILITY

Your Committee believes that the public has the right to expect that the State's fiscal integrity is maintained, that public funds are expended wisely, and that government operations are executed efficiently.

Your Committee notes with concern the rapid growth of OHA's budget. OHA's budget, over the past three years, has expanded a total of 72 percent, with an annual average increase of 24 percent. This year's supplemental request is illustrative of this rapid escalation: OHA's supplemental request of \$4.7 million represents an additional increase of 70 percent for the 1992-1993 fiscal year.

Your Committee notes that supplemental budget requests are ordinarily intended to fine-tune the biennial budgets enacted in the first session of each new legislature. Supplemental budgets do not usually entail major program expansions. It is incumbent upon the requesting agency to plan well enough to anticipate their needs for two years.

Moreover, as a consequence of the significant slowdown of Hawaii's economy over the past year and the uncertainty of our future financial resources, prudence dictates that all state agencies over the next fiscal year and future fiscal years take a cautious approach regarding future expenditures and program expansions.

Your Committee urges OHA, along with other state agencies, to adopt the position that economic uncertainty must be approached with an attitude of fiscal responsibility and constraint.

PROGRAMS AND SERVICES

Recognizing the important public mission of OHA, along with the Department of Hawaiian Home Lands, to be responsible for the betterment of conditions for native Hawaiians and Hawaiians, your Committee decided to concentrate on four major areas identified to be of foremost concern to native Hawaiians and Hawaiians: health, education, housing, and heritage preservation.

According to health statistics, the Hawaiian community has long been plagued by numerous, chronic health problems. As a group, they suffer from a disproportionate amount of health ills compared to other groups in the state and the nation. Based on the preliminary success of the Waianae Diet Program in lowering the incidence of diabetes, hypertension, heart disease, stroke, and cancer through a traditional Hawaiian diet, your Committee has provided funds for program expansion in the Waimanalo area to help more Hawaiians utilize a traditional Hawaiian diet to live a healthful lifestyle. Funds have been appropriated for education, research, and publicity purposes, as well to provide demonstration diets and medical protocol to the participants in the program.

The second area that merits continued support is education. Educational research strongly recommends that children receive educational experiences during their critical early years of development. Many experts link early childhood education to the overall success of future educational opportunities. As a result, funds have been provided to establish an Early Education Center to provide nurturing support and learning experiences that will prepare Hawaiian students to enter the public school system.

To assist those already in school, tutorial services have also been funded to provide opportunities for students to reach their full academic potential.

The third major area of concern is the housing needs of the Hawaiians. Your Committee is encouraged by OHA's expressed commitment to address this issue. To support this determination, your Committee has appropriated moneys for self-help housing projects.

In addition, efforts to preserve the resplendent heritage of Hawaiians and native Hawaiians have been given support. Funds have been provided to solemnize Hawaii's unique heritage by using the occasion of the one hundredth anniversary of the overthrow of the monarchy to commemorate the life and contributions of Hawaii's last reigning monarch, Queen Liliuokalani. Your Committee believes that the observation of this event is important not only to the Hawaiian people, but to all residents of our State.

SUMMARY

Your Committee willingly took on the difficult task of developing the supplemental OHA Budget to provide the needed services and programs of native Hawaiians and Hawaiians, while ensuring the State's overall fiscal solvency. Because the fiscal integrity of the State is fundamental to sound and responsible government, your Committee took a cautious approach to all fiscal concerns in light of the current tight revenue projections and the anticipation of slow economic growth in the immediate years ahead.

In summary, your Committee believes that this supplemental Budget provides a responsible allocation of valuable, scarce resources to the Office of Hawaiian Affairs for the betterment of conditions of native Hawaiians and Hawaiians.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3184, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3184, H.D. 2, S.D. 1, C.D. 1.

Representatives Hagino, Souki, Alcon, Baker, Chang, Duldulao, M. Ige, Kanoho, Kawakami, Say, Tajiri, Yonamine, Anderson and Marumoto,
Managers on the part of the House.

Senators Yamasaki, Aki, Crozier, Hagino, Iwase, A. Kobayashi, B. Kobayashi, Levin, Solomon and George,
Managers on the part of the Senate.

Conf. Com. Rep. 148 on H.B. No. 736

The purpose of this bill is to comply with the requirements of Article VII, section 6, of the Constitution of the State of Hawaii. This section requires the Legislature to provide either a tax refund or a tax credit to qualified taxpayers whenever the state general fund balance at the close of each of two successive fiscal years exceeds five per cent of the general fund revenues for each of the two fiscal years.

Your Committee finds that these factors have been met for the eleventh consecutive year, and the tax credit established by this bill complies with the constitutional requirements.

Upon further consideration, your Committee has amended this bill by establishing the amount of the tax credit at \$1 per resident individual taxpayer.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 736, H.D. 1, S.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 736, H.D. 1, S.D. 2, C.D. 1.

Representatives Souki, Alcon, Baker, Chang, Duldulao, M. Ige, Kanoho, Kawakami, Say, Tajiri, Yonamine and Marumoto,
Managers on the part of the House.

Senators Yamasaki, Aki, Hagino, Iwase, A. Kobayashi, B. Kobayashi, Levin, Solomon and George,
Managers on the part of the Senate.

Conf. Com. Rep. 149 on H.B. No. 2705

The purpose of this bill is to provide supplemental appropriations to the Judiciary for the fiscal biennium 1991-1993 by amending Act 299, Session Laws of Hawaii 1991.

FINANCIAL AND BUDGETARY OVERVIEW

During the past five years, Hawaii was fortunate to realize double digit growth in general revenues that resulted in additional resources for many new programs, expansion of existing programs, and initiation of myriad capital improvement projects.

Socio-economic changes nationally and worldwide during the last two years have placed a distressing set of strains on our financial structure and revenues. Last year, in fashioning the Judiciary Budget, as well as the Executive Budget and the Office of Hawaiian Affairs (OHA) Budget for the 1991-1993 fiscal biennium, the Legislature was constrained by fiscal uncertainties triggered by the Persian Gulf War, the national recession, and changes in Japan's investment policy. As a result, in all three Budgets, the 1991 Legislature focused on meeting only the most urgent needs of our state, while maintaining essential economic and social safeguards.

This year, the Legislature again began its deliberations facing a number of major fiscal uncertainties. Given the effects of the slowdowns in tourism and construction and a national economic recession, as well as increasing federal mandates without the concomitant federal moneys for implementation, the most important issue facing the 1992 Legislature has been declining revenues.

In the last half of 1991, tax revenue reports provided early signs of state receipts falling below revenue projections. Moreover, presentations by Hawaii's noted economists at the start of the 1992 legislative session indicated that the state economy had shifted to a much lower rate of growth than had been experienced in prior years.

This was reflected in the January 10, 1992, report of the Council on Revenues, which revised downward its September 1991 forecast of state revenue growth from 10.0 percent in fiscal year 1991-1992 and 4.9 percent in fiscal year 1992-1993 to 6.0 percent and 2.7 percent, respectively. In their March 1992 report, the Council indicated that actual general revenue collections were below earlier projections, and revised further downward their estimate of revenue growth to 2.4 percent and 1.1 percent, respectively. The impact of the March revision is that over \$350 million less in general fund collections is expected for the biennium than was projected in January.

COMMITTEE DELIBERATIONS

Within this fiscal framework, your Committee has carefully reviewed the supplementary budget proposal submitted by the Judiciary as well as the amendments made by both the House of Representatives and the Senate.

To ensure the fiscal integrity of the State, your Committee carefully deliberated on this supplemental Judiciary Budget bill, as well as the supplemental Executive Budget and OHA Budget bills and all other bills that affect state finances. Were it not for the projected revenue shortfall, your Committee would have been able to give serious consideration to funding many worthwhile programs. But in these uncertain fiscal times, your Committee must act responsibly in meeting a wide range of pressing community needs and concerns.

During deliberations, your Committee had to weigh the uncertainty of Hawaii's financial future with the immediate needs in certain program areas. Your Committee's decisions in formulating the supplementary Judiciary Budget were characterized by confrontations with economic uncertainties and the harsh realities of limited financial resources. At the same time, your Committee recognizes that fiscal responsibility dictates the identification of new ways to further maximize productivity and efficiency in the delivery of public services. As a result, many difficult decisions had to be made on reducing the requested amounts, and in certain instances not providing funds at all. In this regard, serious consideration was given to ensure that adequate future fiscal resources would be available to maintain existing programs. Your Committee believes that, as difficult as the decisions were, the reductions are justified and constitute a proper course to follow.

Your Committee believes that in these critical economic times, sound judgment and rational decisions must be made and that everyone must be willing to contend with certain services and programs being reduced, or to do without certain services and programs, until the economy improves significantly.

FISCAL RESPONSIBILITY

Your Committee believes that the public has the right to expect that the State's fiscal integrity is maintained, that public funds are expended wisely, and that government operations are executed efficiently.

Your Committee notes with concern the significant growth of the Judiciary budget in recent years. The Judiciary budget, over the past three years, has increased a total of 49 percent, with an annual average increase of 11.67 percent.

Moreover, as a consequence of the significant slowdown of Hawaii's economy over the past year and the uncertainty of our future financial resources, prudence dictates that all government agencies over the next fiscal year and future fiscal years take a cautious approach regarding future expenditures and program expansions.

Your Committee urges the Judiciary, along with other state agencies, to adopt the position that economic uncertainty must be approached with an attitude of fiscal responsibility and constraint.

PROGRAMS AND SERVICES

With this in mind, your Committee has developed a supplemental Judiciary Budget that balances the priorities and needs of the Judiciary with the finite resources of the State.

Your Committee carefully examined the budget requests of the Judiciary in light of the fiscal and economic uncertainty facing Hawaii. At the same time, your Committee has been mindful of the increased demand for court services and the growth in the number of adjudications that has resulted in the Judiciary struggling to meet the public's needs in a consistent and timely manner. Therefore, funding has been provided to allow the courts to address the most urgent of these needs. Your Committee has appropriated moneys to meet the critical need for more judges. In addition, funds have been provided to meet increased workload requirements, improve information technology, and provide adequate office and storage space to accommodate the significant growth court programs have experienced over the past few years.

Funding for a nineteenth judge for the First Circuit Court Criminal Division has been provided to address the burgeoning number of case filings. The increase in filings, coupled with the growing complexity of violent crimes, have aggravated backlogs in case processing. This additional support will allow the Judiciary to continue its commitment to protect and safeguard victims, as well as to ensure the timely delivery of justice.

As the number of court case filings grow, the need for support services to maintain the efficient flow of information and documents also increases. Through an appropriation of \$191,000, your Committee has provided for additional personnel to be hired to enable the Judiciary to ensure orderly operations, to support the efficient flow of information, and to process necessary documents in a timely manner.

The effective management of court information and documents plays an integral role in the delivery of court services. Therefore, \$300,000 has been provided to allow continued efforts in the development of a unified technological plan for the Judiciary.

The growing need for office and storage space also reflects the rapid growth court programs have experienced over the years. As a short-term solution, your Committee has provided \$625,000 for the rental of additional office and storage space to mitigate the crowded conditions in the court system.

SUMMARY

Your Committee willingly took on the difficult task of developing a supplemental Judiciary Budget to provide the needed court services and programs to assure timely adjudications while ensuring the State's overall fiscal solvency. Because the fiscal integrity of the State is fundamental to sound and responsible government, your Committee took a cautious approach to all fiscal concerns in light of the current tight revenue projections and the anticipation of slow economic growth in the immediate years ahead.

In summary, your Committee believes that this supplemental Budget provides a responsible allocation of valuable, scarce resources to the Judiciary to provide needed court services and programs to assure timely adjudications.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 2705, H.D. 2, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 2705, H.D. 2, S.D. 1, C.D. 1.

Representatives Metcalf, Souki, Alcon, Baker, Chang, Duldulao, M. Ige, Kanoho, Kawakami, Say, Tajiri, Yonamine, Anderson and Marumoto,
Managers on the part of the House.

Senators Yamasaki, Aki, Blair, Hagino, Iwase, A. Kobayashi, B. Kobayashi, Levin, Solomon and George,
Managers on the part of the Senate.

Conf. Com. Rep. 150 on H.B. No. 3974

The purpose of the bill is to reduce and stabilize the cost of motor vehicle insurance in Hawaii.

Your Committee used two vehicles, this bill and S.B. No. 2361, C.D. 1, to overhaul the no-fault law. The bills address different areas and work in tandem to create the comprehensive changes to the no-fault law.

This bill amended the law in the following areas:

- (1) Instituted a change in the determination of the medical rehabilitative (monetary) threshold which is intended to allow only ten percent of accident claims to be eligible for tort recovery. In the intervening year (1992-1993) before that formula can be utilized, the medical rehabilitative threshold shall be \$10,000, effective September 1, 1992;
- (2) Rate reduction of fifteen percent and rate freeze. An insurer may petition for relief from the mandatory reduction or freeze only if it can show that it will be in imminent danger of insolvency. This section is also included in S.B. No. 2361, C.D. 1;
- (3) Reduction of bodily injury liability mandatory coverage from \$35,000 to \$25,000. This will decrease premiums, but consumers will continue to have the option to purchase higher limits, as optional bodily injury coverage is presently required and will continue to be required;
- (4) Increase of personal injury protection (PIP) benefits from \$15,000 to \$20,000. The PIP benefits have not been increased since the inception of the no-fault law, and your Committee finds that the increase in PIP benefits is necessary to reflect the effects of inflation;
- (5) An amnesty period for uninsured motorists so that they may obtain insurance without a penalty or surcharge in order to encourage voluntary compliance with the law yet maintain insurance affordability by suspending penalties and surcharges. This will encourage uninsured motorists to obtain coverage, thus lowering the number of uninsured motorists in Hawaii;
- (6) Disallowance of attorney fees for unreasonable claims in disputes involving no-fault benefits for the insured. Your Committee wishes to discourage unreasonable no-fault claims and prohibit payments of fees to attorneys handling such claims. This should result in lower claims costs, and ultimately lower insurance premiums;
- (7) Providing that insurers shall offer optional uninsured (UM) and underinsured (UIM) coverage at least equal to an insured's maximum bodily injury liability coverage, and optional stacking. Since the bill also contains a prohibition against the stacking of UM and UIM benefits, these provisions will allow consumers to obtain sufficient UM and UIM insurance coverages. This trade-off between the elimination of stacking and these optional coverages will be equitable only if consumers are fully informed of their loss of rights and ability to protect themselves through voluntary additional options at nominal cost;
- (8) Prior approval of insurance rates by the Insurance Commissioner. Under current law, insurance companies may simply file and use insurance premium rates thirty days after filing. Those rates need not be approved by the Insurance Commissioner before they are used by insurance companies. Your Committee expects that prior approval of insurance rates will assist in insuring that only rates that are reasonable and fair for both the consumer and insurance company are utilized in the State of Hawaii;
- (9) Adding the additional requirement that the Insurance Commissioner make available sample insurance rates by consumer request. The information should be easy to understand and printed in a legible form;
- (10) Required disclosure of deductible options and premium savings to consumers and increase of possible deductibles. Since the use of deductibles is at the option of the consumer, increasing required optional deductibles will give consumers greater flexibility to reduce their insurance premiums.

The law presently requires optional no-fault deductibles of \$100, \$300 and \$500. The bill requires the addition of an optional no-fault deductible of \$1,000. There currently are optional collision deductibles of \$50, \$100, \$250 and \$500. The bill increases the range of options to add \$1,000, \$1,500, and \$2,000 collision deductibles. Insurance companies currently offer comprehensive deductibles of \$50, \$100, and

\$250. The bill requires additional comprehensive deductibles of \$500, \$1,000, \$1,500, and \$2,000. All deductibles must be offered at appropriately reduced premium rates.

The bill also requires that insurance companies disclose deductible options to consumers when the policy is initially sold and at every renewal. Disclosure should inform consumers that deductibles are available and the premium savings for each deductible; and

- (11) Deleting the requirement of physical impact or independent evidence of unidentified vehicles in uninsured motorist claims to correct the unintentional addition of such requirement in the 1987 recodification of the insurance code, contrary to the legislative intent that the recodification was for the purpose of making nonsubstantive changes to the insurance laws.

Segregation of medical benefits under no-fault PIP payments is provided in S.B. No. 2361, C.D. 1, in order to establish direct payment to the health care provider and ensure proper enforcement of the medical fee schedule and guidelines. Further, explanatory language is also provided in S.B. No. 2361, C.D. 1, to ensure that other medical insurance coverage will be applicable in the event of the exhaustion of the \$10,000 PIP benefits, allocated to medical and rehabilitative services. S.B. No. 2361, C.D. 1, also increases wage loss from \$900 per month to \$1200 per month to reflect the effect of inflation.

Your Committee intends that although the lower rates, higher deductible options, and decreased mandatory coverage requirements will be made available to consumers as their insurance policies come up for renewal after January 1, 1993, consumers who do not wish to wait until renewal may amend their existing policies to take advantage of the new limits and options.

Your Committee on Conference is in accord with the intent and purpose of H.B. No. 3974, H.D. 1, S.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as H.B. No. 3974, H.D. 1, S.D. 1, C.D. 1.

Representatives Hirono, Metcalf, Amaral, Morihara, Takamine and Thielen,
Managers on the part of the House.

Senators Ikeda, Iwase, McCartney and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 151 on S.B. No. 2423 (Majority)

The purpose of this bill is to require that seven and one-half per cent of the transient accommodations tax (TAT) revenues allocated to each county be designated for visitor promotion in that county. As received, the bill would require the counties to administer the moneys in consultation with the local chapters of the Hawaii Visitors Bureau and the Hawaii Hotel Association.

Your Committee has amended the bill as follows:

- (1) By changing "1990" to "1992" at page 1, line 3; and
(2) By substituting the word "concurrence" for "consultation" on page 1, line 17.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2423, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2423, S.D. 1, H.D. 2, C.D. 1.

Representatives Cachola, Ihara, Souki, Baker, Kanoho, Say and Anderson,
Managers on the part of the House.
(Representative Ihara did not concur.)

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

Conf. Com. Rep. 152 on S.B. No. 2997

The purpose of this bill is to appropriate \$1 to plan and design the implementation of the Kahuku Flood Relief Master Plan, provided that the City and County provides \$250,000 and the federal government provides \$500,000 for the project.

Your Committee finds that flooding in the Kahuku area causes widespread property damage and presents potential public health and safety problems.

Upon further consideration your Committee has amended the bill by increasing the appropriation from \$1 to \$250,000.

Your Committee has also amended the 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 Conference is in accord with the intent and purpose of S.B. No. 2997, S.D. 1, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2997, S.D. 1, H.D. 1, C.D. 1.

Representatives Metcalf, Hashimoto, Say, Alcon, Amaral and Ward,
Managers on the part of the House.

Senators Yamasaki, Aki, Fernandes Salling, McCartney and George,
Managers on the part of the Senate.

Conf. Com. Rep. 153 on S.B. No. 2882

The purpose of this bill is to: (1) establish a temporary Waikiki Task Force to oversee the implementation of the Waikiki District Master Plan; (2) establish the boundaries of the Waikiki District; (3) create a Waikiki District Special Fund; (4) transfer employees of the Waikiki Convention Center Authority to the temporary task force; and (5) appropriate an unspecified amount, to be matched by the City and County of Honolulu, for deposit into the special fund.

Upon further consideration, your Committee on Conference has amended the bill by:

- (1) Adding a definition of "developer" to Chapter 206X, Hawaii Revised Statutes, dealing with the Waikiki Convention Center Authority;
- (2) Removing from Chapter 206X, the requirement that the convention center be built in Waikiki by a private developer, and all references to "Waikiki" in connection with the title of the authority, the convention center district, and the convention center development revolving fund;
- (3) Authorizing the convention center authority to operate a convention center upon dedication to the State, and to issue revenue bonds;
- (4) Modifying the membership of the Waikiki Task Force;
- (5) Specifying \$75,000 as the amount to be deposited into the Waikiki District Special Fund;
- (6) Deleting provisions transferring the employees of the Waikiki Convention Center Authority to the Waikiki Task Force;
- (7) Extending the term of the Convention Center Authority to June 30, 1994;
- (8) Making all provisions relating to the Waikiki Task Force, including the appropriation for the special fund, effective on September 1, 1992, but only if the task force appointed by the Mayor of the City and County of Honolulu has not held its first meeting, is operational, or has provided a status report of its activities by that date; otherwise all of the Waikiki Task Force provisions become void; and
- (9) Providing for the repeal, in any event, of all provisions relating to the Waikiki Task Force on June 30, 1994; and
- (10) 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 Conference is in accord with the intent and purpose of S.B. No. 2882, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2882, S.D. 2, H.D. 2, C.D. 1.

Representatives Cachola, Souki, Baker, Kanoho, Kawakami, Say, Tajiri and Anderson,
Managers on the part of the House.

Senators Yamasaki, A. Kobayashi, McMurdo, Nakasato, Solomon and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 154 on S.B. No. 2868

The purpose of this bill, as received, is to establish a rental housing trust fund under the Housing Finance and Development Corporation to provide loans or grants to housing developers for the construction of rental housing units for low income households. The bill further requires that conveyance tax revenues pursuant to Chapter 247, Hawaii Revised Statutes, be deposited into the Trust Fund effective July 1, 1993.

In addition, the Director of Finance is authorized to transfer \$15,000,000 into the trust fund from the Rental Assistance Revolving Fund.

Your Committee finds that there is an extreme shortage of rentals available for Hawaii's people. In addition, current efforts have failed to help the greatest need, the need for affordable rentals.

Rental housing trust funds have been proven in other states and governmental jurisdictions to be a very effective way in producing affordable housing units in a timely fashion.

Your Committee finds that creating an independent commission which will have the authority to expend trust fund moneys will enable the commission to respond to community concerns and needs along with expediting the approval process. It is important to have public members, such as, real estate brokers, tenant and renter advocacy organizations, non-profit housing developers, mortgage lenders and architects who represent areas that will utilize the trust fund, service those who receive loans or grants from the trust fund will be best able to decide the priorities for distributing the trust fund moneys.

Any project built utilizing the trust fund moneys shall make at least half of the available units for persons and families with incomes at or below 60% of the median family income, based on the median income for the area in which the project is built. Because affordable units are in demand even for moderate income people, the remaining units of a rental housing trust fund project shall be designated for persons and families with incomes at or below 100% of the median income of the area. This will also aid in keeping a healthy economic mix of residents in any one project.

In addition, the bill defines what activities shall be eligible for assistance and what types of units should be considered. Your Committee finds that it is important to move away from the traditional focus of single-family homes and build units that require the least amount of subsidy.

The commission shall have the authority to accept or deny applications based on each project's ability to serve the target population inter alia and the type of unit to be built. The bill recommends that the commission establish a point system for ranking each application on a case-by-case basis. This point system shall ensure that only projects that meet the standards set forth in this bill, and in the administrative rules created to support the intent of this legislation will be built with rental housing trust fund moneys.

Your Committee finds that nonprofit organizations have had difficulty competing in the development of affordable housing due to the large amounts of capital needed for a project. The intent of this bill is to ensure that nonprofit organizations will be able to compete in the affordable housing market based on the merits of the projects they propose, not on the amount of capital they possess. With this in mind, the commission is directed in its point ranking system to accept the nonprofit project rather than a for-profit project if the projects rank equally based on the criteria set forth in the Act.

Your Committee is aware that previous programs designed to encourage housing development have failed to meet demand, in part because of excessive regulatory and paperwork requirements imposed on applicants. The commission is encouraged to develop rules to ensure that the processing of applications for funding can be carried out in the simplest and most expeditious manner consistent with its obligation to protect the interests of the rental housing trust fund.

Your Committee finds that the housing crisis in Hawaii effects all taxpayers. The movement to solve our housing crisis should not be burdened onto one specific tax, such as the conveyance tax, but be the responsibility of the broad tax base of the general fund. It is for this reason your Committee has amended the bill to delete the conveyance tax as a source of funding for the rental housing trust fund.

Your Committee has further amended the bill by:

- (1) Placing the rental housing trust fund and the commission within the Department of Budget and Finance (Department) for administrative purposes only;
- (2) Changing the statutory location of the trust fund from 201E, Hawaii Revised Statutes, to a new chapter to be appropriately designated;
- (3) Adding a section on definitions used in the new chapter;
- (4) Changing the size of the commission from seventeen members to seven;
- (5) Providing loan parameters which restrict loan-to-value ratios from exceeding ninety-five per cent and providing underwriting guidelines for a debt-coverage ratio of not less than 1.05 to 1;
- (6) Allowing the commission to obtain the services of technical and support staff from other government agencies;
- (7) Defining the roles of the Housing Finance and Development Corporation (corporation) and the Department;
- (8) Providing for the establishment of an interim commission for the purposes of establishing administrative rules;
- (9) Making other technical, non-substantive amendments for the purpose of style and clarity.

Your Committee wishes to express its strong desire to expedite the administrative rule-making process. Hawaii's rental housing crisis needs the rental housing trust fund up and running as soon as possible. To accomplish this expedited process, your Committee requests that the interim commission appointed by the Governor, work with the Department, the corporation and the members of the community who participated in the creation of this legislation, to develop the the administrative rules as quickly as possible.

It is equally as important to emphasize that the trust fund not only serves as a fund for low interest loans, but as a grant making fund.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2868, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2868, S.D. 2, H.D. 2, C.D. 1.

Representatives Bainum, Souki, Amaral, Arakaki, Chun, Kanoho, Say and Tatibouet,
Managers on the part of the House.

Senators Yamasaki, Crozier, A. Kobayashi, B. Kobayashi and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 155 on S.B. No. 2867

The purpose of this bill is to establish the Infrastructure and Equity Gap Development Fund (Fund) to be used by the Housing Finance and Development Corporation (HFDC) to provide developers with grants for the development of necessary infrastructure and the provision of equity gap financing related to the construction of affordable rental developments for low, very low, moderate, and gap group income families.

Your Committee finds that there is a shortage of affordable housing in Hawaii and that development of affordable housing and projects by private entities must be encouraged.

Accordingly, your Committee has amended this bill to expand opportunities for development of affordable rental housing projects. Your Committee has amended the bill to:

1. Clarify the definition of "eligible borrower" and "eligible loan" in the Taxable Mortgage Securities Program;
2. Clarify what portion of the rental assistance revolving fund may be used by the HFDC to make payments under rental assistance contracts, rent subsidies or construction financing;
3. Provide that proceeds of any bond issues may be included in the principal sum of the rental assistance revolving fund;
4. Correct a statutory reference in section 201E-134;
5. Provide that HFDC may use up to \$25,000,000 of the rental assistance revolving fund to finance development by private profit and nonprofit entities, in addition to HFDC, of affordable rental housing.
6. Delete the establishment of the Infrastructure and Equity Gap Development Fund;
7. Clarify that the high cost of infrastructure development and obtaining interim construction financing are two great impediments to the development of affordable rental housing in Hawaii and that the purpose of this bill is to provide such interim construction, with a preference for qualified sponsors who are private entities;
8. Delete the provision that allowed the corporation to pay in full at any time certain rental contract obligations; and
9. Requires that HFDC reserve an amount equal to ten per cent of the outstanding guarantees and to state that the amount satisfies the constitutional reserve requirement.

It is the Legislature's intent that the rental assistance revolving fund shall be used by HFDC primarily to finance the development of affordable rental housing by private nonprofit and profit entities and not for development of HFDC projects. Although HFDC itself may use the fund to develop affordable rental housing, HFDC's use is intended to be secondary to use for financing of private entities.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2867, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2867, H.D. 2, C.D. 1.

Representatives Isbell, Souki, Amaral, Bainum, Chang, Chun, Say and Tatibouet,
Managers on the part of the House.

Senators Crozier, Yamasaki, Aki and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 156 on S.B. No. 2485

The purpose of this bill is to ensure that the Office of Hawaiian Affairs (OHA) realizes income from lands in the public land trust conveyed by the Department of Land and Natural Resources to the Housing Finance and Development Corporation (HFDC) for master planned community development.

Section 10-13.5, Hawaii Revised Statutes, provides that twenty percent of the proceeds derived from the public land trust shall be expended by OHA for the betterment of the conditions of native Hawaiians.

This bill provides that in cases of transfers of public land trust property from DLNR to HFDC, OHA shall be entitled to twenty percent of the fair market value of the land as determined by disinterested appraisers, plus an additional five percent simple interest on any unpaid portion. The bill clarifies that moneys derived from the development of housing

projects pursuant to section 201E-2 are excluded from revenues from the public land trust to which OHA is entitled except as provided in this bill. The bill also establishes an advisory commission on the compensation of OHA trustees to study and make recommendations to the 1993 Legislatures.

Your Committee finds that it was the intent of the Legislature, in enacting OHA and the public land trust provision, to provide OHA with substantial revenues from transactions involving the trust. The bill is consistent with that intent in that it provides a means to determine the amount of compensation due and owing to OHA.

Your Committee finds that these transactions are likely to occur in pursuit of State objectives relating to housing, and that public policy would be obviated unless OHA is compensated fairly. This bill provides one means of prohibiting the State from circumventing legislative intent.

Your Committee has amended the bill by:

- (1) Amending the definition of "fair market value" to utilize the highest and best use appraisal value;
- (2) Adding a definition of "highest and best use" which means the most profitable, probable, and legal use to which the land can be put;
- (3) Changing the rate of interest payable on the amount owing to OHA to simple interest established pursuant to the fifteen year treasury rate and payable annually;
- (4) Providing that OHA will receive twenty percent of the revenues received by HFDC for commercial, industrial, or other non-residential use of the property, but not until HFDC recovers the amount already paid to OHA for the land and only from revenues remaining after HFDC has met its operating expense obligations in an amount up to one percent of the project revenues and its annual debt service on moneys borrowed for the land used for commercial, industrial, or other non-residential purposes;
- (5) Providing that the two appointed appraisers must agree within thirty days instead of ten days or the parties shall contract the services of a mutually selected third appraiser; and
- (6) Providing that Sections 1 and 2 of this Act shall apply only to HFDC's developments known as Kealakehe and Lahaina.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2485, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2485, S.D. 2, H.D. 2, C.D. 1.

Representatives Young, Souki, Baker, D. Ige, Morihara, Say and O'Kieffe,
Managers on the part of the House.

Senators Yamasaki, Aki, Crozier, B. Kobayashi and George,
Managers on the part of the Senate.

Conf. Com. Rep. 157 on S.B. No. 2638

The purpose of this bill is to ensure that the Department of Hawaiian Home Lands (DHHL) realizes thirty percent of the revenue derived from the transfer of former sugarcane lands as set forth in Article XII, Section 1, of the Constitution of the State of Hawaii, when conveyed for the development of housing projects to the Housing Finance and Development Corporation (HFDC).

Specifically, the bill:

- (1) Requires the amount of compensation to DHHL to be computed by a formula specifying that the fair market value of the land is to be multiplied by thirty percent;
- (2) Defines "fair market value" as the amount of money which a purchaser willing but not obliged to buy would pay to an owner willing but not obliged to sell, taking into consideration governmental land use designations and zoning affecting the land at the time of the appraisal;
- (3) Requires the performance of appraisals for said sugarcane lands by two disinterested appraisers;
- (4) Provides for the selection of a mutually agreed upon third appraiser and sets forth a course of action to follow, in the event the two appraisers are unable to agree on a fair market value;
- (5) Provides that the amount due to DHHL as compensation for the lands transferred shall be payable on the date of the conveyance of the land to HFDC, and any amounts not paid at this point in time will be subject to a five percent simple interest per annum payment by the State to DHHL; and
- (6) Specifies that if the amount is not paid to the DHHL on a timely basis, the appraised value amount will be subject to five percent simple interest per annum additional payment.

By way of a brief background, Article XII, Section 1, of the Constitution of the State of Hawaii provides that thirty percent of State receipts derived from the lease of lands cultivated as sugarcane lands as of November 7, 1978, shall

continue to be transferred to DHHL "whenever such lands are sold, developed, leased, utilized, transferred, set aside, or otherwise disposed of for purposes other than the cultivation of sugarcane."

The subject of DHHL's thirty percent entitlement has been the subject of a long, and oftentimes emotional, debate. This particular measure along with a host of other native Hawaiian entitlement measures has been one of the most difficult issues to resolve. The Legislature has recognized that native Hawaiians are entitled to certain forms of compensation. However, State funding sources must be identified in a fiscally austere biennium to pay a fair market price for the transfer of public land trust sugarcane lands for housing development.

In its deliberations, your Committee has resolved to fashion a fair compensation formula which reflects accepted appraisal assumptions and guidelines to come up with the most equitable formula for the computation of land values. It is the intent of your Committee to strive for a formula which results in computations which are fair, and which result in a fair price for public land trust sugarcane lands being transferred for housing development.

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

- (1) Amending the definition of "fair market value" to utilize the highest and best use appraisal value;
- (2) Adding a definition of "highest and best use" which means the most profitable, probable, and legal use to which the land can be put;
- (3) Changing the rate of interest payable on the amount owing to DHHL to simple interest established pursuant to the fifteen year treasury rate and payable annually;
- (4) Providing that DHHL will receive thirty percent of the revenues received by HFDC for commercial, industrial, or other non-residential use of the property, but not until HFDC recovers the amount already paid to DHHL for the land and only from revenues remaining after HFDC has met its operating expense obligations in an amount up to one percent of the project revenues and its annual debt service on moneys borrowed for the land used for commercial, industrial, or other non-residential purposes;
- (5) Providing that the two appointed appraisers must agree within thirty days instead of ten days or the parties shall contract the services of a mutually selected third appraiser; and
- (6) Providing that Section 1 and 2 of this Act shall apply only to HFDC's developments known as Kealakehe and Lahaina.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2638, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2638, S.D. 1, H.D. 2, C.D. 1.

Representatives Young, Souki, Baker, D. Ige, Morihara, Say and O'Kieffe,
Managers on the part of the House.

Senators Yamasaki, Crozier, A. Kobayashi, B. Kobayashi and George,
Managers on the part of the Senate.

Conf. Com. Rep. 158 on S.B. No. 2407

The purpose of this bill is to:

- (1) Establish a fifteen-member Queen Liliuokalani Commemoration Commission to be appointed by the Governor and placed within the Office of Hawaiian Affairs, for administrative purposes, for the planning and execution of activities to educate all segments of the population on the life of Queen Liliuokalani;
- (2) Appropriate \$500,000 for commemorative activities and to disseminate information; and
- (3) Declare January 17, 1993, as a day of commemoration to recognize the life and contributions of Queen Liliuokalani.

Your Committee has amended this bill to:

- (1) Change the amount to be appropriated to \$90,000;
- (2) Provide that the appropriation shall be expended as follows: \$25,000 for the island of Hawaii; \$25,000 for the island of Kauai; \$25,000 for the island of Maui; and \$15,000 for the island of Molokai;
- (3) Clarify that commemoration activities are to be held on the week-end of January 17, 1993 and that it is not the legislature's intent for the commission to schedule activities for the entire year;
- (4) 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; and
- (5) Delete requirement that appropriation be expended on a traveling dramatic production, a musical composition, and a film documentary on the making of the composition.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2407, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2407, S.D. 2, H.D. 2, C.D. 1.

Representatives Hagino, Say, Hiraki, Kawakami, Santiago and Thielen,
Managers on the part of the House.

Senators Yamasaki, Crozier, Hagino, Tungpalan and Reed,
Managers on the part of the Senate.

Conf. Com. Rep. 159 on S.B. No. 3116

The purpose of this bill is to require the Legislative Reference Bureau to conduct a study and draft proposed legislation to enact a comprehensive procurement code for Hawaii. This bill also broadens the instruments acceptable as deposits of legal tender by agencies advertising for tenders.

Following its review of this measure, your Committee has amended this bill by requiring the Office of the Auditor to assume the responsibility of performing the comprehensive review of Hawaii's current procurement law and developing the recommendations to enact a new procurement code. Accordingly, the Legislative Reference Bureau has been reassigned to perform the task of drafting the legislation necessary to implement the findings of the Office of the Auditor.

Your Committee has also reinserted an amendment to the bid deposit provision of the procurement law that was deleted from the Senate version of this measure. The amendment provides the Comptroller the discretion to determine on a case-by-case basis, which bids shall be accompanied by deposits of legal tender.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 3116, S.D. 1, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 3116, S.D. 1, H.D. 2, C.D. 1.

Representatives Metcalf, Ihara, Souki, Amaral, Kanoho and Ward,
Managers on the part of the House.

Senators Yamasaki, Hagino, A. Kobayashi, B. Kobayashi and George,
Managers on the part of the Senate.

Conf. Com. Rep. 160 on S.B. No. 2855

The purpose of this bill is to appropriate funds and provide additional means for compensating the Department of Hawaiian Home Lands for the State's past wrongful, improper, or unauthorized withdrawals, transfers, takings or uses of Hawaiian home lands which occurred from August 21, 1959 to the present and to pursue claims against the federal government.

In 1988, after much debate, the Legislature enacted Act 395 establishing a Native Hawaiian Trusts Judicial Relief Act which granted the right to sue for breaches of trust occurring after July 1, 1988. Recognizing the existence of past controversies, Act 395 required the Governor to present a proposal to the Legislature to resolve controversies relating to the Hawaiian Home Lands Trust which occurred between Statehood and 1988.

Resolving wrongful set asides is one of a number of actions proposed in the Governor's Action Plan to Address Controversies Under the Hawaiian Home Lands Trust and the Public Land Trust which was supported and amended by S.C.R. No. 185, adopted by the Sixteenth Legislature.

Last year, the Legislature appropriated \$14,480,000 to the Department of Hawaiian Home Lands for the development of infrastructure. Your Committee believes that by appropriating the amounts stated in the bill, further development of Hawaiian home lands can be accomplished.

Your Committee has amended the bill by replacing its entire contents with that of H.B. No. 2922, H.D. 2, S.D. 1, and by making the following amendments:

- (1) Deleting Section 4(a) in order to remove language authorizing the Hawaiian Homes Commission to grant the State interests less than fee simple absolute for a lump sum in order to allow specific public uses of Hawaiian home lands;
- (2) Changing the amount appropriated to the Office of State Planning to continue to assist the State task force on the Department of Hawaiian Home Lands title and related claims in preparing the remaining claims for submission to the Legislature in 1993 from \$675,000 to \$640,000;
- (3) Changing the amount appropriated to the Department of the Attorney General to pursue Hawaiian Home Lands trust claims against the Federal government from \$500,000 to \$350,000;
- (4) Changing the amount appropriated to the Department of Hawaiian Home Lands to conduct an audit of the sugarcane lease entitlement to Hawaiian Home Lands;

- (5) 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; and
- (6) Making technical non-substantive amendments for the purposes of clarity and style.

Your Committee on Conference believes that this legislation will resolve some of the controversies relating to the Hawaiian Home Lands trust as required under Act 395, Session Laws of Hawaii 1988, and will provide resources and authorization to pursue resolution of the remaining claims.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2855, S.D. 2, H.D. 2, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2855, S.D. 2, H.D. 2, C.D. 1.

Representatives Young, Souki, D. Ige, Morihara, Say, Tajiri and Thielen,
Managers on the part of the House.

Senators Yamasaki, Aki, Crozier, Holt and George,
Managers on the part of the Senate.

Conf. Com. Rep. 161 on s.B. No. 2361

The purpose of this bill as received by your Committee is to amend the no-fault law with the intent of reducing and stabilizing the soaring cost of motor vehicle insurance in this State.

Your Committee finds that very few substantive changes have been made to Hawaii's no-fault law since its enactment in 1973 for the purpose of providing benefits without regard to fault and controlling insurance rates by limiting tort actions. Yet, insurance premiums have escalated dramatically due, in part, to the tremendous increase in amounts paid out for benefits. This increase in benefit payments has been driven, in part, by increased litigation. While the framers of the no-fault law intended to exclude ninety per cent of accident claims from the tort recovery system, an insurance industry study estimated that twenty-eight per cent of today's accident claims end up in tort.

After lengthy and laborious deliberations over the different approaches taken by the Senate and the House, your Committee has agreed to report out conference versions of this bill and H.B. No. 3974 in tandem. These two measures represent a coalescence of approaches and alternatives aimed at reducing and stabilizing the cost of motor vehicle insurance in this State. To emphasize the Legislature's intent and commitment to provide immediate relief to consumers and to maintain a persistent regulatory posture on motor vehicle rate increases in the future, both bills provide for a fifteen per cent rate reduction and a one-year freeze on rates.

Each bill also contains different provisions which together will provide the long-awaited reforms to the no-fault law. Although the actual impact of these amendments can only be determined over time, your Committee strongly believes that these bills represent critical and necessary first steps to restore the original intent of the no-fault law--to keep ninety per cent of motor vehicle accident victims out of the tort recovery system while providing them with adequate and fair benefits.

Your Committee is confident that the initial monetary threshold of \$10,000 in H.B. No. 3974 and the medical fee schedule in this conference draft together will contain the number of accident claims eligible for tort actions to ten per cent, thus reducing costs.

This bill as received by your Committee has been amended by:

- (1) Establishing a medical fee schedule which limits charges and frequency of medical services and treatment by adopting, by reference, the workers' compensation fee schedule and guidelines;
- (2) Allowing, under certain circumstances, the limits of the medical fee schedule to be exceeded and establishing a peer review process for insurers to evaluate treatment and rehabilitative services provided to an injured person;
- (3) Increasing the personal injury protection (PIP) benefits from \$15,000 to \$20,000. The PIP benefits have not been increased since the inception of the no-fault law, and your Committee finds that the increase in PIP benefits is necessary to reflect the effects of inflation;
- (4) Segregating medical benefits under no-fault PIP payments in order to provide for direct payment to the health care provider and ensure proper enforcement of the medical fee schedule and guidelines. Explanatory language is also provided in the bill to ensure that other medical insurance coverage will be applicable in the event of the exhaustion of the \$10,000 PIP benefits, allocated to medical and rehabilitative services;
- (5) Increasing the wage loss benefit from \$900 per month to \$1,200 per month to reflect the effect of inflation;
- (6) Prohibiting a surcharge on premiums on an insured for not having prior no-fault insurance unless that person was convicted for such an offense;
- (7) Banning stacking of uninsured and underinsured motorist coverages;
- (8) Requiring a sixty-day notice of cancellation for insurers who cease to write no-fault policies in this State; and

(9) Prohibiting collusion between health care providers and attorneys.

This bill, as amended, imposes tremendous responsibilities on the insurance division to effectuate the intent of the Legislature in enacting the various amendments included in this bill and in the conference version of H.B. No. 3974. The insurance division must maintain an active, consumer-advocacy posture in administering the no-fault law if the Legislature's intent to maintain reasonable control over motor vehicle rate increases and tort actions is to be realized. The insurance division, not the Legislature, is privy to the most current data and trends regarding the insurance industry and motor vehicle accident claims. As such, the insurance division must take a more proactive role in analyzing the data it possesses, flagging-out and forecasting problems with the no-fault law and motor vehicle insurance, and developing recommendations for remedial action by the Governor and the Legislature. Your Committee emphasizes that the reforms offered by this bill and the conference version of H.B. No. 3974 are hinged upon a tenacious regulatory effort by the insurance commissioner to assess and monitor the effects of the reforms in stabilizing and further reducing motor vehicle insurance rates. The resources made available through the no-fault administration fund created in this bill should enable the commissioner to do this.

Your Committee further notes that while a rate freeze will be imposed during the 1993 calendar year, this bill allows an insurer threatened by imminent danger of insolvency to request a rate increase.

As a final note, your Committee emphasizes that meaningful reform of the no-fault law to stabilize the cost of insurance can only be achieved if all parties in the no-fault insurance system work together and are willing to make concessions in the interest of developing a system that is effective and fair.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2361, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2361, S.D. 2, H.D. 1, C.D. 1.

Representatives Hirono, Metcalf, Amaral, Morihara, Takamine and Thielen,
Managers on the part of the House.

Senators Ikeda, Iwase, McCartney and Koki,
Managers on the part of the Senate.

Conf. Com. Rep. 162 on S.B. No. 2547

The purpose of this bill is, among other things, to: (1) establish an executive coordinating council within the Office of State Planning to provide policy recommendations to the Governor on purchase of service funding levels for state executive branch agencies; (2) delete the definition of "grant" from Section 42D1, Hawaii Revised Statutes, and make conforming amendments throughout chapter 42D; (3) change the placement, composition, and role of the advisory council; (4) delete the requirement that agency advisory committees be convened; (5) exempt agencies from advertising requirements in the case of providers specified by federal law; (6) delete the requirement that an appeal process be developed by each agency; and (7) appropriate a total of \$200,000 for coordination of a planning process, and staffing for the Office of State Planning.

Upon further consideration your Committee on Conference has amended the bill by:

- (1) Reinstating both the definition of "grant" in Section 42D-1 and corresponding terminology throughout Chapter 42D; and
- (2) Providing a review process by which an organization not recommended for funding may request reconsideration by the executive coordinating council; and
- (3) Adding a new section stating the reasons why and the amount and rate by which the appropriations contained in the bill exceed the state spending limit to comply with constitutional and statutory requirements.

While your Committee has reinstated the "grant" terminology presently contained in Chapter 42D, it wishes to make clear that the meaning of the term "grant" is not to be limited to a one-time award of funds. Nevertheless, the intent is to view grants as an instrument to encourage innovativeness and, as such, they should not be considered an ongoing means of funding. Your Committee also wishes to point out that the final form of this bill is motivated by a letter of commitment from the administration agreeing to continue dialogue between public agencies and the private sector.

Your Committee on Conference is in accord with the intent and purpose of S.B. No. 2547, S.D. 2, H.D. 1, as amended herein, and recommends that it pass Final Reading in the form attached hereto as S.B. No. 2547, S.D. 2, H.D. 1, C.D. 1.

Representatives Souki, Baker, Kanoho, Say, Yonamine and Marumoto,
Managers on the part of the House.

Senators Yamasaki, B. Kobayashi, Levin, McMurdo and George,
Managers on the part of the Senate.

SPECIAL COMMITTEE REPORTS**Spec. Com. Rep. 1**

Your Committee on Credentials begs leave to report that it has thoroughly considered the matter of the seating of Edward K. Thompson, III, as a member of the House of Representatives of the Sixteenth Legislature of the State of Hawaii.

Your Committee was referred the communication dated December 31, 1991, from the Governor of the State of Hawaii on the appointment of Edward K. Thompson, III, to fill the vacancy created by the resignation of the former State Representative Dwight L. Yoshimura. After reviewing the communication of appointment and the qualification of the appointee, your Committee finds the said appointee to be qualified and recommends that Edward K. Thompson, III, be seated as a member of the House of Representatives from the Thirty-Sixth Representative District.

Signed by Representatives Metcalf, Amaral, Arakaki, Bainum, Cachola and Ward.

Spec. Com. Rep. 2

Your Interim Subcommittee to Study Violations of the State Lease at Puuwaawaa begs leave to report as follows:

SUBCOMMITTEE APPROACH

Your Interim Subcommittee conducted two informational briefings and a site visit to obtain information on the management of State lease lands at Puuwaawaa on the Big Island. Your Subcommittee was concerned that the violations of the State lease at Puuwaawaa may be indicative of a need for the Department of Land and Natural Resources (DLNR) to improve its land management practices throughout the State. For this reason, the objectives of these briefings and site visit were:

- (1) To verify the damage done to the native flora and fauna at Puuwaawaa and to determine the appropriateness of preserving the remaining remnants of these resources; and
- (2) To review State land management procedures to identify problems that may prevent DLNR from better enforcing the terms of lease agreements as well as applicable government regulations.

BACKGROUND**I. Statutory Authority**

Chapter 171, Hawaii Revised Statutes (HRS), authorizes the DLNR to manage, administer, and exercise control over public lands as defined by Section 171-2, HRS. Lands that have not been set aside for public purposes, in accordance with Section 171-11, HRS, are made available to the public by sale in fee simple, by lease, lease with option to purchase, license, or permit (Section 171-13). All disposition of public lands, except as otherwise specifically provided, are made at public auction.

II. Brief History of General Lease No. S-3589

On August 15, 1960 (State of Hawaii. General Lease No. S-3589 between State of Hawaii and Dillingham Ranch, Inc. covering Government Lands of Puuanahulu and Puuwaawaa, North Kona, County and Island of Hawaii, State of Hawaii. p. 23), the State leased 105,796 acres to Dillingham Ranch Inc. (According to Exhibit "A" of the general lease, the leased land contained a gross area of 107,275.00 acres and a net area of 105,796.58 acres of State land in the Puuwaawaa region of North Kona on the Big Island to members of the Dillingham family (General Lease No. S-3589). Among other things, the lease included the following provisions:

- (1) The term of the lease was forty years (ending on August 14, 2000) (State of Hawaii. General Lease. Paragraph 40. p. 23);
- (2) The lease lands were to be used **exclusively** for pasture purposes (Paragraph 27 on page 13 of the general lease entitled "Character of use" states: "That the Lessee shall not, without the prior written consent of the Lessor, devote or place said demised premises to a use or uses other than pasturage in character, except that a use other than pasturage in character may be permitted if in direct support or furtherance of pasturage use for the remainder of the premises"); and
- (3) The lease rent was set for \$30,000/year (or approximately \$0.28/acre/year) for the first twenty years (Paragraph 40 of the general lease states: "For the first twenty (20) years (August 15, 1960 to August 14, 1980, inclusive) of said term, the rent shall be the sum of THIRTY THOUSAND AND NO/100 DOLLARS (\$30,000) per annum"). Subsequent lease rent would be negotiated every ten years thereafter.

Since that time, three major changes have occurred to the lease:

- (1) In September, 1972, Dillingham Ranch transferred the lease to F. Newell Bohnett (DLNR. Assignment of Lease. September 15, 1972);
- (2) In 1984, DLNR negotiated a new lease rent of about \$1.20/acre, retroactive to 1980; and
- (3) On April 16, 1991, the State withdrew some 84,397 acres from the lease "...for use as a wild bird sanctuary (State of Hawaii. Partial Withdrawal From General Lease No. S-3589. p. 2)." In exchange for this withdrawal, the lease rent for the remaining 21,158 acres was reduced to \$24,180 per year through August 14, 1990 or \$1.14/acre/year (DLNR. Partial Withdrawal From General Lease No. S-3589, p. 2).

During the period that the current lessee has held the lease, there have been numerous reports of violations of either the lease agreement or of other government regulations. For example:

- (1) In 1974, reports claimed that the current lessee was illegally installing pipelines, uprooting trees, and allowing rocks to fall on the road (Patricia Tummons, "Puuwaawaa Burns, And The DLNR Fiddles," Environment Hawaii. vol. 1, no. 9, March 1991, p. 6 - attached to testimony on House Concurrent Resolution No. 146 and House Resolution No. 155 submitted by Jocelyn Fujii, to the Honorable David Hagino, Chairman, House Water, Land Use, and Hawaiian Affairs Committee, April 5, 1991);
- (2) In 1975, the State determined that the current lessee had, without prior authorization, constructed an airstrip, hangars, and a pump at the Kiholo well (Patricia Tummons. Ibid., p. 6); and
- (3) In 1983, the State ordered the current lessee to cease all koa logging operations. Eventually, the State fined the current lessee \$34,600 for illegally harvesting koa trees within the Conservation district (Patricia Tummons, "The Saga of the Koa", Environment Hawaii. vol. 1, no. 9, March 1991, p. 4 - attached to testimony on House Concurrent Resolution No. 146 and House Resolution No. 155 submitted by Jocelyn Fujii, to the Honorable David Hagino, Chairman, House Water, Land Use, and Hawaiian Affairs Committee, April 5, 1991).

III. Threatened Flora and Fauna at Puuwaawaa

Such violations may not be so significant except for the fact that the Puuwaawaa region **once housed an outstanding population of native flora and fauna**. The noted botanist Joseph Rock once declared that native vegetation "...reaches its culminating point at Puuwaawaa, the richest floral section of any in the whole Territory ("Puuwaawaa Burns, And The DLNR Fiddles," Environment Hawaii. vol. 1, no. 9, March 1991, p. 6 - attached to testimony on House Concurrent Resolution No. 146 and House Resolution No. 155 submitted by Jocelyn Fujii, to the Honorable David Hagino, Chairman, House Water, Land Use, and Hawaiian Affairs Committee, April 5, 1991)." Yet, these State lands are currently leased for pasture purposes, an incompatible use. Concerns over the perceived decline of the native flora have alarmed many area residents and environmentalists who claim that the current lessee has accelerated this decline due to poor and oftentimes unapproved land use practices. More specifically:

- (1) In 1985, after a 3,300 acre remnant dryland native forest stand was proposed for Natural Area Reserve status, approximately 1,900 acres of the site was destroyed by a brush fire of unknown origin in 1986 (DLNR, Puuwaawaa Wildlife Sanctuary Chronology, September 9, 1991; and Testimony on House Concurrent Resolution No. 146 and House Resolution No. 155 submitted by the Sierra Club Hawaii Chapter, to the Honorable David Hagino, Chairman, House Water, Land Use, and Hawaiian Affairs Committee, April 5, 1991); and
- (2) Illegal koa logging operations took place in one of only two remaining habitats known to support the endangered alala (Hawaiian Crow) (Testimony on House Concurrent Resolution No. 146 and House Resolution No. 155 submitted by Jacquelin Miller, University of Hawaii at Manoa Environmental Center, to the Honorable David Hagino, Chairman, House Water, Land Use, and Hawaiian Affairs Committee, April 5, 1991).

Thus, one of the major issues revolves around the conflict between the enforcement of the lease for its original use, i.e. pasture purposes, and the need to address new concerns, i.e. the protection of the remnant flora and fauna.

IV. DLNR's Land Management Practices

Compounding matters are claims made during the April 5, 1991 public hearing on two related resolutions (H.C.R. No. 146, H.D. 1, S.D. 1 and H.R. No. 155, H.D. 1) that the DLNR has been negligent in aggressively enforcing the terms of the lease as well as other government regulations to adequately protect the public's interest at Puuwaawaa. Briefly, these claims are that:

- (1) DLNR has not sought prompt payment of five year's worth of back lease rent from the current lessee. Instead, DLNR allowed the repayment of the back rent over a fifteen-year period without being charged interest (Testimony on House Concurrent Resolution No. 146 and House Resolution No. 155 submitted by Peter Rappa, to the Honorable David Hagino, Chairman, House Water, Land Use, and Hawaiian Affairs Committee, April 5, 1991);

- (2) DLNR has not made adequate progress in withdrawing land from the lease. On October 12, 1984, the Board of Land and Natural Resources (BLNR) authorized the withdrawal of 84,000 acres from the lease. Although the agreement to withdraw some 84,000 acres went into effect on February 14, 1985, the documents for the withdrawal were not finalized until April 16, 1991 (DLNR, Partial Withdrawal From General Lease No. S-3589). This land is supposed to be earmarked for a wildlife sanctuary, a natural area reserve, game management and protection of rare plants and trees (Testimony on House Concurrent Resolution No. 146 and House Resolution No. 155 submitted by William F. Paty, Chairman, BLNR, to the Honorable David Hagino, Chairman, House Water, Land Use, and Hawaiian Affairs Committee, April 5, 1991);
- (3) DLNR has been negligent in protecting the public's interest by not taking sufficient action after the current lessee completed major improvements to the property without advance written permission from the BLNR. These improvements included: an airstrip, hangars, and a water pump (Patricia Tummons, "Puuwaawaa Burns, And The DLNR Fiddles," *Environment Hawaii*, vol. 1, no. 9, March 1991, p. 6 - attached to testimony on House Concurrent Resolution No. 146 and House Resolution No. 155 submitted by Jocelyn Fujii, to the Honorable David Hagino, Chairman, House Water, and Land Use, and Hawaiian Affairs Committee, April 5, 1991); and
- (4) DLNR has not required full compliance with other terms of the lease which include: requiring the current lessee to submit annual reports; requiring the current lessee to permit private parties to hunt on these State lands; requiring the current lessee to permit State agents access to the State lands for the purpose of examining the work carried on by the current lessee; or requiring the current lessee to post a performance bond in the amount of twice the initial annual rent (Patricia Tummons, "Puuwaawaa Burns, And The DLNR Fiddles," *Environment Hawaii*, vol. 1, no. 9, March 1991, p. 7 - attached to testimony on House Concurrent Resolution No. 146 and House Resolution No. 155 submitted by Jocelyn Fujii, to the Honorable David Hagino, Chairman, House Water, Land Use, and Hawaiian Affairs, April 5, 1991).

FINDINGS

I. Alleged Lease Violations

A. Allegation: On September 28, 1984, the BLNR reviewed allegations of lease violations consisting of the following:

- (1) Unauthorized koa logging and portable saw mill operations;
- (2) Construction of a water system including waterlines, reservoirs, pumping facilities, and appurtenant improvements without prior BLNR approval;
- (3) Construction of an air strip and hangar buildings without the prior BLNR approval;
- (4) Use of water from a State-owned well source without authority and for operations not consistent with the terms and conditions of the lease; and
- (5) Laying of a water pipeline across State land to serve a subdivision of adjacent private land without obtaining an easement from the State (Minutes of the BLNR, Lihue, Kauai, September 28, 1984).

Finding: The BLNR later fined the lessee for logging and clearing in the Conservation District area ("The Saga of the Koa" in *Environment Hawaii*, vol. 1, no. 9, March 1991, p. 4).

B. Allegation: The lessee used, or caused the placement of, three waste dump sites on lease lands in violation of:

- (1) The lessee's duty to keep the premises in a clean, sanitary, and orderly condition (General Lease, paragraph 24, p. 12); and
- (2) All laws, ordinances, and rules and regulations of the Department of Health (DOH) and/or other governmental agencies.

Findings:

- (1) The first dump site, which is located off the right fork roadway into the property, was used from 1962 to 1985 when the second dump site opened. R.M. Towill Corporation will be assisting the lessee in taking corrective action and preparing a dump closure plan that is acceptable to the DOH.
- (2) The second dump site, which is located off the left fork roadway into the property, was in operation from 1985 to April 15, 1991. R.M. Towill Corporation will also be assisting the lessee in taking similar action in this dump site.
- (3) The DOH has classified the third dump site, also known as the "Bluffs" site, as a litter problem due to its location adjacent to Mamalahoa Highway. The lessee has periodically cleaned this

site. To resolve this problem, the lessee will seek the assistance of DLNR and the Department of Transportation's Highway Division.

DLNR plans to impose fines of \$2,500 for the first two dump sites (Hawaii, Department of Land and Natural Resources, Report on House Concurrent Resolution No. 146, H.D. 1, S.D. 1: Requesting the Board of Land and Natural Resources to Take Immediate Action on Alleged Violations on the Lease of State Land at Puuwaawaa, North Kona, Island of Hawaii, Identified as General Lease No. S-3589 to F. Newell Bohnett, Honolulu, January, 1992, p. 5).

- C. **Allegation:** Without the prior written consent of the State, the lessee constructed a guest house and recreation facility on the premises. According to Paragraph 27 of the lease (General Lease, p. 13), the use of other than pasturage in character on the premises is prohibited unless such use is in direct support or furtherance of pasturage use.

Finding: DLNR is opposed to the lessee's request that the existing structures remain on the site for community use purposes, because it would represent a clear cut violation of the lease. Accordingly, DLNR will impose a \$500 fine for each of the structures. Over the short term, DLNR will allow interested parties time to discuss alternative uses and present them to the BLNR for approval (Hawaii, Department of Land and Natural Resources, Report on House Concurrent Resolution No. 146, H.D. 1, S.D. 1, p. 3).

- D. **Allegation:** The lessee failed to submit plans and permits of various improvements to the BLNR for written approval prior to proceeding with construction. These known improvements include: the water development and distribution system (including water pipelines, water tanks, and reservoirs; the airstrip hangar facility; the guest house; the recreation facility; and roads.

Finding: The lessee has submitted plans and drawings for all improvements except for a utility storage warehouse and the ranch manager's house (Hawaii, Department of Land and Natural Resources, Report on House Concurrent Resolution No. 146, H.D. 1, S.D. 1, p. 2).

- E. **Allegation:** In 1982, DLNR's Division of Forestry and Wildlife personnel encountered difficulty in entering the premises to conduct field work and research related to the alala. Such resistance is contrary to the lease which allows State and county agents to enter the premises at any time to examine the work carried on by the lessee or for the purpose of performing any official duties.

Finding: DLNR has reminded the lessee to comply with this provision. According to the lessee's attorney, this type of incident will not happen again (Memorandum to Glenn Kobayashi, Attorney, Cades Schutte Fleming and Wright from Chairman William Paty, Board of Land and Natural Resources, Subject: House Concurrent Resolution No. 146, November 20, 1991).

- F. **Allegation:** The lessee failed to provide written proof of adequate liability insurance policy that names the State as additional-insured for the years 1982 to 1990.

Finding: A current liability insurance policy is in force for the period September 15, 1991 to September 15, 1992 (Memorandum to Glenn Kobayashi, Attorney, Cades Schutte Fleming and Wright from Chairman William Paty, Board of Land and Natural Resources, Subject: House Concurrent Resolution No. 146, November 20, 1991). DLNR has requested additional proof of coverage for the period from 1982 to 1990 (Briefing on Alleged Lease Violations and Other Outstanding Issues Involving State General Lease No. S-3589 to Mr. F. Newell Bohnett Covering State Lands at Puuanahulu and Puuwaawaa, North Kona, Hawaii submitted by the Department of Land and Natural Resources to the Honorable Jackie Young, Chair, House Puuwaawaa Subcommittee, September 10, 1991).

- G. **Allegation:** DLNR was slow in completing the documentation for the withdrawal of over 84,000 acres from the general lease.

Finding: It took DLNR over six years to execute the withdrawal. Part of the problem for the delay was that the exact configurations and boundaries were not known at the time the BLNR gave its approval (Letter to the Board of Land and Natural Resources, from James Detor, Land Management Administrator, Department of Land and Natural Resources, October 12, 1984, p. 2). Surveying began on August 7, 1986 (Letter to William Paty, Chairman, Board of Land and Natural Resources, from Newell Bohnett, February 19, 1988) and ended on February 22, 1988 (Letter to Francis Ouye, County Real Property Appraiser, Department of Finance, County of Hawaii, from Mike Shimabukuro, Land Management Administrator, Department of Land and Natural Resources, 8/4/88).

Although final documentation was not completed until April 16, 1991, the effective date of the withdrawal was established as February 15, 1985 (Letter to Francis Ouye, County Real Property Appraiser, Department of Finance, County of Hawaii, from Mike Shimabukuro, Land Management Administrator, Department of Land and Natural Resources, 8/4/88).

- H. **Allegation:** The State has not received a fair return on the lease property.

Finding: On March 4, 1960, a 105,796 acre parcel was auctioned at the starting price of \$30,000 per year. At that time, it was acknowledged that only 20,000 acres in scattered areas were considered adequate for cattle ranching ("Kona Ranch Lands to be Auctioned" February 25, 1960 in

Hilo Tribune-Herald). For comparison purposes, at the time of this auction, Campbell Estate was leasing some 25,000 acres of land in Puna for pasture purpose at an upset rental rate of 40 cents per acre/year. By at least this one account, this price seems to compare favorably with the Puuwaawaa lease which carried a lease of 30 cents per acre/year. It should be pointed out that the Puuwaawaa lease also required the expenditure of improvements totalling \$500,000, reservations of hunting rights, unlimited withdrawal privileges, and strict accounting with respect to performance (Memorandum to William F. Quinn, Governor, from E.H. Cook, Director, DLNR, October 14, 1960).

It is beyond the scope of this Subcommittee to determine whether the State has received a fair return on the Puuwaawaa lease. Perhaps, as a pasture use, the price is a fair one. Nevertheless, your Subcommittee cannot help but believe that the State could surely find some alternative use to these lands besides pasturage that would provide a higher return to the State without requiring such a large acreage.

- I. Allegation:** The lessee removed the Kiholo reservoir that was located on State lands after the BLNR had withdrawn the property from the general lease. Such removal constitutes destruction of State property and a violation of the lease which provides that, upon the expiration or sooner termination of the lease, the lessee shall peaceably and quietly surrender the property, together with all improvements of whatever kind.

Finding: The BLNR withdrew the land from the lease on October 12, 1984. However, according to DLNR, on August 6, 1985, the BLNR Chairman instructed the lessee to remove certain improvements, including the reservoir, by December 31, 1985. Subsequently, the lessee dismantled the reservoir (Briefing on Alleged Lease Violations and Other Outstanding Issues Involving State General Lease No. S-3589 to Mr. F. Newell Bohnett Covering State Lands at Puuanahulu and Puuwaawaa, North Kona, Hawaii submitted by the Department of Land and Natural Resources to the Honorable Jackie Young, Chair, House Puuwaawaa Subcommittee, September 10, 1991). Because DLNR has been unable to establish the actual date of the removal of the reservoir, it is not known whether the lessee complied with that deadline. In addition, there is disagreement on subsequent sightings of the reservoir. On the one hand, according to a report dated April 24, 1987, a DLNR biologist claimed that the reservoir was still in existence in September 1986 during the Puuanahulu fire ("Fixed Rent, But Rubber Fences" *Environment Hawaii*, Vol. 1, No. 9, March 1991, p. 8). On the other hand, the Division of Forestry and Wildlife claims that during the 1986 fire, they found the reservoir to be no longer in existence (Hawaii, Department of Land and Natural Resources, Report on House Concurrent Resolution No. 146, H.D. 1, S.D. 1, p. 9).

- J. Allegation:** DLNR has been slow in determining the new lease rent for the last ten years of the lease from 1990 to 2000.

Finding: DLNR has selected an independent real estate appraiser versed in the appraisal/valuation of pasture lease to appraise the pasture lease (Hawaii, Department of Land and Natural Resources, Report on House Concurrent Resolution No. 146, H.D. 1, S.D. 1, p. 7).

It is your Subcommittee's understanding that this process had been complicated by the formal withdrawal of some 84,000 acres that was completed on April 16, 1991. Based on past performances, however, your Subcommittee is not confident that the new lease rent will be resolved in a timely manner.

- K. Allegation:** DLNR may have mishandled the imposition of increased lease rents and its subsequent collection by permitting the lessee to pay back the owed amount in installments spread over the remaining life of the lease without requiring the lessee to pay interest.

Finding: On December 23, 1991, the Attorney General's Office advised your Subcommittee that "... under the unique circumstances of this case, it was permissible... for the Chairperson of the Department to agree to the spread-out payment schedule of the large deficiency created by the long delay for the Department's internal appraisal process (Letter to the Honorable Jackie Young, State Representative, from Linnel Nishioka, Deputy Attorney General, December 23, 1991)." In addition, the Attorney General's Office concluded that "... the Board was not authorized to charge interest on the spread-out payment plan (Letter to the Honorable Jackie Young, State Representative, from Linnel Nishioka, Deputy Attorney General, December 23, 1991)."

II. Other Observations

A. Site Inspections

Currently, DLNR relies on biennial on-site inspections as a means to enforce the terms of the lease agreement; i.e., to ensure that the lessee is utilizing the land for pasture and public hunting purposes. In addition, DLNR also relies on yearly reports from the lessee that describe all improvements and expenditures relating to such enhancements as a water development and distribution system, land improvements, fencing, roads, and so forth (Paragraph 37, General Lease No. S-3589 Between State of Hawaii and Dillingham Ranch, Inc., p. 21).

After inspecting the Puuwaawaa property, your Subcommittee finds that it would be almost impossible for a DLNR land agent to do a thorough job in conducting an on-site ground inspection because of:

- (1) The vast size of the property;
- (2) Limited road access to certain areas; and
- (3) Limited visibility from the roads.

B. Importance of Fountain Grass Management

The lower elevation is infested with fountain grass, an aggressive exotic that dominates the landscape. According to Puuwaawaa Ranch personnel and DLNR, the problems with fountain grass are essentially fourfold:

- (1) If not maintained, it greatly increases the risk that a brush fire could quickly burn out of control, especially under dry conditions;
- (2) It is not a nutritious food source for cattle;
- (3) Cattle will eat fountain grass but only as a last resort and only if the grass is not too thick; and
- (4) Eventually, fountain grass forms a thick mat that prevents most native vegetation from taking hold.

Primarily concerned about the threat of brush fire, the same land managers argued for continued reliance on cattle grazing to reduce the fire threat in the area. At the same time, in order to encourage the survival of native vegetation in some areas, cattle grazing will be delayed until these plants can be strong enough to withstand grazing.

Your Subcommittee finds that if the underlying basis for continuation of cattle grazing is for fire management purposes, then the State should take steps to better understand the nature of this form of vegetation.

C. Range Management Techniques

The current lessee is attempting to encourage consumption of the fountain grass by experimenting with a technique known as the savory cell method. Under this method, the fountain grass is allowed to grow within an enclosed area known as a cell for a few years before cattle are herded into the cell and are force-fed this grass.

Your Subcommittee finds that other innovative techniques should be developed as a means to make better use of the fountain grass and as a means to reduce the risk of brush fire.

With regard to the threat of brush fire, your Subcommittee finds that perhaps future State lease provisions should consider requiring a certain level of fire protection, where appropriate.

D. Management of Dryland Forest

During the site visit, your Subcommittee visited various plant sanctuaries at Puuwaawaa. Although your Subcommittee was encouraged by the koa regeneration project that is taking place in the upper elevation region, your Subcommittee was disappointed by the limited progress being made in the plant enclosures located in the drier areas of Puuwaawaa. Essentially, these are simply plots of land that have been fenced off to prevent grazing animals from consuming the native vegetation. DLNR personnel were hopeful that additional plant sanctuaries can be established, and that, over time, these areas can be merged into larger sanctuaries.

Your Subcommittee finds that the current level of activity to preserve remnants of the native dryland forest is inadequate and that more thought should be given to the program in general. At the same time, your Subcommittee is encouraged by DLNR's recent announcement that, within a year, it will prepare an action plan for the Lamakauwila dryland forest as well as other rare plant communities in consultation with all interested parties.

E. Management of the Alala

Your Subcommittee remains concerned about the ability of the alala to inhabit the forests of Puuwaawaa. According to the DLNR (Hawaii, Department of Land and Natural Resources, Report on House Concurrent Resolution No. 146, H.D. 1, S.D. 1: Requesting the Board of Land and Natural Resources to Take Immediate Action on Alleged Violations on the Lease of State Land at Puuwaawaa, North Kona, Island of Hawaii, Identified as General Lease No. S-3589 to F. Newell Bohnett, Honolulu, January, 1992, p. 6), the recent disappearance of the alala can be partially attributed to illegal logging of the koa forest as well as cattle grazing. Since 1984, when both activities ceased, the Division of Forestry and Wildlife has reported at least one alala sighting in the area.

F. Other Management Issues

Although Subcommittee members raised several other management issues, time did not permit a thorough research to find answers. Generally, these issues centered around DLNR's ability to manage other State lease lands. For example, some of these questions included the following:

- (1) What procedures does DLNR follow and what kind of information is used to negotiate new lease rent values?
- (2) Is DLNR adequately protecting the public's interest on State lease lands by regularly:
 - (a) Inspecting these lands to ensure proper land management practices; and
 - (b) Incorporating new regulations into these reviews to protect Hawaii's endangered/threatened flora and fauna?
- (3) Does DLNR have the proper resources to adequately manage State lease lands?
- (4) What are the procedures that are normally followed once a State lease expires? For example, how are decisions reached on the future use of the parcel; a determination whether there is a market for that future use; whether the parcel should be subdivided or not; and the length of the new lease. What kind of provisions exist in this procedure for public input?

CONCLUSIONS AND RECOMMENDATIONS

In many cases, the lessee violated either the terms of General Lease No. S-3589 or applicable government regulations. Although your Subcommittee does not condone such actions at Puuwaawaa, a more disturbing concern relates to broader questions about the current capability of DLNR to effectively manage State lease lands in general. With regard to the Puuwaawaa lands, DLNR has, in many cases, been:

- (1) Lenient in holding the lessee to the terms of the lease agreement;
- (2) Slow in recognizing violations that occur at Puuwaawaa; and
- (3) Slow in taking corrective action.

Based on these concerns over what was at one time the State's largest lease, your Subcommittee believes that a review of DLNR's management of other State lease lands would be timely.

Recommendation 1:

The Legislature should request the Office of Legislative Auditor to conduct a management audit of DLNR's Land Management Division to determine the effectiveness of the program in achieving its objectives. In this regard, your Subcommittee hopes that the following questions would be addressed:

- (1) Is the Division achieving its objectives? Are the Division's objectives realistic?
- (2) Is the Division receiving adequate administrative and management support from DLNR?
- (3) Are there alternative ways that the Division could conduct its work in a more efficient manner?
- (4) Does the Division require additional staff and equipment to achieve its stated objectives?
- (5) Is the Division doing an adequate job in enforcing the terms of the lease agreements? Relatedly, are the penalty provisions for the violation of the lease agreements strong enough to deter violations?

Recommendation 2:

Upon the termination of General Lease No. S-3589, the State should reconsider disposing of the Puuwaawaa lands for pasture purposes. Instead, the Governor should set aside to the Hawaiian Homes Commission all lands that constituted the lease as it existed in 1960, except for those areas that are best suited as plant or animal sanctuaries, watershed management units, or other similar management areas. DLNR should begin the process as soon as possible of identifying areas that should remain under DLNR control. Environmental groups should be entitled to assist DLNR in undertaking this process.

Recommendation 3:

DLNR should:

- (1) Reconsider its earlier position of not allowing the guest house and recreation facility to remain on the premises and be used for community purposes; and
- (2) Immediately instruct the lessee that no further action shall be taken on the disposition of the structures.

Instead, DLNR should withdraw from the lease that portion of the property on which the recreation facility and guest house have been improperly sited. Subsequently:

- (1) DLNR should turn over the recreation facility to a community organization or a private entity to manage the facility (ie. serve as a caretaker of the grounds and coordinate reservations for the use of the facility) for recreational as well as research/educational purposes including, but not limited to: a meeting place for environmental organizations; and an environmental center to conduct various inventories of natural resources in the region, to perform related research needed to expedite the restoration of the environment, and to educate the public about the impacts of man's presence on the natural environment. User fees would help defray the cost of maintaining the facility; and
- (2) The guest house should be converted into a DLNR staff cabin. This would not only be a more attractive alternative to the cabin presently being built in the upper area, but it should prove to be cost-effective to the State.

Part of the intent behind these recommendations is to send a clear message to lessees that the State will not tolerate unapproved activities on State property.

Recommendation 4:

The State should re-evaluate its program objectives to protect threatened vegetation. For example, with regard to the Puuwaawaa plant sanctuaries, is the objective to simply enclose specific threatened plants? Is it to eventually restore large areas of State lands with representative dryland forest? If the objective is to expand the number of such plant sanctuaries, has the State conducted an inventory of such vegetation to determine the best ones to protect? In other words, does the State know what kind of resources exist on State lands?

Once the State has a clear idea what the program requires, the Legislature would then be in a better position to determine the kind of long term commitment of resources that would be required.

Recommendation 5:

The State should support basic research on fountain grass in order to:

- (1) Identify biological means to control its growth;
- (2) Determine whether cattle grazing is an effective means to reduce the threat of a brush fire getting out of control; and
- (3) Determine the beneficial uses of fountain grass.

Currently, a Washington State University student is conducting research on fountain grass control at the Kaloko-Honokohau National Historic Park.

Recommendation 6:

To ensure that lessees are in compliance with the terms of their leases as well as with other regulations, DLNR should investigate alternative techniques for enforcing the lease such as:

- (1) Aerial photographs as a means to pinpoint land use changes in order to simplify on-site inspection; and
- (2) A checklist-type of disclosure form that the lessee would periodically complete and be held accountable for.

Recommendation 7:

The alala should be allowed an opportunity to survive and hopefully thrive in the forests of Puuwaawaa. Towards this end, your Subcommittee recommends that no alala be taken from this area for transfer to DLNR's Olinda Endangered Species Facility for breeding purposes.

Recommendation 8:

The House should appoint a subcommittee to find answers to broader questions raised during the course of your Subcommittee's investigation.

Signed by Representatives Young, Alcon, Hagino, Hiraki, Morihara, Santiago, O'Kieffe and Thielen.

Spec. Com. Rep. 3

Your Advisory Committee on Rules and Procedure begs leave to report as follows:

Pursuant to Rule 18a of the Rules of the House of Representatives, your Advisory Committee was appointed after Opening Day of the 1991 Sixteenth Legislature. The charge to the Advisory Committee was quite succinct, ". . . review the Rules of the House and propose to the House such amendments as the committee deems appropriate." (Rule 18a of the Rules of the House of Representatives.)

To focus the group throughout your Advisory Committee's meetings and deliberations, one major overriding concern was referred to repeatedly--to review the current Rules of the House and existing administrative and legislative practices, and determine what rules and practices should be instituted, modified, or maintained to strengthen the "institution" to facilitate the passage of the most prudent legislation possible for the people of the State of Hawaii.

We affirm our belief in a government of the people, by the people and for the people. . .

Preamble
Hawaii State Constitution

All political power of this State is inherent in the people and the responsibility for the exercise thereof rests with the people. All government is founded on this authority.

Article 1, Section 1
Hawaii State Constitution

The recommendations set forth in this report are being presented to generate an introspective discussion on the Legislature as an institution, the legislative process, and legislative decision-making. It is hoped that the discussions and any resulting administrative and behavioral modification on the part of House members will lead to a more democratic process which takes into consideration all opinions and ideas, and which then makes the most prudent decisions for the betterment of Hawaii and her people.

INTERNAL ORGANIZATION AND DECISION-MAKING QUORUMS

The three topics which dominated the early discussions of your Advisory Committee involved the internal organization of the House and its committee structure and quorums at decision-making. Your Advisory Committee has concluded that any meaningful discussion of this type must include the simultaneous examination of three issues:

- (1) **Committee Structure** -- the number of standing committees and the size of the committees created by the House to conduct its regular course of business.
- (2) **Committee Assignments** -- the number of standing committees a House member is appointed to.
- (3) **Quorum at Decision-Making** -- the number of members that must be physically present at a committee meeting before decision-making can take place.

If indeed the House were to initiate a quorum requirement at decision-making at the committee level, the number of committees a House member is assigned must be examined to facilitate a member's workload during a typical session day which includes committee meetings in the morning (8:30 to 11:30), a plenary session and official luncheon engagements (11:30 to 2:00), committee meetings in the afternoon (2:00 - 5:00), and, in most instances, committee meetings in the evening (7:00 - 10:00). In addition to formal official legislative responsibilities, a House member must make the time to meet with constituents, community organizations, other government officials and lobbyists, if he or she is to garner all the information needed for legislative action.

Concomitant with a reduction in the number of committee assignments for each House member, is the need to examine the existing standing committee structure created to handle official matters which include bills, resolutions, and messages filed with the House Clerk.

I. COMMITTEE STRUCTURE

Although comparing favorably against the other 45 House chambers responding to a 1990-1991 survey, as a whole, in terms of number of committees and committee membership size, the Hawaii House maintains more committees with larger memberships than House chambers of similar size (Page 19, HMSO Survey of Selected Legislative Practices & Procedures).

It is therefore recommended that the existing committee structure of the House be examined for purposes of efficiency for the disposition of legislative matters referred; facilitating Members' attendance at public hearings and briefings, especially in the case of decision-making sessions; and encouraging public attendance of legislative proceedings. In this regard, it is recommended that items such as the compression of standing committees, committee size, and wherever necessary and/or appropriate, the use of sub-committees under the jurisdiction of a standing committee be examined.

II. COMMITTEE ASSIGNMENTS

The average number of committee assignments per member in the Hawaii House is significantly higher than national averages. A 1990-1991 survey indicated that of the 46 House chambers responding, 2.9 committee

assignments per House member was the average. In addition, of the 47 Senate chambers responding, 3.0 committee assignments per Senate member was the average (Page 20, HMSO Survey).

It is therefore recommended that House members be assigned to a fewer number of standing committees to facilitate regular committee attendance, and the balancing of busy daily legislative calendars during the session.

III. COMMITTEE DECISION-MAKING QUORUM REQUIREMENTS

In a survey conducted in 1991, of the 41 House chambers responding, all indicated that they required a quorum at decision-making within the standing committee structure. Moreover it was found that all House chambers responding had, at a minimum, internal rules to authorize the requirement of a quorum (HMSO Ho Memo to the House Rules & Procedure Advisory Committee 10-1-91).

A modified or new committee structure and fewer standing committee assignments will make quorum requirements, set by the House for committee decision-making sessions, more feasible for the members. However, it should be noted that quorum requirements will necessitate the recordation of attendance and the votes cast on each measure by each committee member present.

Your Advisory Committee finds that while these issues are compelling and must be discussed by all House members in an open forum, the time for actual implementation of these internal structural changes is NOT the 1992 legislative session. A complete committee re-structuring at this point in time, and the re-referring of measures introduced in 1991 that must still be considered in the 1992 session, in conjunction with the referral of new measures introduced, would be disruptive and not in the best interests of the "institution" and the public which we serve.

However, your Advisory Committee reiterates its position concerning the importance of discussions concerning the internal structure of the House and quorums during committee decision-making, and urges all House members who return after the 1992 elections to review documentation, re-think positions, and return to the "table" for serious dialogue.

GOVERNING RULES OF PARLIAMENTARY PROCEDURE

Of the 46 House chambers and 47 Senate chambers responding to a House initiated survey, 24 House chambers and 25 Senate chambers utilize Mason's Manual of Parliamentary Procedure which was specifically designed for use by legislative bodies. Hawaii's Senate also uses Mason's Manual.

Seven House chambers and four Senate chambers utilize the Chamber Rules for the U.S. Congress. Six House chambers and three Senate chambers utilize more than one source of parliamentary procedure. Only the Hawaii House and the New Jersey Senate utilizes Cushing's Manual of Parliamentary Practice (Page 5, Abe Memo to Majority Caucus 12-15-90).

Mason's Manual, first published in 1935, was written by Paul Mason, an attorney and unofficial parliamentarian of the Senate of the State of California who worked for many years with groups across the nation for the improvement of legislative organization and procedure. As its title clearly indicates, this manual was written specifically for legislative bodies and utilizes terminology uniquely characteristic of the legislative process.

After a review of the manual, your Advisory Committee notes that it is very extensive and detailed, incorporating the general principles of parliamentary law and an exhaustive treatment of legislative procedure. Mason's Manual also cites a multitude of court decisions pertinent to the development of legislative procedure. It should also be noted that prior to his death, Paul Mason assigned the copyright to his manual to the National Conference of State Legislatures (NCSL) with the request that the book continue to be updated and published. NCSL in turn asked the American Society of Legislative Clerks and Secretaries to proceed with the actual updating and revising work. As a consequence, Mason's Manual was revised in 1989.

It is therefore recommended that the House amend Rule 59 of the Rules of the House of Representatives and officially adopt the Mason's Manual of Parliamentary Procedure.

BILL DIGESTS FOR THIRD AND FINAL READING

At the present time, the partisan staffs for the Majority and Minority Caucuses assist in the preparation of very cursory bill digests which hopefully, assists a member in his or her review of pending legislation. The brevity of the digest and the superficial analysis of measures is necessitated because of severe time constraints given the existing allocation of human resources for this undertaking.

Of the 46 states responding to a bill digest survey in June of 1991, it was found that bill digests vary from state to state, from legislature to legislature, in purpose, intent, detail, organization, length, style, and terminology. While bill digests of some state legislatures seem closer to the "Hawaii version" of a SHADO or HOIKE description, bill digests of other state legislatures are more detailed and comprehensive (HMSO A. Hashimoto Memo on Bill Digest Information 10-19-91).

It is therefore recommended that the purpose and intent of bill digests prepared for each Caucus be reviewed to determine if House members' needs and expectations are being met. It is also recommended that the House explore a

requirement that a bill digest in a standard format accompany each measure (bill as well as resolution) from introduction as it proceeds through the legislative process. Any option considered should also include a determination of human resource allocation and time constraints.

PUBLIC COMMENT: THE CAPITOL COMPLEX AND THE 1992 SESSION

As a part of your Advisory Committee's deliberations, a meeting with a handful of lobbyists and advocates was held to discuss both long-term and short-term modifications or changes which could be proposed to strengthen the legislative "institution." The individuals invited to the discussion were selected on the basis of their familiarity with the legislative process and their reputations for candor and objectivity. Individual affiliations were not a major consideration during the informal invitation process.

While the first portion of this informal meeting was focused on the issues of committee structure and quorums in the committee decision-making process, the discussion gravitated towards more pressing concerns involving the Legislature's move to the Capitol Complex. Concerns regarding parking, elevators, narrow corridors, and smaller conference areas have been discussed at length elsewhere and publicized in the media so they will not be specifically addressed by this Advisory Committee.

However, the Advisory Committee feels that it is incumbent upon this body to relay some of the public concerns about the Capitol Complex and the impact the building configurations will have upon their work as citizen advocates and professional lobbyists. The comments may also be considered to be reflective of concerns of Capitol Complex visitors and constituents.

From the discussion, four noteworthy items or recommendations surfaced.

First, support for the continuation of public access vis-a-vis computer systems to the complete text of certain legislative documents such as public hearing notices, bills, resolutions, and committee reports should continue. Further, additional efforts should be expended to ensure the timely and consistent release of information into the public system, and to publicize the legislative computer databases available for public use.

It was also recommended that a summary or short description of all bills referred be listed on the referral sheet under the title. This effort would apparently reduce the number of bill copies being requested of the House Printshop by the public.

Second, the House should continue to receive testimony from the public for public hearings vis-a-vis FAX machines. This accommodation would minimize the number of trips one must make to the Capitol Complex to prepare for public hearings.

Third, the House should continue the testimony drop-off project which allows persons to submit their testimony to House staff in a designated area for delivery to the appropriate chair or vice chair's office prior to a public hearing. Relatedly, arrangements regarding the possibility of a combined service whereby a person could order a public document (i.e., bill, resolution or committee report) from the House Printshop and pick it up at the designated public delivery area were favorably received. Again, in view of the limited number of parking spaces available to the public in the Capitol Complex, this would reduce the number of times an individual would have to actually park and enter the buildings if they wish to participate in the democratic process.

And four, it was recommended that the House require the Department of Accounting and General Services to improve public parking accommodations. Items ranging from the number of stalls available to the public, the amounts charged for public parking in these areas, and the ticketing and towing of cars in public parking stalls should be examined. The underlying assumption in all of the examinations and reviews should be public accommodation--how to make it EASIER for someone to participate in the legislative process.

CONCLUSION

The members of the Advisory Committee wish to note that participation on this particular body has been to say the least, a challenging experience. However, it is noted that more dialogue and work need to be done in these areas for it is imperative that the public's confidence in their government be restored, and that government truly be a vehicle . . . of the people, by the people and for the people.

Signed by Representatives Okamura, Apo, Hagino, Hashimoto, Hirono, Lee, Metcalf, Taniguchi and O'Kieffe.